

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 105 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 In light of Executive Orders 13766, 13771, 13777, and 13783, NOAA is seeking comments on "outdated, ineffective, or unnecessary regulations."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.¹ There is no evidence that NOAA regulations burden

¹ 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>

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.² Since it began issuing the report in 1997, OMB's analysis has repeatedly shown that the benefits of federal regulation outweigh the costs.³ 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.⁴

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 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.

(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://asbcouncil.org/sites/default/files/files/Regulations_Poll_Report_FINAL.pdf.

² 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.

³ See OMB, *OIRA Reports to 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 (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 (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 (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 (estimating the total benefits of federal regulation for 1997 as \$298 billion, as compared to the estimated cost of \$279 billion).

⁴ 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>.

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 (105):

Oceana
500 Women Scientists
Acadia Institute of Oceanography
Adaptation International
Alaska Climate Action Network
Alaska Inter-Tribal Council
Alaska Wilderness League
American Littoral Society
American Rivers
American Sustainable Business Council
Animal Welfare Institute
Atchafalaya Basinkeeper
Atlantic States Legal Foundation, Inc.
Audubon Society of Rhode Island
Blue Frontier
Bold Louisiana
California Coastkeeper Alliance
Center for Biological Diversity
Cetacean Society International
Citizens' Environmental Coalition
Clean Ocean Action
Coastal States Organization
Defenders of Wildlife

Earthjustice
Earthworks
Elders Climate Action
Endangered Species Coalition
Environment America
Environmental Caucus, California Democratic Party
Environmental Defense Center
Environmental Protection Information Center
Eyak Preservation Council
Fins and Fluke
Florida Keys Environmental Fund
Friends of Arlington Parks
Friends of the Weskeag
Golden Gate Audubon Society
Gotham Whale
Green Science Policy Institute
GreenLatinos
Gulf Restoration Network
Hands Across the Sand / Land
Hip Hop Caucus
Humane Society of the US
Humboldt Baykeeper
Inland Ocean Coalition
International Fund for Animal Welfare
International Marine Mammal Project of Earth Island Institute
Klamath Riverkeeper
League of Conservation Voters
Los Angeles Waterkeeper
Los Padres ForestWatch
Madrone Audubon Society
Marine Conservation Institute
Massachusetts Society for the Prevention of Cruelty to Animals
Miami Waterkeeper
Milwaukee Riverkeeper
Monterey Coastkeeper & The Otter Project

Morro Coast Audubon Society
National Audubon Society
National Estuarine Research Reserve Association
National Marine Sanctuary Foundation
National Parks Conservation Association
National Wolfwatcher Coalition
Natural Resources Defense Council
Northcoast Environmental Center
Northern Alaska Environmental Center
Ocean Conservancy
Ocean Conservation Research
Ocean River Institute
Orange County Coastkeeper & Inland Empire Waterkeeper
Pacific Environment
Progressive Congress Action Fund
Restore America's Estuaries
Russian Riverkeeper
San Diego Coastkeeper
San Fernando Valley Audubon Society
Santa Barbara Channelkeeper
Save Animals Facing Extinction
Save Our Shores
Save the Manatee Club
Sea and Sage Audubon Society
Shark Angels
Sierra Club
Sonoma Coast Surfrider Foundation
Sonoma County Rural Alliance
South Carolina Small Business Chamber of Commerce
South Yuba River Citizens League
Southern Environmental Law Center
Surfrider Foundation
The Center for Oceanic Awareness, Research, and Education
The Ocean Foundation, Coastal Coordination Program
Turtle Island Restoration Network

Union of Concerned Scientists
Waterkeeper Alliance
Western Sonoma County Rural Alliance
Western Watersheds Project
Whale and Dolphin Conservation
Whale Scout
Wildlands Network
Wildlife Conservation Society
World Animal Protection
World Ocean Observatory

cc:

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