

*NOTE: Oceana is currently collecting sign-ons for this letter from other NGOs. The final version of the letter will be posted after it is submitted to the rulemaking portal on regulations.gov on August 21<sup>st</sup>.*

August 21, 2017

*Via Federal eRulemaking Portal: regulations.gov*

Kelly Denit  
National Oceanic and Atmospheric Administration  
National Marine Fisheries Service  
Office of Sustainable Fisheries  
1315 East-West Highway  
Silver Spring, MD 20910

**Re: Streamlining Regulatory Processes and Reducing Regulatory Burden; 82 Fed. Reg. 31576 (July 7, 2017)**

Dear Ms. Denit:

On behalf of the undersigned organizations and our millions of members and supporters, we are writing to express our deep concern regarding the National Marine Fisheries Service (NMFS) and National Ocean Service's (NOS) request for comment on "Streamlining Regulatory Processes and Reducing Regulatory Burden."

We urge the National Oceanic and Atmospheric Administration (NOAA) to preserve its current regulations and regulatory processes in order to implement our nation's fundamental environmental laws. In light of Executive Orders 13766, 13771, 13777, and 13783, NOAA is seeking comments on "outdated, ineffective, or unnecessary regulations." NOAA issues regulations to implement many of our nation's key environmental laws, including the Marine Mammal Protection Act, the Endangered Species Act, the Magnuson-Stevens Fishery Conservation and Management Act, the National Marine Sanctuaries Act, the Coastal Zone Management Act, and the National Environmental Policy Act. These laws and associated regulations are essential to the well-being of our oceans and coastal communities and are important drivers of our national economy. Many of these regulations are statutorily mandated, and all were properly promulgated. We therefore urge NOAA to reject any rollbacks or weakening of its vital environmental regulations.

We object to the false premise that public safeguards represent an unnecessary regulatory burden for our nation. Environmental protections save lives, improve health, conserve resources, spur innovation, and level the playing field for small businesses while allowing for or even promoting economic growth and

providing far more in benefits than they cost.<sup>1</sup> There is no evidence that NOAA regulations burden industry unnecessarily. In fact, in the Office of Management and Budget's (OMB) most recent report analyzing the benefits and costs of federal regulation, the estimated net benefits of major federal regulations between 2009 and 2015 was in the range of \$103 billion and \$393 billion.<sup>2</sup> Since it began issuing the report in 1997, OMB's analysis has repeatedly shown that the benefits of federal regulation outweigh the costs.<sup>3</sup> In addition, NOAA consistently engages in Regulatory Impact Reviews for all regulatory actions that are of public interest to ensure that the agency systematically and comprehensively considers all available alternatives so that public welfare can be enhanced in the most efficient and cost-effective way.<sup>4</sup>

NOAA's broad call for comments on "any existing Agency regulation" is unprecedented and unnecessary. The Administrative Procedure Act provides a guide for the promulgation process for

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<sup>1</sup> See, e.g., EPA, Benefits and Costs of the Clean Air Act 1990-2020, the Second Prospective Study (April 2011), <https://www.epa.gov/clean-air-act-overview/benefits-and-costs-clean-air-act-1990-2020-report-documents-and-graphics> (noting that the benefits of Clean Air Act regulations exceed costs by a factor of more than 30 to one while at the same time preventing over 230,000 premature deaths); *Environmental regulations may not cost as much as governments and businesses fear*, Economist (Dec. 30, 2014), <https://www.economist.com/news/finance-and-economics/21637411-environmental-regulations-may-not-cost-much-governments-and-businesses>; Samuels, *Do Regulations Really Kill Jobs?*, The Atlantic (Jan. 19, 2017), <https://www.theatlantic.com/business/archive/2017/01/regulations-jobs/513563/>; Heikkinen, *Obama rules could yield \$300B annually in benefits – study*, E&E News (Aug. 4, 2017) (citing Rahman and Wentz, *The Price of Climate Deregulation: Adding Up the Costs and Benefits of Federal Greenhouse Gas Emission Standards* (Aug. 2017)); American Sustainable Business Council et al., *Opinion Survey: Small Business Owners' Opinions on Regulations and Job Creation* at 3, 4, 6 (Feb. 1, 2012), [http://asbdcouncil.org/sites/default/files/files/Regulations\\_Poll\\_Report\\_FINAL.pdf](http://asbdcouncil.org/sites/default/files/files/Regulations_Poll_Report_FINAL.pdf).

<sup>2</sup> OMB, *2016 Draft Report to Congress on the Benefits and Costs of Federal Regulations and Agency Compliance with the Unfunded Mandates Reform Act* at 3 (2016), [https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/legislative\\_reports/draft\\_2016\\_cost\\_benefit\\_report\\_12\\_14\\_2016\\_2.pdf](https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/legislative_reports/draft_2016_cost_benefit_report_12_14_2016_2.pdf).

<sup>3</sup> See OMB, *OIRA Reports to Congress*, [https://obamawhitehouse.archives.gov/omb/inforeg\\_regpol\\_reports\\_congress/](https://obamawhitehouse.archives.gov/omb/inforeg_regpol_reports_congress/) (including OMB Reports to Congress on the Benefits and Costs of Federal Regulations from 1997 to 2016) (last visited Aug. 9, 2017); see, e.g., OMB, *2015 Report to Congress on the Benefits and Costs of Federal Regulations and Agency Compliance with the Unfunded Mandates Reform Act* at 2-3 (2015), [https://obamawhitehouse.archives.gov/sites/default/files/omb/inforeg/2015\\_cb/2015-cost-benefit-report.pdf](https://obamawhitehouse.archives.gov/sites/default/files/omb/inforeg/2015_cb/2015-cost-benefit-report.pdf) (noting that annual net benefits (benefits minus costs) of major federal regulations from 2009 to 2014 was approximately \$215 billion); OMB, *2010 Report to Congress on the Benefits and Costs of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities* at 3 (2010), [https://obamawhitehouse.archives.gov/sites/default/files/omb/legislative/reports/2010\\_Benefit\\_Cost\\_Report.pdf](https://obamawhitehouse.archives.gov/sites/default/files/omb/legislative/reports/2010_Benefit_Cost_Report.pdf) (noting that estimated annual benefits of major federal regulations between 1999 and 2009 was in the range of \$128 billion to 616 billion, which outweighs the estimated annual costs that ranged from \$43 billion and \$55 billion); OMB, *Validating Regulatory Analysis: 2005 Report to Congress on the Costs and Benefits of Federal Regulations and Unfunded Mandates on State, Local and Tribal Entities* at 1, [https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/omb/inforeg/2005\\_cb/final\\_2005\\_cb\\_report.pdf](https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/omb/inforeg/2005_cb/final_2005_cb_report.pdf) (noting that the estimated annual benefits from major federal regulations between 1994 and 2004 ranged from \$69.6 billion to \$276.8 billion, while estimated annual costs ranged from \$34.8 billion to \$39.4 billion); OMB, *Report to Congress on the Costs and Benefits of Federal Regulations* at Table 2 (2000), <https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/omb/inforeg/2000fedreg-charts.pdf> (estimating total annual monetized benefits of federal regulations between 1987 and 1999 in the range of \$198 billion to \$274 billion compared to an estimated total annual monetized cost of \$92 billion); OMB, *Report to Congress on the Costs and Benefits of Federal Regulations* at Table 4 (1997), [https://obamawhitehouse.archives.gov/omb/inforeg\\_chap2#t4](https://obamawhitehouse.archives.gov/omb/inforeg_chap2#t4) (estimating the total benefits of federal regulation for 1997 as \$298 billion, as compared to the estimated cost of \$279 billion).

<sup>4</sup> NOAA, National Marine Fisheries Service Instruction 01-111-04 (Feb. 7, 2006; renewed Aug. 2014), <http://www.nmfs.noaa.gov/op/pds/documents/01/111/01-111-04.pdf>.

NOAA regulations. Thus, NOAA has already received and reviewed comments from the public on its regulations. There is no reason to believe that, after the comprehensive process for promulgating regulations, NOAA's regulations have suddenly become obsolete, ineffective, or counter-productive. Instead of seeking to conserve the environment, promote the economy, or more effectively meet statutory obligations, the Federal Register notice seems to create a one-way ratchet, seeking only negative input and not seeking to hear about the benefits of regulation. NOAA would be better served by asking for guidance on how to better carry out its mission of conserving and managing our coastal and marine ecosystems and resources, not how to retreat from it.

In conclusion, NOAA should maintain all current regulatory processes, especially those promulgated to implement our nation's environmental laws and ensure robust public participation. We urge NOAA staff and any other decision-makers involved in the review process to reject any attempts to roll back or weaken NOAA's existing regulations or regulatory processes.

Sincerely,

*Signatory organizations follow:*

cc:

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