

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

STATE OF NEW YORK, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States, et al.,

Defendants.

No. 25-cv-11221-FDS

PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

Pursuant to Federal Rule of Civil Procedure 65 and Local Rule 7.1, plaintiffs New York, Massachusetts, Arizona, California, Colorado, Connecticut, Delaware, the District of Columbia, Illinois, Maine, Maryland, the People of the State of Michigan, Minnesota, New Jersey, New Mexico, Oregon, Rhode Island, and Washington (States) respectfully move for a preliminary injunction enjoining Agency Defendants from implementing, relying in whole or in part, or otherwise giving effect to Section 2(a) of the Presidential Memorandum entitled *Temporary Withdrawal of All Areas on the Outer Continental Shelf from Offshore Wind Leasing and Review of the Federal Government's Leasing and Permitting Practices for Wind Projects*, 90 Fed. Reg. 8363 (Jan. 29, 2025) (the Wind Directive), to halt or otherwise impede development of wind-energy projects in the States and off the coasts of the States.

The States satisfy the requirements for preliminary injunctive relief. First, the States are likely to succeed on the merits of their claims that the Wind Directive itself and the implementation of and reliance on the Wind Directive by Agency Defendants are unlawful in multiple respects. As explained in the accompanying memorandum of law, Agency Defendants' implementation of

and reliance on the Wind Directive violates the Administrative Procedure Act because it is arbitrary and capricious and violates the statutes governing wind-energy permitting and approvals. Additionally, the Wind Directive and Agency Defendants' implementation thereof are ultra vires.

Second, the States will suffer immediate irreparable harm absent preliminary relief. Agency Defendants' halt of wind-energy development will hinder the States' ability to secure reliable and affordable electricity; strand billions of dollars in States' investments and impede economic development; obstruct the States' abilities to meet their clean-energy and climate goals; and delay reductions in emissions that harm public health. Indeed, the threat of these harms has sharply mounted in recent weeks as Agency Defendants have frozen ongoing construction and chilled investment in pending wind-energy projects, and now threaten the very existence of the nascent offshore-wind industry in particular.

Third, the balance of the equities and public interest weigh heavily in favor of a preliminary injunction. The requested injunction will only require Agency Defendants to resume processing and issuing decisions on wind-energy permits and approvals, allowing for the lawful development of wind energy. On the other hand, without the requested injunction, Agency Defendants' continued implementation of and reliance on the Wind Directive will cause the States the irreparable harms described above. There is also a strong public interest in, and no countervailing interest against, stopping Agency Defendants' unlawful conduct.

The States further request that the Court exercise its discretion to waive posting bond under Rule 65(c). *See, e.g., Int'l Assoc. of Machinists and Aerospace Workers v. Eastern Airlines*, 925 F.2d 6, 9 (1st Cir. 1991) (finding "ample authority for the proposition that the provisions of Rule 65(c) are not mandatory and that a district court retains substantial discretion to dictate the terms of an injunction bond"); *see also da Silva Medeiros v. Martin*, 458 F. Supp. 3d 122, 130

(D.R.I. 2020) (waiving bond where it would pose a hardship on petitioners and unduly restrict the federal rights at issue); *Pineda v. Skinner Services, Inc.*, 22 F.4th 47, 57 (1st Cir. 2021) (holding district court did not abuse its discretion when it did not require low-wage laborers to post a bond). To the extent a bond is required, plaintiffs request that the bond be nominal, consistent with the practice in this Circuit. *See Maine v. U.S. Dep't of Agriculture*, 1:25-cv-131, 2025 WL 1088946, at *29–30 (D. Me. Apr. 11, 2025) (collecting cases).

In support of this request for a preliminary injunction, the States rely on the memorandum of law, declarations, and evidence filed in support of this motion.

Wherefore, the States respectfully request that the Court enter a preliminary injunction in the form set forth in the proposed order attached to this motion.

Respectfully submitted,

May 12, 2025

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CERTIFICATE OF SERVICE & RULE 7.1 CERTIFICATION

I, Turner H. Smith, certify that this document was filed through the CM/ECF system on May 12, 2025, and will be sent electronically to the registered participants as identified in the Notice of Electronic Filing (NEF). I also certify that on May 8, 2025, I conferred with counsel for Defendants, who have indicated they plan to oppose this motion.

/s/ Turner H. Smith
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