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NATIONAL OCEAN POLICY: STAKEHOLDER PERSPECTIVES

HEARING

BEFORE THE

SUBCOMMITTEE ON OCEANS, ATMOSPHERE, FISHERIES, AND COAST GUARD

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

DECEMBER 12, 2017

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

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NATIONAL OCEAN POLICY: STAKEHOLDER PERSPECTIVES

TUESDAY, DECEMBER 12, 2017

U.S. SENATE,
SUBCOMMITTEE ON OCEANS, ATMOSPHERE, FISHERIES, AND COAST GUARD,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:33 p.m. in room SR–253, Russell Senate Office Building, Hon. Dan Sullivan, Chairman of the Subcommittee, presiding.

Present: Senators Sullivan [presiding], Peters, Fischer, Inhofe, Cantwell, Blumenthal, and Markey.

OPENING STATEMENT OF HON. DAN SULLIVAN, U.S. SENATOR FROM ALASKA

Senator SULLIVAN. The Subcommittee on Oceans, Atmosphere, Fisheries, and the Coast Guard will now come to order. Good afternoon.

I would like to start by thanking our witnesses, who I think are an outstanding group of experts, for appearing before this Subcommittee today. We've been a busy Subcommittee. I want to thank again my Ranking Member, Senator Peters, on working closely with all of us on several hearings, many of which have focused on legislation.

This is actually one of our first oversight hearings. Today we will examine the National Ocean Policy, which was established by Executive order in 2010 with questionable statutory authority. Despite its good intentions, the National Ocean Policy does little to help the management of our oceans, but may do harm by adding layers of Federal bureaucracy that undermine already effective legislation and statutory programs covering our oceans.

As one of Alaska's Senators, I care deeply about America's oceans and marine resources. My state, for example, is negatively impacted, more than many others, more than pretty much all others, by ocean pollution and ocean debris, which is one of the reasons we had a strong bipartisan bill called the Save Our Seas Act that passed not only this Committee, but the entire Senate, and is waiting action in the House that addresses the important issue of ocean pollution and ocean debris.

Alaskans have a symbiotic relationship with their oceans and marine life, and more so than any other state, rely on the health and sustainability of our oceans and the resources within them.

While the National Ocean Policy's roots can be traced to Bush era policy recommendations, its current form is drastically larger in scope and features unwieldy regulations. The policy establishes a top-down management structure based on coastal and marine spatial planning that has the potential to significantly impact a wide range of economic sectors including commercial and recreational fishing, which are critical to my state, inland agriculture, maritime commerce, and energy development.

Congress recognized the problematic nature of the National Ocean Policy when similar attempts and schemes in legislation failed to advance in four consecutive Congresses under both Democrat and Republican majorities.

Among the concerning characteristics of the Executive agency advancement of National Ocean Policy is the concept of zoning our oceans. The architects of the Policy maintain this process is designated and designed to unite stakeholders with state, Federal, and tribal partners to streamline decisionmaking. I think most of us would agree that's actually a very, very good idea.

But the structure that we'll talk about, and you'll see here, with regard to what this Executive order actually looks like, might have the very opposite effect. The National Ocean Policy establishes 9 regional planning bodies composed of 27 Federal agencies, again, that's a schematic of what this Executive order does, relevant states, tribes, and territories. In some cases, the RPBs include representatives from foreign governments. The policy also establishes an 18-member governance committee, a 5-member steering committee, and two policy committees to oversee resource management in science and technology. As you can see from this chart, this is a complex and bureaucratic system that was not set forth in any statute.

One of the biggest concerns about this Executive order is that it could undermine the successful state-run regional ocean partnerships and regional fisheries management councils, and would create statutory conflicts with landmark laws, like the Magnuson-Stevens Act. An Executive order undermining finely balanced legislation that works right now, like the MSA does, should concern all members of this body.

The perhaps most troubling aspect of the National Ocean Policy is the regulatory burden it can place on maritime commerce, recreational and commercial fishing, energy development, and small businesses. Not only could its national standards grind permitting processes to a halt, but would also make Federal agencies vulnerable to costly lawsuits. This is particularly troubling when you consider that these regulations will also impact inland areas, not just oceans and coastlines.

The United States has a very strong record of sustainable management of our oceans and marine resources. While our system is not perfect, it remains the envy of the world. Undermining this functional statutory structure by replacing it with an Executive order with a top-down Federal bureaucracy approach not authorized by Congress raises many concerning issues, which will be the focus of today's hearing. Congress has attempted to stop this Executive policy by withholding funds for its implementation, but Federal agencies have moved forward in implementation nonetheless.

I do, however, want to make clear that there are some positive aspects about the National Ocean Policy. The National Ocean Policy, for example, has requirements to increase data-sharing between agencies and promote invaluable science and research to better understand our oceans and marine resources. I believe that every member of this Committee supports those important goals. Since I joined the Senate, these have been priorities of mine and I believe should be a top priority of Congress and the executive branch.

Today we will hear from some of the different user groups and communities most impacted by this policy. I'm confident that their invaluable perspectives will help us shed light on this Executive order as part of our oversight responsibilities.

Senator Peters.

STATEMENT OF HON. GARY PETERS,
U.S. SENATOR FROM MICHIGAN

Senator PETERS. Thank you, Chairman Sullivan. And it's good to be with you again for another important hearing. And I look forward to hearing from our witnesses.

And I want to take this opportunity to thank each of our witnesses for being here and for sharing your views on the state of ocean planning.

Mr. Chairman, our home states of Alaska and Michigan are both maritime states, and we are a maritime nation. Our oceans and our Great Lakes are economic engines providing millions of Americans with jobs and income through fishing, tourism, shipping, energy, research, boating, and military and national security activities. In turn, the industry is supporting these millions of jobs that rely on healthy, functioning marine and freshwater ecosystems.

Today's hearing is titled, "National Ocean Policy," but for good reason, I must add the current National Ocean Policy explicitly recognizes the Great Lakes. The lakes hold a full 20 percent of the world's surface fresh water and are in the middle of one of the world's most productive agricultural areas. Recreational boaters and commercial freighters from around the world sail through the Great Lakes, and our fisheries alone support more than 75,000 jobs in the region.

As a result, through formal law and through good practice, the United States, Canada, and Native American tribes routinely coordinate on management decisions. We recognize the lakes are a shared public resource as well as a national treasure, and by and large, we manage them that way. This coordination spans in scale from local agreements to formal treaties.

By the way, Mr. Chairman, after our many hearings together, considering the Magnuson-Stevens Act, let me recommend our own Great Lakes Fishery Commission to you as a possible model for fisheries management practices.

Because it has been some time since the Senate has held a hearing on National Ocean Policy, I want to just take a moment to acknowledge the leadership shown by this Committee and our last two Presidential administrations on this issue.

Back in 2000, led by Senator Hollings and Senator Stevens, Congress passed the Oceans Act. The law created a Presidentially ap-

pointed commission, which was directed to consider and provide a report back to Congress with recommendations to guide effective ocean governance. The law also directed the President to submit a comprehensive ocean and coastal policy plan back to Congress within 120 days of receiving the report.

President Bush's administration did so through the Ocean Action Plan, and the President established a Federal interagency coordination process by Executive order.

President Obama then expanded the National Ocean Policy effort in a few ways, for example, proposing a new framework for maritime spatial planning to help inform and prioritize potentially competing ocean and coastal areas.

President Bush's National Ocean Plan and his Great Lakes Executive order led to the development of a very successful Great Lakes restoration initiative formalized during the Obama administration. The initiative, which brings together 15 Federal agencies, in addition to state and local partners, has provided Federal support to over 3,500 projects to protect and restore the Great Lakes, and have fundamentally transformed the region.

I regret that we won't hear from any of the Federal agencies or states involved with ocean planning today, as I certainly would have welcomed the opportunity to hear about some of the successes that have been achieved as well as some of the lessons that have been learned. However, I have received letters from the Joint Ocean Commission Initiative, from several industry leaders, and from the Mid-Atlantic Regional Council on the Ocean.

Mr. Chairman, I would like to enter those records for the hearing record.

Senator SULLIVAN. Without objection.

[The information referred to follows:]

MID-ATLANTIC REGIONAL COUNCIL ON THE OCEAN

December 11, 2017

Hon. DANIEL S. SULLIVAN,
Chair,
Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard,
Committee on Commerce, Science, and Transportation,
U.S. Senate,
Washington, DC.

Hon. GARY C. PETERS,
Ranking Member,
Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard,
Committee on Commerce, Science, and Transportation,
U.S. Senate,
Washington, DC.

Dear Chair Sullivan and Ranking Member Peters:

In anticipation of your "National Ocean Policy: Stakeholder Perspectives" hearing on December 12, the Mid-Atlantic Regional Council on the Ocean (MARCO) expresses its continued strong support for an inclusive national ocean policy framework that sustains regional ocean planning efforts in the Mid—Atlantic. The States are the biggest stakeholder in the national ocean policy conversation and have been the direct beneficiaries of the current emphasis on regional ocean planning.

The Mid—Atlantic has its roots in the ocean, and our coastal communities remain the lifeblood of the regional economy and the key to its high quality of life. Established as a partnership of the coastal programs of Virginia, Maryland, Delaware, New Jersey and New York, MARCO seeks to further enhance the vitality of the regional ocean ecosystem and economy by advancing issues important to all five States.

MARCO was formed out of recognition that States have a collective interest in the wise stewardship of shared ocean resources and coordinated management of their use. But to truly be successful in maintaining a healthy ocean and driving economic growth along our coasts, we need a willing and able Federal partner. Through regional ocean planning, the National Ocean Policy provides a clear and direct op-

portunity to recognize the regional nature of ocean issues and drive Federal programs to address them collaboratively and at a manageable scale.

Regional ocean planning is a non—regulatory process that improves the effectiveness of Federal, State, and Tribal implementation of their responsibilities in the Mid—Atlantic Ocean through three core elements. Together, these three elements support economic development and ecosystem conservation so that multiple interests can co—exist in a manner that provides for sustainable uses, reduces conflict, and enhances compatibility. These include:

1. Coordination and collaboration at a regional scale
With over twenty stove—piped entities managing uses and resources in Federal waters, coordination among Federal, State, and Tribal entities is key to shifting to a more comprehensive and integrated regional perspective on management.

2. Effective engagement with all ocean users
On-going communication and information sharing with all ocean stakeholders is critical to ensure that all perspectives and interests are heard and that actions reflect the economic, social, cultural, and ecological needs and goals of the Mid—Atlantic region.

3. Public access to best available data and information
Our Mid—Atlantic Regional Ocean Data Portal provides a centralized source for the best available spatial data about ocean uses, species and habitats. By providing information about the types of uses or species and habitats that co—occur in a particular location, both decision—makers and permitting applicants can have information to identify potential conflicts and compatibilities. The Portal offers a streamlined source of information that can more efficiently inform environmental impact assessments and siting proposals throughout the pre—planning and application processes.

Regional ocean planning has become vital to ensuring State interests are considered and integrated into decision making. Put simply, this type of coordinated effort is fundamental to "good government" and reflects an appropriate respect for State's rights in issues under Federal control. We urge you to ensure these key elements of ocean planning continue to be implemented by supporting the goals of the National Ocean Policy and the Mid—Atlantic Regional Ocean Action Plan.

Thank you for considering our views on this very important issue. Please do not hesitate to contact me for further information.

Sincerely,

KATE KILLERLAIN MORRISON,
Executive Director,
Mid-Atlantic Regional Council on the Ocean.

VIRGINIA AQUARIUM & MARINE SCIENCE CENTER FOUNDATION
December 12, 2017

U.S. Senate,
Committee on Commerce, Science, and Transportation,
Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard.

Dear Chairman Thune and Ranking Member Nelson, Subcommittee Chairman Sullivan and Subcommittee Ranking Member Peters,

On behalf of the Virginia Aquarium & Marine Science Center Foundation, our thriving ocean industries and our treasured marine ecosystems, I am writing in support of the National Ocean Policy and regional ocean planning efforts that are making a difference for Virginia and the Nation. As evidenced by the *Mid-Atlantic Regional Ocean Action Plan,* coastal states and the Federal Government, tribes, fisheries managers, and other stakeholders have made significant progress in defining new opportunities for engagement on coordinated ocean management.

Virginia Aquarium research has contributed to the ongoing planning process by providing marine mammal and sea turtle data. This kind of common sense coordination is needed to encourage sustainable economic development while also protecting and restoring our living marine resources.

Created as a result of recommendations from two bi-partisan national commissions, the National Ocean Policy benefits our ocean economy, safety and security, and our ocean and coastal resilience by supporting local actions. Here in Virginia, massive new ships are arriving from an expanded Panama Canal; there is great demand for offshore sand mining to rebuild beaches; we are looking at offshore wind to power our cities and towns; and our military fleet is growing. Our busy waters

support a thriving fishing industry and are home to endangered North Atlantic right whales and sea turtles. On top of increased competition for space, ocean life—and the jobs, food, and recreation that depend on it—face new stresses of wanning waters and acidification as a result of climate change. Ocean planning tools such as the regional ocean plans and the ocean data portals, advanced and supported by the National Ocean Policy, are vitally needed to make smart decisions that promote responsible ocean growth and support families and businesses for multiple generations.

Virginia' s ocean is an economic powerhouse. In 2014 alone, ocean sector industries, such as ship building, fishing and tourism, contributed more than $8.2 billion to Virginia's gross domestic product (GDP) and supported more than 118,000 jobs.[i] There's too much at stake to risk our healthy ocean.

There is a broad base of support for regional ocean planning efforts to continue. Fishermen, shipping companies, offshore wind developers, conservationists and others support the data portals and efforts of the state and Federal agencies to implement the regional ocean plans. The National Ocean Policy helps keep the ocean working for everyone to use and enjoy. We urge the committee to support the National Ocean Policy, the *Mid-Atlantic Regional Ocean Action Plan* and other regional plans, and to help ensure that our Nation has the Federal support needed to protect our ocean for the future.

Sincerely,

W. MARK SWINGLE,
Director of Research & Conservation,
Virginia Aquarium & Marine Science Center Foundation.

[i] National Oceanic and Atmospheric Administration. Quick Report Tool for Socioeconomic Data. Ocean Economy, New York, 2014. Available at: *http://coast.noaa.gov/quickreport/#/index.html.*

#17-355-R

RESOLUTION OF THE TOWNSHIP OF BERKELEY, COUNTY OF OCEAN, STATE OF NEW JERSEY, SUPPORTING THE MID-ATLANTIC REGIONAL OCEAN ACTION PLAN

September 25, 2017

WHEREAS, healthy ocean eco-systems and sustainable ocean uses are a benefit to quality of life for residents of New Jersey by ensuring the ocean's environmental and economic attributes continue to provide for future generations; and

WHEREAS, Berkeley Township strives to support actions which protect tourism, assure clean and healthy water, and improve the working and living environments of the ocean as steps to building a collaborative and respectful ocean user community that will thrive well into the new century; and

WHEREAS, Berkeley Township hereby acknowledges that our residents desire a healthy, thriving, and sustainable future for themselves, future generations, and our ocean; and

WHEREAS, Berkeley Township wishes to support a Mid-Atlantic Regional Ocean Action Plan (OAP) which benefits our residents and our ocean now and far into the future by exploring and adopting collaborative and coordinated federal, state and local government practices; and

WHEREAS, by supporting the implementation of a strong Mid-Atlantic Regional OAP Berkeley Township is enabling the process to allow community members and additional stakeholders the opportunity to engage further and have their voices heard regarding planning for sustainable uses and healthy ocean ecosystem practices; and

WHEREAS, as elected representatives of Berkeley Township,we have a significant responsibility to provide leadership which will seek to protect our coastal economy and healthy ocean ecosystems to strengthen our New Jersey coast and ocean;

NOW THEREFORE BE IT RESOLVED that Berkeley Township wishes to support the Mid-Atlantic Regional OAP on matters of a healthy ocean ecosystem and sustainable uses, the Township Council wishes to pursue public and private actions that will lead to the continuation of a strong, protective plan.

BE IT FURTHER RESOLVED, that the Township Council requests that Congressman Thomas MacArthur extend the Township's support on all federal and/or state issues involving the planning process on behalf of Berkeley Township.

BE IT FURTHER RESOLVED, by Township Council of Berkeley Township that we do hereby send notice to Congressman Thomas MacArthur, and copy to the Mid-Atlantic Regional Planning Body, State of NJ RPB member NJDEP to acknowledge Berkeley Township'ssupport for the continuation of the Mid-Atlantic Regional Ocean Action Plan and process.

Sophia Gingrich, Council President
L. Thomas Grosse, Council Vice President

CERTIFICATION

I, Beverly M Carle, do hereby certify the foregoing is a true copy of a resolution adopted by the Governing Body of the Township of Berkeley at a meeting held on the 25th day of September, 2017.

BEVERLY M CARLE, RMC
Municipal Clerk, Township of Berkeley

September 26, 2017

Resolution 2017-193
Borough or Bradley Beach Supporting
The Mid-Atlantic Ocean Action Plan

WHEREAS, healthy ocean eco-systems and sustainable ocean uses are a benefit to quality of life for residents of New Jersey by ensuring that the ocean's environmental and economic attributes continue to provide for future generations

WHEREAS, the Borough of Bradley Beach strives to support actions which protect tourism, assure clean and healthy water, and improve the working and living environments of the ocean as steps to building a collaborative and respectful ocean user community that will thrive well into the new century; and

WHEREAS, the Borough of Bradley Beach hereby acknowledges that the residents of Bradley Beach desire a healthy, thriving, and sustainable future for themselves, future generations, and our ocean; and

WHEREAS, the Borough of Bradley Beach wishes to support a Mid-Atlantic Ocean Action Plan (OAP) which benefits our residents and our ocean now and far into the future by exploring and adopting collaborative and coordinated federal, state and local government practices; and

WHEREAS, by supporting the implementation of a strong Mid-Atlantic OAP the Borough of Bradley Beach is enabling the process to allow community members and additional stakeholders the opportunity to engage further and have their voices heard regarding planning for sustainable uses and healthy ocean ecosystem practices; and

WHEREAS, as elected representatives of the Borough of Bradley Beach, we have a significant responsibility to provide leadership which will seek to protect our coastal economy and healthy ocean ecosystems to strengthen our New Jersey coast and ocean: NOW THEREFORE

BE IT RESOLVED, that the Borough of Bradley Beach wishes to support the Mid-Atlantic OAP on matters of sustainable uses and healthy ocean ecosystems and, the Borough of Bradley Beach's Mayor and Council wishes to pursue public and private actions that will lead to the continuation of a strong, protective plan.

BE IT FURTHER RESOLVED, by the Mayor and Council of the Borough of Bradley Beach that we do hereby send notice t**o New Jersey's Fourth Congressional District and copy to the Mid-Atlantic Regional Planning Body, State of NJ RPB Elizabeth Semple of NJDEP]** to acknowledge Bradley Beach's support for the continuation of the Mid-Atlantic Ocean Action Plan and process and request she to extend their support on all federal and/or state issues involving the planning process on behalf of the Borough of Bradley Beach.

Seconded by Councilman Goldfarb and adopted upon the following vote:

	AYES	NAYS	ABSTAIN	ABSENT
Mr. Weber	X			
Mr. Goldfarb	X			
Mr. Bonnell	X			
Mr. Cotler	X			
Mayor Engelstad	X			

CERTIFICATION

I, Kelly Barrett, Municipal Clerk, Borough of Bradley Beach, Monmouth County, New Jersey, do hereby certify that the foregoing resolution was duly adopted by the Mayor and Council at the September 26, 2017 meeting.

KELLY BARRETT, RMC, CMR
Municipal Clerk

RESOLUTION NO. 2017-302

City of Asbury Park
County of Monmouth
State of New Jersey

RESOLUTION SUPPORTING THE MID-ATLANTIC REGIONAL OCEAN ACTION PLANT

WHEREAS, healthy ocean eco-systems and sustainable ocean uses are a benefit to quality of life for residents of New Jersey by ensuring the ocean's environmental and economic attributes continue to provide for future generations; and

WHEREAS, Asbury Park strives to support actions which protect tourism, assure clean and healthy water, and improve the working and living environments of the ocean as steps to building a collaborative and respectful ocean user community that will thrive well into the new century; and

WHEREAS, Asbury Park hereby acknowledges that the residents of Asbury Park desire a healthy, thriving, and sustainable future for themselves, future generations, and our ocean; and

WHEREAS, Asbury Park wishes to support a Mid-Atlantic Regional Ocean Action Plan (OAP) which benefits our residents and our ocean now and far into the future by exploring and adopting collaborative and coordinated federal, state and local government practices; and

WHEREAS, by supporting the implementation of a strong Mid-Atlantic Regional OAP Asbury Park is enabling the process to allow community members and additional stakeholders the opportunity to engage further and have their voices heard regarding planning for sustainable uses and healthy ocean ecosystem practices as outlined in the accompanying "What Will Ocean Planning Do"; and

WHEREAS, as elected representatives of Asbury Park, we have a significant responsibility to provide leadership which will seek to protect our coastal economy and healthy ocean ecosystems to strengthen our New Jersey coast and ocean.

NOW THEREFORE BE IT RESOLVED that Asbury Park wishes to support the Mid-Atlantic Regional OAP on matters of a healthy ocean ecosystem and sustainable uses, the Asbury Park City Council wishes to pursue public and private actions that will lead to the continuation of a strong, protective plan.

BE IT FURTHER RESOLVED by the City Council of Asbury Park that we do

hereby send notice to New Jersey Sixth Congressional District Congressman Pallone and copy to the Mid-Atlantic Regional Planning Body, State of NJ RPB member (NJDEP) to acknowledge Asbury Park's support for the continuation of the Mid-Atlantic Regional Ocean Action Plan and process and request all to extend their support on all federal and/or state issues involving the planning process on behalf of Asbury Park.

I, CINDY A. DYE, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2017-302 which was finally adopted by the City Council at a meeting held on the 27th day of September, 2017

CERTIFIED BY ME THIS 28th DAY OF September, 2017.

CINDY A. DYE
CITY CLERK

✓ Vote Record - Resolution 2017-302

☑ Adopted
☐ Adopted as Amended
☐ Defeated
☐ Tabled
☐ Withdrawn

		Yes/Aye	No/Nay	Abstain	Absent
Eileen Chapman	Voter	☑	☐	☐	☐
Yvonne Clayton	Seconder	☑	☐	☐	☐
Jesse Kendle	Mover	☑	☐	☐	☐
Amy Quinn	Voter	☐	☐	☐	☑
John Moor	Voter	☑	☐	☐	☐

RESOLUTION OF THE BOROUGH OF LAVALLETTE, COUNTY OF OCEAN, STATE OF NEW JERSEY, SUPPORTING THE MID-ATLANTIC REGIONAL OCEAN ACTION PLAN

RESOLUTION NO. 2017-264
DATE OF ADOPTION: 9/18/17

WHEREAS, healthy ocean eco-systems and sustainable ocean uses are a benefit to quality of life for residents of New Jersey by ensuring the ocean's environmental and economic attributes continue to provide for future generations.

WHEREAS, the Borough of Lavallette strives to support actions which protect tourism, assure clean and healthy water, and improve the working and living environments of the ocean as steps to building a collaborative and respectful ocean user community that will thrive well into the new century; and

WHEREAS, the Borough of Lavallette hereby acknowledges that our residents desire a healthy, thriving, and sustainable future for themselves, future generations, and our ocean; and

WHEREAS, the Borough of Lavallette wishes to support a Mid-Atlantic Regional Ocean Action Plan (OAP) which benefits our residents and our ocean now and far into the future by exploring and adopting collaborative and coordinated federal, state and local government practices; and

WHEREAS, as elected representatives of the Borough of Lavallette, we have a significant responsibility to provide leadership which will seek to protect our coastal economy and healthy ocean ecosystems to strengthen our New Jersey coast and ocean.

NOW THEREFORE, BE IT RESOLVED, that the Governing Body of the Borough of Lavallette, County of Ocean, State of New Jersey, wishes to support the Mid-Atlantic Regional OAP on matters of a healthy ocean eco-system and sustainable uses, and wishes to pursue public and private actions that will lead to the continuation of a strong, protective plan.

BE IT FURTHER RESOLVED, that certified copies of this resolution shall be forwarded to the 10th Legislative District, Mid-Atlantic Regional Planning Body and the State of NJ, Dept. of Environmental Protection.

CERTIFICATION

I, Donnelly Amico, Municipal Clerk of the Borough of Lavallette do hereby certify that the foregoing resolution was duly adopted by the Lavallette Borough Council at a Regular Council Meeting held on the **18th** day of **September 2017.**

Donnelly Amico
Municipal Clerk

LaCicero	Moved	Second	Aye	Nay	Abstain	Absent
Borowski			✓			
Filippone			✓			
Zalom			✓			
Stogdill						✓
Finter	✓		✓			
Lamb		✓	✓			

Resolution 17-1002.02

Resolution of the Township of Long Beach, County of Ocean, State of New Jersey, Supporting the Mid-Atlantic Regional Ocean Action Plan

WHEREAS, healthy ocean eco-systems and sustainable ocean uses are a benefit to quality of life for residents of New Jersey by ensuring the ocean's environmental and economic attributes continue to provide for future generations; and

WHEREAS, Long Beach Township strives to support actions which protect tourism, assure clean and healthy water, and improve the working and living environments of the ocean as steps to building a collaborative and respectful ocean user community that will thrive well into the new century; and

WHEREAS, Long Beach Township hereby acknowledges that our residents desire a healthy, thriving, and sustainable future for themselves, future generations, and our ocean; and

WHEREAS, Long Beach Township wishes to support a Mid-Atlantic Regional Ocean Action Plan (OAP) which benefits our residents and our ocean now and far into the future by exploring and adopting collaborative and coordinated federal, state and local government practices; and

WHEREAS, by supporting the implementation of a strong Mid-Atlantic Regional OAP Long Beach Township is enabling the process to allow community members and additional stakeholders the opportunity to engage further and have their voices heard regarding planning for sustainable uses and healthy ocean ecosystem practices; and

WHEREAS, as elected representatives of Long Beach Township, we have a significant responsibility to provide leadership which will seek to protect our coastal economy and healthy ocean ecosystems to strengthen our New Jersey coast and ocean; and

NOW, THEREFORE, BE IT RESOLVED that the Township of Long Beach wishes to support the Mid-Atlantic Regional OAP on matters of a healthy ocean ecosystem and sustainable uses, the Township Commissioners wish to pursue public and private actions that will lead to the continuation pf a strong, protective plan.

BE IT FURTHER RESOLVED, that the Township Commissioners request that Congressman Thomas MacArthur extend the Township's support on all federal and/or state issues involving the planning process on behalf of Long Beach Township.

BE IT FURTHER RESOLVED, by Township Commissioners of the Township of Long Beach that we do hereby send notice to Congressman Thomas MacArthur, and copy to the Mid-Atlantic Regional Planning Body, State of NJ RPB member NJDEP to acknowledge Long Beach Township's support for the continuation of the Mid-Atlantic Regional Ocean Action Plan and process.

PASSED ON: October 2, 2017

CERTIFICATION

I, **LYNDA J. WELLS**, Municipal Clerk for the Township of Long Beach do hereby certify that the foregoing Resolution 17-1002.02 was duly adopted by the Board of Commissioners at a regular meeting held Monday, October 2, 2017.

Lynda J. Wells

Lynda J. Wells, RMC
Municipal Clerk

Senator PETERS. And again I would like to thank you, Mr. Chairman, for holding this hearing, and I look forward to hearing from our four witnesses today.

Again, thank you for making the effort to be here. We look forward to your testimony.

[The prepared statement of Senator Peters follows:]

PREPARED STATEMENT OF HON. GARY PETERS, U.S. SENATOR FROM MICHIGAN

Thank you Chairman Sullivan. I'm pleased to join you in welcoming today's witnesses. Thank you all, for your willingness to be here today, and for sharing your views on the state of ocean planning.

Mr. Chairman, our home states of Alaska and Michigan are both maritime states, and we are a maritime nation. Our oceans and our Great Lakes are economic engines, providing millions of Americans with jobs and income through fishing, tourism, shipping, energy, research, boating, and military and national security activities. In turn, the industries supporting these millions of jobs rely on healthy, functioning marine and freshwater ecosystems.

Today's hearing is titled National Ocean Policy, but for good reason the current national ocean policy explicitly recognizes the Great Lakes. The Lakes hold a full 20 percent of the world's surface freshwater and are in the middle of one of the world's most productive agricultural areas. Recreational boaters and commercial freighters from around the world sail the Great Lakes, and our fisheries alone support more than 75,000 jobs in the region.

As a result, through formal law and through good practice, the United States, Canada, and Native American tribes routinely coordinate on management decisions. We recognize the Lakes are a shared public resource and a national treasure, and by and large we manage them that way. This coordination spans in scale from local agreements to formal treaties.

By the way Mr. Chairman, after our many hearings together considering the Magnuson Stevens Act, let me recommend our own Great Lakes Fishery Commission to you as an excellent model for fisheries management.

Because it has been some time since the Senate has held a hearing on the National Ocean Policy, I want to take a moment to acknowledge the leadership shown by this Committee and our last two Presidential Administrations on the issue. Back in 2000, led by Senators Hollings and Senator Stevens, Congress passed the Oceans Act. The law created a presidentially appointed Commission, which was directed to consider and provide a report back to Congress with recommendations to guide effective ocean governance. The law also directed the President to submit a comprehensive ocean and coastal policy back to Congress within 120 days of receiving the Commission's report.

President Bush's Administration did so through an Ocean Action Plan, and the President established a Federal interagency coordination process by Executive Order. President Obama then expanded the National Ocean Policy effort in a few ways, for example proposing a new framework for marine spatial planning to help inform and prioritize potentially competing ocean and coastal uses.

President Bush's National Ocean Plan and his Great Lakes Executive Order lead to the development of the very successful Great Lakes Restoration Initiative, formalized during the Obama Administration. The Initiative, which brings together 15 Federal agencies in addition to state and local partners, has provided Federal support to over 3,500 projects to protect and restore the Lakes, fundamentally transforming the region.

I regret that we won't hear from any of the Federal agencies or states involved with ocean planning today, as I would have welcomed the opportunity to hear about some of the successes that have been achieved, as well as the lessons that have been learned. However, I've received letters from the Joint Ocean Commission Initiative, from several industry leaders and from the Mid-Atlantic Regional Council on the Ocean. Mr. Chairman, I'd be grateful to enter these letters for the hearing record. With that I thank you for calling this hearing, and I look forward to hearing from the four witnesses today. Thank you again for being here.

Senator SULLIVAN. Great. And thank you, Senator Peters. And again I appreciate all the cooperation that we've had on this Subcommittee. I think it has been a very active Subcommittee.

And I look forward to our witnesses today. Today we do have, and I want to welcome, a distinguished panel of experts, starting with Ms. Bonnie Brady, Executive Director of the Long Island Commercial Fishing Association; Mr. Christopher Guith, if I'm saying that right. Did I get that right?

Mr. GUITH. Close, "Gooth."

Senator SULLIVAN. Guith, OK. Mr. Christopher Guith, Senior Vice President, Global Energy Institute, U.S. Chamber of Commerce; Mr. Daniel Keppen, Executive Director, Family Farm Alliance; and Ms. Kathy Metcalf, President and CEO of Shipping of America.

You will each have 5 minutes to deliver an oral statement, and a longer written statement will be included in the record if you so desire.

Ms. Brady, why don't we begin with you.

STATEMENT OF BONNIE BRADY, EXECUTIVE DIRECTOR, LONG ISLAND COMMERCIAL FISHING ASSOCIATION

Ms. BRADY. Thank you very much. Chairman Sullivan, Ranking Member Peters, and members of the Subcommittee, it is a great honor to be chosen to testify before you today. My name is Bonnie Brady, and I am the Executive Director of the Long Island Commercial Fishing Association, which represents fisherman from all gear types throughout Long Island.

From New York Harbor to Montauk Point, we are 118 miles long, with Long Island Sound to the north and the Atlantic Ocean on the south and east. Ninety-nine percent of all the seafood landing in New York State comes off of the waters off of Long Island, and in 2016, just shy of 30 million pounds with just under $50 million.

Long Island is home to two of the Nation's top commercial fishing ports, Montauk and Shinnecock. It may not be on breaking from—it's not one of the top 13 of the top 70, like yourself, Senator, because I was counting and looked, but for us, we consider it to be quite a task.

It is the number one port in the state, and it's where I call home. It's 68th in the Nation, which is for us a little—a pretty impressive thing, especially in light of the fact that about 300 members of our community make their living directly or indirectly from the sea.

My involvement in the fishing industry is not through my lineage. I'm the daughter of an Irish Catholic cop from Yonkers and a fashion model from New Jersey. I spent the formative years in New Jersey and New York, went to journalism school in South Carolina, and then spent several years in D.C. working, among other things, as a Hill staffer. I moved to Montauk in 1989 to help with my family care for my younger siblings when my father retired.

After a job as a local beat reporter, a Peace Corps tour as a health volunteer in Cameroon, I returned to Montauk again, became a paramedic, and met my husband, a fisherman. I began working with fishermen in 1999 when I had the choice of picking up the chalk at an informational new fishing group meeting and tried to help organize various fishermen's ideas about regulations on the blackboard for future discussion.

Since 2000, I've represented commercial fishermen at the local, county, state, and Federal level, attending numerous Federal fishery management council meetings and educating the public on the importance of commercial fishing in New York.

We fish in state and Federal waters regulated by the state in conjunction with the Atlantic States Marine Fisheries Commission and both the New England and the Mid-Atlantic Fishery Management Council. In all my years of experience with fisheries management, President Obama's 2010 National Ocean Policy Executive order represents one of the greatest threats I've seen to the health and economic well-being of the Long Island commercial fishing community.

I've been a stakeholder of the Mid-Atlantic Regional Planning Body, the Mid-RPBs, created under the National Ocean Policy since 2013. I've been to Mid-RPB public meetings, breakout sessions, flip-charting focus groups, and all-day marathon webinars for the last 4 years. I'm also a Mid-RPB stakeholder liaison and last month attended the New England RPB for a one-day workshop on its portal.

From New Hampshire to Virginia, I've driven up and down the seaboard to represent commercial fishermen at public comment opportunities for their RPB's Ocean Action Plans, not just representing New York's fishermen, but often those of the Mid-Atlantic because I'm often the only fishing person there. Meetings are often held at a nondescript hotel conference room nowhere near any coastal town or fishing port that could really feel the repercussions of possible future actions.

At most meetings, I am one of maybe two representing coastal fishing communities in a virtual sea of ENGOs and government bureaucrats. I stand before the RPB at each and every meeting and I repeatedly explain that fish and fishermen's data is not being represented appropriately, it is not complete, and is often highly inaccurate. I suggest alternative data streams and cooperative research initiatives for gathering better data. I've been doing this to no avail for years and at a significant cost to me and my members in terms of both time and money.

Beginning in September 2015, I challenged the Mid-RPB on their fisheries data, and requested that any fishery-specific data be vetted through the commercial fishing industry, specifically the Trawl Advisory Panel of the Mid-Atlantic Fishery Management Council because of multiple issues relating to vessel trip report data and National Marine Fisheries Service Trawl Survey calibration methods.

For months, I was told by the Mid-RPB a fishermen's workshop would happen. It never happened. The fisheries data issues remain unaddressed. Underscoring these concerns is the Mid-RPB's effort to identify ecologically rich areas, which, under their Ocean Action Plan, would subsequently be incorporated into government decisionmaking.

In addition to identifying these areas based on inaccurate data, this effort may create actions to create new marine protected areas, MPAs, where fishing is either off limits or severely restricted without any statutory authority for doing so and without the trans-

parency associated with the authorized mechanism, such as the National Marine Sanctuaries Act and Magnuson-Stevens Act.

The National Ocean Policy takes the statutory power of NMFS, NOAA, and the fishery management councils, and seeks to place it with the RPBs so that the Mid-Atlantic—I'm sorry—the Mid-RPB could falsely declare an area worthy of greater protection outside of these long-established and authorized processes. While the RPB states it's nonregulatory, the Executive order and agency commitments make clear that this is in fact a body whose actions will have regulatory impacts.

One of the many concerns is RPB discussion about possibly using these unauthorized plans to carry out elements of the Coastal Zone Management Act and impose new pre-application consultation requirements and the RPB's desire to favor certain uses over others to the detriment of commercial fishing.

Also significant since at least 2008, the Gordon and Betty Moore Foundation has awarded copious grants to ENGOs in the records to push ecosystem-based management, coastal and marine spatial planning, and MPAs, in addition to the RPBs and the entire National Ocean Council plan. This includes funding for the RPB's activities until 2016.

Groups like the Coastal State Stewardship, Urban Coast Institute, Stanford Woods Institute for the Environment, Wildlife Conservation Society, Nature Conservancy, NRDC, Living Oceans, Surfrider, and many, many others are all grant-funded to show up to RPB meetings and pretend they have no bias or specific agenda nor funding sources when the entire process has been funded by at least one ENGO from the beginning, leaving us, the fishermen, possibly one of the oldest stakeholders in the sea, with no voice that matters and no seat at the decision table—decisionmaking table.

Thus, our very future could be decided by an unauthorized planning process that is as transparent as mud, and our two choices we are offered as commercial fishermen seem to be to get closed out of productive fishing grounds via MPAs or be subject to closures with the RPB's blessings. This is not doable for thousands of commercial fishing families throughout the country. We could lose everything—our jobs, our homes—as we are pushed out, destroying the very fabric of our coastal fishing communities.

It's not about retraining for a new job. Stocks are sustainable. We shouldn't be forced off into a quasi-parallel ocean-governing body whose goal is to push us off the ocean, to force an agenda that they haven't been able to democratically push through, the Magnuson-Stevens Act and its fish councils.

We, the commercial fishermen of the U.S., are the ones who need help and protection now from Congress. We desperately need your help to ensure that commercial fishermen are no longer saddled with additional uncertainty or new regulatory hurdles as the result of the National Ocean Policy Executive order, and that Federal agencies will no longer flout the will and intent of Congress.

I look forward to any questions you may have. Thank you very much.

[The prepared statement of Ms. Brady follows:]

PREPARED STATEMENT OF BONNIE BRADY, EXECUTIVE DIRECTOR, LONG ISLAND COMMERCIAL FISHING ASSOCIATION

Dear Chairman Thune, Chairman Sullivan, Ranking Member Peters, and Members of the Subcommittee:

It is a great honor to be chosen to testify before you today.

My name is Bonnie Brady, and I am the Executive Director of the Long Island Commercial Fishing Association, which represents fishermen from all gear types throughout Long Island, NY. From New York Harbor to Montauk Point, Long Island extends 118 miles with Long Island Sound to our north and the Atlantic Ocean to our south and east. 99 percent of all the seafood that is landed in New York State comes from the waters off Long Island, which in 2016 translated to just shy of 30 million pounds of fish worth just under $50 million dollars to our New York coastal communities.

Long Island is home to some of the Nation's top commercial fishing ports, including Montauk (53rd in poundage and 68th in dollars) and Shinnecock (78th in poundage and 93rd in dollars). Montauk is also the number one commercial fishing port in the state, and where I call home. For a small town of 3,100 people with approximately 300 who make their living either directly or indirectly from the sea, 68th in the Nation is a pretty impressive accomplishment.

My involvement in the fishing industry is not through my lineage. I'm the daughter of an Irish Catholic cop from Yonkers and a fashion model from New Jersey. I spent my formative childhood years in New Jersey, then New York, went to journalism school in South Carolina, then spent several years in DC working, among other things, as a Hill staffer. I moved to Montauk in 1989 to help my care for my younger siblings, where my parents had moved after my father retired from the police department.

After a job as a local beat reporter and a Peace Corps tour as a health volunteer in Cameroun, I returned to Montauk again, became a paramedic, and met my husband, a fisherman.

I found myself working with fishermen in 1999 when I picked up the chalk at an informational new fishing group meeting and tried to help organize various fishermen's ideas about regulations on a blackboard for further discussion.

Since 2000, I have represented commercial fishermen at the local, county, state and federal level, attending numerous meetings including Federal fishery management council meetings, educating the public on the importance of commercial fishing in New York. We fish in State and Federal waters regulated by the state in conjunction with the Atlantic States Marine Fisheries Commission, and both the New England (NEFMC) and Mid-Atlantic (MAFMC) Fishery Management Councils.

In all my years of experience with fisheries management, President Obama's 2010 National Ocean Policy Executive Order represents one of the greatest threats I have seen to the health and economic well-being of the Long Island commercial fishing community. I have participated as a stakeholder of the Mid-Atlantic Regional Planning Body (Mid-A RPB) created under the National Ocean Policy since late 2013. I've attended Mid-A RPB public meetings, multiple breakout sessions, flip-charting focus groups, and all-day marathon webinars for the last four years. I am also a Mid-A RPB stakeholder liaison and attended the New England Regional Planning Body just last month for a one-day workshop on its portal.

From New Hampshire to Virginia, I have driven up and down the Atlantic Seaboard to represent commercial fishermen at public comment opportunities for the RPB's ocean action plans. Not just representing New York's fishermen, but often those of the Mid-Atlantic, because I'm often the only fishing person there. Usually the meetings are held at a non-descript hotel conference room, nowhere near any coastal town or fishing port that could really feel the repercussions of possible future actions. At most meetings, I am one of possibly only two representing coastal fishing communities in a virtual sea of ENGOs and government bureaucrats.

I stand before the RPB at each and every meeting and repeatedly explain that fishermen's data is not being represented appropriately, and that the data they are using is not complete, and is often highly inaccurate. I suggest alternative data streams and cooperative research initiatives for gathering better data. I've been doing this to no avail for years, and at significant cost to me and my members in terms of both time and money.

Beginning in September of 2015, I have challenged the Mid-A RPB on their fisheries data, and requested that any fisheries specific data be vetted via commercial fishermen, specifically the Trawl Advisory Panel of the MAFMC, prior to its being released because of multiple issues relating to Vessel Trip Report Data and National Marine Fisheries Service trawl survey calibration methods.

For months, I was told by the Mid-A RPB that a fishermen's workshop would be forthcoming. It never happened. The fisheries data issues remain unaddressed.

Underscoring these concerns is the Mid-A RPB's effort to identify "Ecologically Rich Areas," which under their Ocean Action Plan would subsequently be incorporated into government decision-making.

In addition to identifying these areas based on inaccurate data, this effort may result in actions to create new marine protected areas where fishing is either off-limits or severely restricted, without any statutory authority for doing so and without the transparency associated with authorized mechanisms such as the National Marine Sanctuaries Act and Magnuson-Stevens Act. The National Ocean Policy takes the statutory power of the National Marine Fisheries Service, NOAA, and the regional fishery management councils and seeks to place it with the RPBs, so that the Mid-A RPB could falsely declare an area worthy of greater protection outside of these long-established and authorized processes.

While the RPB states it is a non-regulatory body, the Executive Order and subsequent federal agency commitments make clear that this is in fact a body whose actions have regulatory impacts. In addition to usurping the authority of fishery management councils, one of many concerns I have is RPB discussion about possibly using these unauthorized plans to carry out elements of the Coastal Zone Management Act and impose new pre-application consultation requirements. The regulatory nature of RPB activities underscores concerns about the RPBs' desire to favor certain uses over others, to the detriment of commercial fishing.

Also of significance, since at least 2008, the Gordon and Betty Moore foundation has awarded copious grants to ENGOs in their efforts to push ecosystem based management (EBM), coastal and marine spatial planning (CMSP) and marine protected areas (MPAs), in addition to the RPBs and the entire National Ocean Council plan. This includes funding for Mid-A RPB activities until 2016.

Groups like the Coastal State Stewardship, Monmouth University Urban Coast Institute, Stanford's Woods Institute for the Environment, Wildlife Conservation Society, the Nature Conservancy, Natural Resources Defense Council, Living Oceans, Surfrider, and many, many others, are all grant-funded to show up to RPB meetings and pretend they have no bias or specific agenda, nor funding sources when the entire process has been funded by at least one ENGO from the beginning. Leaving us, the fishermen, possibly one of the oldest stakeholders in the sea, with no voice that matters and no seat at the decision-making table.

Thus, our very future could be decided by an unauthorized planning process that is as transparent as mud, and our two choices we are offered as commercial fishermen seem to be get closed out of productive fishing grounds via MPAs or sanctuaries, or be subject to closures with the RPBs' blessings.

This is not doable for thousands of commercial fishing families throughout the country. We could lose everything, our jobs and our homes, as we are pushed out, destroying the very fabric of our coastal fishing communities. It's not about retraining for a new job. Stocks are sustainable. We shouldn't be forced into a quasi-parallel ocean governing body whose goal is to push us off the ocean to force an agenda that they haven't been able to push through democratically through the Magnuson Stevens Act and its fish councils.

We, the commercial fishermen of the US, are the ones who need help and protection now from Congress. We desperately need your help to ensure that commercial fishermen are no longer saddled with additional uncertainty or new regulatory hurdles as a result of the 2010 National Ocean Policy Executive Order and that Federal agencies no longer flout the will and intent of Congress. I look forward to any questions that you may have.

Senator SULLIVAN. Thank you, Ms. Brady. Very, very powerful testimony.

Mr. Guith.

STATEMENT OF CHRISTOPHER GUITH, SENIOR VICE PRESIDENT, GLOBAL ENERGY INSTITUTE, U.S. CHAMBER OF COMMERCE

Mr. GUITH. Thank you, Chairman Sullivan, Ranking Member Peters, and members of the Subcommittee. I'm Christopher Guith, Senior Vice President of the Global Energy Institute, an affiliate of the U.S. Chamber of Commerce, the world's largest business federation, representing the interests of more than 3 million busi-

nesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America's free enterprise system.

The business community views the National Ocean Policy as a unnecessary bureaucratic and unauthorized regulatory action that creates significant risk and uncertainty to both private and public sector investment and the regulatory processes already in place. The impacts on fishing, shipping, and offshore energy, like oil and natural gas development, as well as wind generation, are clear.

But while this policy is punitively focused on oceans, the final recommendations from the Interagency Ocean Policy Task Force make it clear that the policy's impacts will not stop at the coastline. To be sure, the reach could be economy-wide. These actions will be taken not only without statutory authorization, but in the face of continued congressional opposition, as expressed via the appropriations process.

Healthy and sustainable oceans are absolutely in the national interest. Congress has seen fit to enact dozens of laws to ensure this. Together with hundreds of state laws, a framework has been created to do precisely what the National Ocean Policy ostensibly will do, but without legal authority.

Coastal and marine spatial planning under the policy is a concept that, if implemented, would limit specific areas of ocean for particular uses. There are already numerous mechanisms under Federal law to resolve such conflicts. Allowing unelected regional planning bodies to essentially zone state and Federal waters is not authorized in any statute, nor is it remotely envisioned by any previous congressional action.

The task force provided little analysis for even description for the problems its recommendations allege to address, nor do the recommendations provide any constraint or even oversight that might otherwise allay concern over potentially severe negative impacts.

These concerns are no longer prospective. The creation and operation of regional planning bodies in the Northeast and Mid-Atlantic have already given rise to forced and exclusionary efforts to create regional plans that could be used to preclude recreational and economic activity. Through implementation, Federal agencies have been charged to use these plans to inform and guide their actions and decisions. These bodies consist solely of governmental officials with no representation of the industries they intend to regulate.

The breadth of this policy inspires our greatest concern. It explicitly calls for addressing urban and suburban development as well as land-based source pollutants. Both have already significantly—both are already significantly regulated at the Federal, state, and local levels.

Additionally, it allows for regional planning bodies to include upland areas. It finds that current conditions necessitate land-based planning efforts with ocean, coastal, and Great Lakes planning. It also explicitly targets certain specific industries by name, including energy, agriculture, forestry, and infrastructure development. The infrastructure industry must already negotiate a Byzantine regulatory labyrinth that often leads to costly delays. As Congress and the administration continue preliminary plans to bolster infrastruc-

ture investment, the National Ocean Policy stands as an unnecessary and unauthorized obstacle.

The impacts of this policy are already being felt through the increased regulatory uncertainty. Moreover, while the policy was first being implemented, the previous administration cited it as justification for placing more than 94 percent of Federal waters off limits for energy development.

The policy exacerbates the uncertainty and adds yet another maze of real-world fact and regulation for businesses to attempt to navigate. As the chart you referenced, Mr. Chairman, illustrates, it provides a daunting visual representation of how complex and overbroad this new bureaucracy is. This may, in turn, lead to even less investment in areas such as infrastructure construction, manufacturing, and energy production. This is why some 80 associations sent this letter to President Trump asking that the policy be rescinded.

At a time that everyone desires greater economic growth, the country is looking for its leaders to put an end to unnecessary red tape and get the economy moving again. Comprehensive tax reform would be a tremendous step towards making the United States more competitive, and we encourage Congress to pass tax reform now.

Regulatory relief is also a priority, and the National Ocean Policy is a step in the wrong direction and is already increasing the level of uncertainty, and left intact, will for years to come. It is an aggressive regulatory action in search of a problem. It lacks statutory authority, is overly broad, and will add layers of bureaucracy that will stifle economic growth and job creation. It should be rescinded. Until or unless that occurs, Congress should continue to aggressively review its implementation and deny it funding.

Thank you.

[The prepared statement of Mr. Guith follows:]

PREPARED STATEMENT OF CHRISTOPHER GUITH, SENIOR VICE PRESIDENT, GLOBAL ENERGY INSTITUTE, U.S. CHAMBER OF COMMERCE

Thank you, Chairman Sullivan, Ranking Member Peters, and members of the Committee. I am Christopher Guith, senior vice president of the Global Energy Institute (Institute), an affiliate of the U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America's free enterprise system.

The mission of the Institute is to unify policymakers, regulators, business leaders, and the American public behind a common sense energy strategy to help keep America secure, prosperous, and clean. In that regard we hope to be of service to this Committee, this Congress as a whole, and the administration.

Thank you for convening this hearing. The business community views the National Ocean Policy, which was set in motion by an Executive Order from President Obama, as an unnecessary, bureaucratic, and unauthorized regulatory action that creates significant risk and uncertainty to both private and public sector investment and legal regulatory processes already in place. This policy has been developed with little transparency and notice from the American businesses and other stakeholders that the policy could impact most. We applaud this Subcommittee, and Congress at large, for utilizing its oversight function to examine the National Ocean Policy and highlight the new and unnecessary barriers it has created that jeopardize economic growth.

The impacts on fishing, shipping, infrastructure development, and offshore energy, like oil and natural gas production and wind generation, are clear. While this policy is putatively focused on oceans, the Final Recommendations of the Inter-

agency Ocean Policy Task Force make it clear that the policy's impacts eventually will not stop at the coastline. Through a myriad of drawn-out arguments, the recommendations allow for regulatory coverage of virtually every bit of land and any entity operating or living on it. Agriculture, construction, and manufacturing are squarely within the potential reach of this policy. Moreover, onshore energy operations like mining, oil and natural gas production, and electricity generation are also vulnerable to new regulatory actions. To be sure, the reach could be economy-wide. These actions will be taken not only without statutory authorization, but in the face of continued Congressional opposition as expressed via the appropriations process.

Rationale

Healthy and sustainable oceans are absolutely in the national interest. Congress has seen fit to enact dozens of laws to ensure this interest. Together with hundreds of state laws, a framework has been created to do precisely what the National Ocean Policy ostensibly will do. The authority to implement such a policy is purportedly based on many Federal statutes. At no point in this policy's promulgation, however, did the Obama Administration suggest that is was explicitly supported by Congressional intent under any individual statute or combination of statutes. The regulatory record argues the creation of this new regulatory structure is needed to allocate ocean use through Coastal and Marine Spatial Planning and to "strengthen the governance structure." Both purposes should give everyone pause, including, anyone who ever intends to enjoy the beach or ocean, and anyone concerned about jobs and economic growth.

Coastal and Marine Spatial Planning under the National Ocean Policy is a concept that, if implemented, would limit specific areas of an ocean for particular uses. This is a solution to a problem that does not appear to currently exist. It is true some areas of the ocean are already designated for uses that may preclude additional uses. For example, significant swaths are designated for use by the Department of Defense and National Marine Sanctuaries. If, however, a specific use of ocean waters otherwise precludes another use, there are existing avenues through statute and common law to resolve such a question. Allowing unelected Regional Planning Bodies to essentially "zone" state and Federal waters, as in the case of the National Ocean Policy, is not authorized in any statute, nor is it remotely envisioned by any previous Congressional action. If economic growth is a priority, Congress should take note that these planning authorities are expressly empowered by the policy to limit commercial endeavors at will, despite no clear statutory authority.

This may sound alarmist, but it is the obvious outcome given the vagueness of the policy itself and the non-transparent fashion in which it was created. The previous administration's Interagency Policy Task Force provided little analysis or even description for the problems its recommendations allege to address. More troubling still is that the Task Force Recommendations and the subsequent Executive Order provide little, if any, constraint or even oversight that might otherwise allay concern over potentially severe negative impacts. While technically not regulations per se, the Executive Order mandates that agencies implement marine plans and the National Ocean Policy overall to the fullest extent, including through regulations. The entire policy is overly vague, which only magnifies the concerns any current or potential ocean user should have.

These concerns are no longer prospective. In the seven years since its creation, implementation of the National Ocean Policy has shown these concerns are well-founded. The creation and operation of Regional Planning Bodies in the Northeast and Mid-Atlantic have already given rise to forced and exclusionary efforts to create regional plans that can be used to preclude recreation and economic activity. In ordaining these bodies, the Federal Government committed to ensuring agency actions, "use the Plan[s] to inform and guide its actions and decisions." These bodies consist solely of governmental officials with no representation of the industries they intend to regulate.

Breadth

The facet of this policy that inspires our greatest concern is its potential breadth. On several occasions, the policy explicitly suggests that any and all activities on shore could come under the regulatory reach of the regional planning authorities. The policy explicitly calls for addressing, "urban and suburban development," as well as "land based source pollutants." Given the previous administration's well-documented regulatory overreach on numerous "land based pollutants"—some of which were at least nominally authorized by statute—it does not require a vivid imagination to foresee future administrations using this policy as an unchecked regional

planning authority attempting to take action on inland activities that it finds are having an impact on ocean waters.

The Coastal and Marine Spatial Planning section explicitly allows for the regional planning authorities to include upland areas. In fact, this policy finds that current conditions, "necessitate connecting land-based planning efforts with ocean, coastal, and Great Lakes planning." The policy continues to find that existing statutory authorities such as the Clean Air Act and the Clean Water Act should be harnessed by the planning authorities when allocating ocean use.

The policy utilizes the overly broad and vague term "industries" when describing "human activities" that are ultimately impacting the oceans, which presumably then can fall under the regulatory reach of this action. However, it also explicitly targets certain specific industries by name including energy, agriculture, forestry, and development.

The policy provides the following concern as context for why and how action should be taken:

> "Urban and suburban development, including the construction of roads, highways, and other infrastructure . . . can adversely affect the habitats of aquatic and terrestrial species."

Infrastructure developers must already negotiate a byzantine regulatory labyrinth that often leads to costly delays. Superimposing the will of a regulatory planning authority on top of this process has the very real potential of precluding many of the infrastructure projects the country needs. As Congress and the Trump administration continue preliminary plans to bolster infrastructure investment, the National Ocean Policy stands as an unnecessary and unauthorized obstacle.

Not only does the National Ocean Policy allow for the inclusion of virtually every sector of private enterprise to fall under new regulation, but it also brings to bear the "precautionary approach," a new prism by which the prospective regulatory actions are viewed.

The precautionary approach—also commonly referred to as the Precautionary Principle—was adopted in 1992 by the United Nations Conference on Environment and Development in Rio De Janeiro, Brazil ("The Rio Declaration"). The Rio Declaration states, "[w]here there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation."

The intent of employing this precautionary approach is to preclude, stop, or otherwise take regulatory action against human activity when there exists the possibility that future scientific conclusions may find such activity is linked to environmental degradation. As a practical matter, then, the precautionary principle states that unless there is currently accepted scientific finding that a specific proposed human activity does not cause environmental degradation, it should be limited at least until such a finding is determined.

While similar regulatory formulas are explicitly called for in statute where Congress intended to preserve the status quo, they are few and far between. By preemptively utilizing the precautionary approach in such a broad context, this policy reorders our existing regulatory construct by shifting the burden of disproving environmental harm to those intending to engage in a specific activity as opposed to allowing such activities until environmental harm is proven. Since the policy clearly seeks to include land-based human activities under its regulatory purview, the precautionary approach may presumably be applied to any such activities. This reversal is not sanctioned under any statutory authority and has previously been rejected by Congress. This is a significant shift in regulatory policy and law, and will undoubtedly have a chilling effect on many forms of enterprise and economic activity, most especially technological innovation.

Impacts

The National Ocean Policy will result in a plethora of impacts on the country. The stated impact of healthier and more sustainable oceans may or may not be one of them. One impact that has already come from this policy is increased regulatory uncertainty. The recent regulatory overreach has permeated so many areas of commercial enterprise already, ranging from healthcare to financial services, labor relations, and energy production, to name just a few. While the National Ocean Policy was first being implemented, the previous administration cited it as justification for placing more than 94 percent of Federal waters off-limits for energy development.

Businesses of all sizes and sectors are impacted by these regulatory actions and will be attempting to determine the ultimate impacts on their operations for years, if not decades, to come. We estimate that more than 190,000 regulations have been promulgated since 1976. The National Association of Manufacturers concluded that

the total cost of Federal regulations to the U.S. economy in 2012 was over $2 trillion. The National Small Business Association estimates the average regulatory cost for each employee of a small business exceeds $12,000 per year and an astounding $83,000 for a start-up. Ultimately, additional uncertainty makes it difficult, if not impossible, for any business to modify its operations to ensure both compliance and profitability with any level of surety.

The National Ocean Policy exacerbates this uncertainty and adds yet another maze of real or de facto regulation for businesses to attempt to navigate. As an illustration, the attached flow chart provides a daunting visual representation of how byzantine and over-broad this new bureaucracy is. This may in turn lead to even less investment in areas such as infrastructure construction, manufacturing, and energy production. These are all areas that have significant track records of generating economic growth for the nation, as well as creating millions of jobs. By discouraging investment into energy production, this ocean policy has the potential to close off even more off-shore areas, harming our energy security by forcing the country to continue to import energy we could be producing domestically. It is no secret that oil and natural gas production on Federal lands has been flat or declining while production on private lands has been soaring. This policy could make this disparity even worse to the detriment of our energy security.

Conclusion

At a time everyone desires greater economic growth, the country is looking to its leaders to put an end to unnecessary red tape and get the economy moving again. Comprehensive tax reform would be a tremendous step forward towards making the United States more competitive, and we encourage Congress to pass tax reform now. Additionally, regulatory relief is crucial for encouraging greater capital investment. This investment will not only generate economic growth, but create jobs in nearly all sectors. The National Ocean Policy is a step in the wrong direction and is already increasing the level of uncertainty, and left intact, will for years to come.

Over the last decade, American business has been the target of a regulatory onslaught of historic proportions. The National Ocean Policy is only one example. Fundamentally, it is an aggressive regulatory action in search of a problem. It lacks statutory authority, is overly-broad, and will add layers of bureaucracy that will stifle economic growth and job creation. It should be rescinded. Until and unless that occurs, Congress should continue to aggressively review its implementation and deny it funding.

Senator SULLIVAN. Thank you, Mr. Guith.

Mr. Keppen.

STATEMENT OF DAN KEPPEN, EXECUTIVE DIRECTOR, FAMILY FARM ALLIANCE

Mr. KEPPEN. Good afternoon, Chairman Sullivan and Ranking Member Peters and members of the Subcommittee. My name is Dan Keppen, and on behalf of Family Farm Alliance, I thank you for this opportunity to present this testimony on the implications of the administrations—or the Trump administration—the Obama administration's National Ocean Policy. The alliance is a grassroots organization of family farmers, ranchers, irrigation districts, and allied industries in the 16 western states.

Some of you today may be wondering, why is an organization that represents family farmers and ranchers in the mostly inland West concerned with a policy that would appear to apply more to the ocean and coastal communities? We have monitored this issue for some time and have formally raised concerns with how this policy would be implemented.

The policy sets forth yet another level of Federal management and oversight intended to improve the way inland ocean and coastal activities are managed. Unfortunately, this has the potential to impose negative impacts, intended or not, on the western interests we represent.

We fear that the Federal Regional Planning Bodies proposed under the Ocean Policy framework could dramatically increase the role of Federal agencies on inland areas. As the Federal presence grows, so must the diligence of producers, who must closely monitor agency actions directed from afar and spend valuable time and resources doing so. Some of us have learned the hard way: if you're not at the table, you'll end up on the menu.

The National Ocean Policy would also establish a framework for collaboration and a shared set of goals to promote ecosystem-based management. This would allow new regional planning bodies to potentially impact activities that occur on lands that drain into the ocean. This objective involves vague and undefined goals and policies. We know from experience that these can be used by critics of irrigated agriculture as a basis for actions to stop or delay federally permitted activities.

We believe the National Ocean Policy will affect already budget-strapped agencies that interact closely with western agricultural irrigators. As Federal budgets are further reduced or remain flat, it is unclear how much funding the agencies are taking from existing programs to develop and implement this initiative.

Finally, we believe there's a high risk of unintended economic and societal consequences associated with implementing this policy. The National Ocean Policy creates the potential for unforeseen impacts to inland areas like agriculture. The family farmers and ranchers we represent are part of a $172 billion contribution that western irrigated agriculture makes to our economy every year.

Our producers also contribute to a luxury all our nation's citizens enjoy: spending less of their disposable income on food than anywhere else on the planet. Consumer spending drives economies. Inexpensive safe food helps drive consumer spending.

We must move away from spending Federal funds to support new bureaucracies and procedures that could lead to further uncertainty, restrictions, and delays in food production. Instead, taxpayer dollars should be allocated to existing and proven entities, programs, and activities that have already been authorized.

Given these concerns, we believe the Federal Government should vacate the existing Executive order. Instead, stakeholders should be engaged to ensure effective, transparent, and beneficial ocean policies under existing statutory frameworks. The government should only support policies that enable us to maximize our nation's economic and societal benefits from our oceans. We must avoid unnecessary duplication and confusion.

The Family Farm Alliance and the farmers and water management organizations we work with are willing to implement pragmatic actions. They seek to find a sustainable balance of environmental protection and economic prosperity. Farmers are producers. When they set out to do something, their mindset is to get results, to get something done, and generate a tangible output for their efforts. That is why farmers and ranchers and certain constructive environmental groups work so well together.

Our organization seeks to collaborate with those groups that also seek positive results as an objective. The foundation for some true collaborative solutions will be driven from the constructive center. This approach steers away from the conflict that can ensue be-

tween new regulatory outreach and grassroots activism intended to resist any changes to existing environmental and natural resource laws, regulations, and policies.

We don't need to create new processes and planning groups to tackle pressing marine challenges. Instead, existing collaborative programs that have proven successful should be given emphasis and perhaps be used as templates to duplicate that success elsewhere.

American farmers and ranchers for generations have grown food and fiber for the world. We will have to muster even more innovation to continue to meet this critical challenge. That innovation must be encouraged by our government rather than stifled with new Federal regulations and uncertainty over water supplies or irrigated farms and ranches in the rural West. We welcome your leadership to help make that possible. We're pleased that your Subcommittee is paying attention and providing this opportunity to voice our concerns.

Thank you for the chance to provide this testimony today.

[The prepared statement of Mr. Keppen follows:]

PREPARED STATEMENT OF DAN KEPPEN, EXECUTIVE DIRECTOR, FAMILY FARM ALLIANCE

Chairman Sullivan, Ranking Member Peters and Members of the Subcommittee: My name is Dan Keppen, and on behalf of the Family Farm Alliance (Alliance), I thank you for this opportunity to present this testimony on the implications of the Obama Administration's National Ocean Policy (NOP). The Alliance is a grassroots organization of family farmers, ranchers, irrigation districts, and allied industries in 16 Western states. The Alliance is focused on one mission: To ensure the availability of reliable, affordable irrigation water supplies to Western farmers and ranchers. We are also committed to the fundamental proposition that Western irrigated agriculture must be preserved and protected for a host of economic, sociological, environmental, and national security reasons—many of which are often overlooked in the context of other national policy decisions.

The Family Farm Alliance is respected for its reputation in helping to solve Western water challenges in a constructive manner. The Western family farmers and ranchers who we represent are confronted with many critical issues today. At the top of the list is the daunting number of administrative policy and regulatory initiatives that our Western agricultural producers face daily.

Some of you today may be wondering—why is an organization that represents family farmers and ranchers in the mostly inland West concerned with a policy that would appear to apply more to the ocean and coastal communities? We have actually monitored this issue for some time and have formally raised concerns with how the Obama Administration's ocean policy would be implemented. Specifically, we were concerned with the role states and stakeholder user groups would play within this policy. We had questions about whether the potential impact on the economy, budget, and existing statutes and regulatory processes had been assessed. For example, how would this complement or conflict with the authority of states? Many of our farmers and ranchers have been impacted by implementation of Federal environmental laws intended to protect ecosystems far-removed from their operations. For these reasons, we remain concerned that this policy could dramatically increase the role of Federal agencies on inland rivers and adjacent lands, as further outlined in this testimony.

Importance of Western Irrigated Agriculture and Key Challenges

Irrigated agriculture in the West not only provides a $172 billion annual boost to our economy, it also provides important habitat for western waterfowl and other wildlife, and its open spaces are treasured by citizens throughout the West. Family farmers and ranchers are willing to partner with constructive conservation groups and government agencies, especially if there are opportunities to both help strengthen their businesses and improve the environment.

Still, many Western producers face significant regulatory and policy related challenges, brought on—in part—by Federal agency implementation of environmental

laws and policies. The challenges are daunting, and they will require innovative solutions. The Family Farm Alliance and the farmers and water management organizations we work with are dedicated to the pragmatic implementation of actions that seek to find a sustainable balance of environmental protection and economic prosperity. Farmers are producers; when farmers set out to do something, their mindset is to get results, to get something done, and generate a tangible output for the effort. That is why farmer and ranchers and certain constructive environmental groups work well together.

All too often, unfortunately, environmental policy is not driven to achieve meaningful results. That is why our organization seeks to collaborate with those groups that also seek positive results as an objective. The foundation for some true, collaborative solutions will be driven from the constructive "center", one that steers away from the conflict that can ensue between new regulatory overreach and grassroots activism intended to resist any changes to existing environmental and natural resource laws, regulations, and policies.

Background of Executive Order 13547

On July 19, 2010 President Obama signed Executive Order 13547 to adopt the final recommendations of the Interagency Ocean Policy Task Force to implement a new NOP. The policy set up a new level of Federal management intended to improve the way inland, ocean and coastal activities are managed. Unfortunately, this has the potential to impose impacts—intended or not—across a spectrum of sectors, including the Western agricultural organizations we represent.

The National Ocean Policy made it clear that activities that might adversely affect the ocean ecosystems might also be impacted—no matter how far inland they may occur.[1] While the NOP stated that this policy or marine planning "creates or changes regulations or authorities", it also proposed that agencies would "coordinate to use and provide scientifically sound, ecosystem-based approaches to achieving healthy coastal and ocean habitats." The NOP further stated that "effective implementation would also require clear and easily understood requirements and regulations, where appropriate, that include enforcement as a critical component"[2] and that the Executive Order mandates that Federal agencies make all their actions consistent with the NOP and any related plans."[3] From our standpoint, this presented some uncertainty as to how the Federal Government in the future intended to either revise existing regulations or impose new regulations on activities that were already permitted.

Support for Voluntary Incentive-Driven Provisions

The Family Farm Alliance has long advocated a voluntary, incentive-driven philosophy to advance conservation, and thus we supported the NOP's intent to provide financial assistance to private landowners seeking to apply voluntary conservation practices. While we were pleased to see the NOP acknowledge that "collaborative watershed restoration efforts are important to the overall success of coastal and marine habitat conservation,"—a principle we also embrace—this acknowledgement did little to alleviate our over-arching concerns about the uncertainties associated with the expansive and uncertain nature of the NOP. We continue to strongly believe that, rather than creating new processes and planning groups to tackle pressing marine challenges, existing collaborative programs that have proven successful should be given emphasis and perhaps be used as templates to duplicate that success elsewhere.

The NOP points to restoration efforts for Pacific Northwest salmon as an "excellent example of collaborative, voluntary upland watershed conservation and restoration." We agree that there are good examples of successful partnerships involving farmers and ranchers and anadromous fish recovery projects on the West coast, to wit:

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[1] The *Final Recommendations,* which were adopted by the 2010 Executive Order (see language in *Section 9(c)* state: ". . . the geographic scope of the CMSP (Coastal and Marine Spatial Planning) area in the United States would not include upland areas *unless a regional planning body determines to include them."* (emphasis added). "The geographic scope [of CMSP] would include inland bays and estuaries in both coastal and Great Lakes settings. . . . Additional inland areas may be included in the planning area as the regional planning bodies . . . deem appropriate. Regardless, consideration of inland activities would be necessary to account for the significant interaction between upstream activities and ocean, coastal, and Great Lakes uses and ecosystem health."

[2] *https://obamawhitehouse.archives.gov/files/documents/OPTF_FinalRecs.pdf*

[3] See Section 6(a) at *https://obamawhitehouse.archives.gov/files/documents/2010stewardship-eo.pdf*

- The NOAA Fisheries Recovery Plan for Oregon Coast Coho Salmon calls for public-private partnerships to conserve habitat for the threatened species, positioning coho for possible removal from the Federal list of threatened and endangered species within the next 10 years. The plan is voluntary, not regulatory, and hinges on local support and collaboration. The plan promotes a network of partnerships that integrate the needs of Oregon Coast coho with the needs of coastal communities.
- The Yakima River Basin Integrated Plan in Washington State is the result of a collaborative effort on the part of irrigators, environmentalists, local governments, the Yakama Nation, the Federal Government, and the State of Washington. The plan looks to improving water for farms, fish and the environment in a manner that does not pit one use against another. Anadromous fish runs are already benefiting from this forward-thinking partnership.

Unfortunately, in other parts of the Northwest, this collaborative philosophy approach is less visible, as underscored by last year's decision by U.S. District Judge Michael H. Simon, who ruled the government hasn't done nearly enough to improve Northwest salmon runs on the Columbia River. "These efforts have already cost billions of dollars, yet they are failing," he wrote in May 2016. Now, certain environmental groups say the Lower Snake River Dams—which fuel much of the Northwest's power supply and make possible irrigation for farms and navigation for agricultural commodities—are the problem, and must come down. As further described below, our members fear that the "federal regional planning bodies" proposed under the Ocean Policy framework could dramatically increase the role of Federal agencies on inland rivers and adjacent lands, including all uses (agriculture, irrigation, ports, etc.), at a time when Northwest hydropower dams are the topic of ongoing litigation driven by certain litigious environmental groups.

Concerns of Western Family Farmers and Ranchers

The Family Farm Alliance certainly supports the goals of the NOP, which are intended to guide Federal agencies to "ensure the protection, maintenance, and restoration of the health of ocean, coastal and Great Lakes ecosystems and resources, enhance the sustainability of ocean and coastal economies, preserve our maritime heritage, support sustainable uses and access, provide for adaptive management to enhance our understanding of and capacity to respond to climate change and ocean acidification, and coordinate with our national security and foreign policy interests." However, we have some grave concerns that extend beyond this broad intent.

Funding concerns

We believe NOP will affect already budget-strapped agencies that interact closely with Western agricultural irrigators, including the U.S. Department of Agriculture (USDA), the National Oceanic and Atmospheric Administration (NOAA), the Departments of Commerce and the Interior, the Environmental Protection Agency (EPA), and the Army Corps of Engineers. Despite USDA's involvement in the National Ocean Policy over the past fours, the full extent of the department's activities and role in the process is not clear. As Federal budgets are further reduced or remain flat, it is unclear how much funding the agencies are taking from existing programs to develop and implement this new initiative.

Uncertain Impacts to Inland Areas

The NOP proposes that, working through the U.S. Coral Reef Task Force, agencies will coordinate to address key threats to coral reef ecosystems, including impacts from land-based sources of pollution. Through "more effective use" of voluntary programs, partnerships, and pilot projects, agencies will work to "reduce excessive nutrients, sediments, and other pollutants". The NOP would also establish a framework for collaboration and a shared set of goals to promote "ecosystem-based management", where agencies will "develop principles, goals, and performance measures" that support this management philosophy.

The "Ecosystem-based management" authority created by this executive order would allow federally-dominated Regional Planning Bodies to reach as far inland as they deem necessary to protect ocean ecosystem health. It could potentially impact all activities that occur on lands adjacent to rivers, tributaries or watersheds that drain into the ocean. For example, although the policy was portrayed by the Obama Administration as primarily targeting ocean-related activities, the National Ocean Policy Final Recommendations adopted by the 2010 Executive Order specifically

stated that the policy plans to address "the major impacts of urban and suburban development and agriculture—including forestry and animal feedlots."[4]

The "ecosystem based management" authority involves vague and undefined objectives, goals, and policies that we know from experience can be used by critics of irrigated agriculture as the basis for negative media or lawsuits to stop or delay Federally-permitted activities. For example, the National Marine Fisheries Service (NMFS) has determined that Central Valley salmon populations will go extinct unless government agencies change their water operations in California. In a draft biological opinion, NMFS concluded that the southern resident population of killer whales might go extinct because its primary food—salmon—is imperiled by California's network of dams and canals. Similar linkages between these orcas and potato farmers (located hundreds of miles from the Pacific Ocean) were contemplated as a biological opinion was being drafted by NMFS for the Klamath Irrigation Project, located in the high desert of southern Oregon. The NOP opens the possibility of further emphasizing such 'ecosystem-based' relationships. Further, the NOP sets up 'pre-application consultations' where requested Federal permits would be subject to additional consultation processes prior to any formal consideration.

Another example of Federal overreach in my home state of Oregon, NMFS is being criticized for issuing land use commands to local governments in the name of protecting anadromous species. NMFS is currently under fire for insisting that communities adopt federally-driven land use restrictions meant to help endangered species like salmon and steelhead in order to be eligible for Federal flood insurance program coverage.[5] This, even though neither the flood insurance program nor FEMA, which administers it, has any power over land use. In an editorial last year, the *Eugene Register-Guard* noted that the NMFS restrictions had the potential to "place floodplains in 271 communities off-limits to development, agriculture and forestry." Affected regions, the paper wrote, would include not just significant municipal areas, but "swaths of farm and forest land."

Traditionally, land use is a local and regional responsibility. At the Family Farm Alliance, we strongly advocate that the best decisions in resources management are made at the local level. In a state where local communities must adhere to some of the most extensive land use regulations in the country, some point to the NMFS actions in Oregon as proof positive that future implementation of the vague NOP will lead to similar expanded intrusion by other Federal interests.

Finally, we believe there is a high risk of unintended economic and societal consequences associated with implementing this policy, due in part to the unprecedented geographic scale under which the policy is to be established. As set forth, the National Ocean Policy creates the potential for unforeseen impacts to inland sectors such as agriculture, which is connected via the "ecosystem"-based approach to the ocean. The family farmers and ranchers we represent are part of a $172 billion annual contribution—made up of direct irrigated crop production, agricultural services, and the food processing and packaging sectors—the "Irrigated Agriculture Industry" makes to our economy every year. Our producers also contribute to the fact that our Nation's citizens spend less of their disposable income on food than anywhere else in the world—a luxury only Americans enjoy.

The Need to Consolidate—and not Complicate—Existing Fisheries Management Efforts

Western watersheds that drain to the Pacific Ocean are home to many species of fish, some of which are listed as "endangered" or "threatened" under the Federal Endangered Species Act (ESA) and fall under the responsibility of NMFS and U.S. Fish and Wildlife Service (USFWS) but have different migration patterns or life histories, often leading to duplicative and sometimes overlapping actions by each of the agencies under the ESA. Several of these species—like the Lost River and Short Nose suckers in the Upper Klamath Basin, the Delta Smelt in the Sacramento-San Joaquin River & San Francisco Bay-Delta, and the bull trout in the Upper Snake River—spend their entire lives in freshwater. Other anadromous species—such as the coho salmon in the Lower Klamath River, chinook salmon in California's Central Valley, and salmon and steelhead in the Columbia River—spawn in freshwater, migrate to the ocean to mature, and return to spawn in freshwater. Still other species are polymorphic: an individual *O.mykiss* may live its entire life in freshwater, in which case the fish is a rainbow trout, or that fish may ultimately spend part of its life in the ocean, in which case it is a steelhead and potentially subject to NMFS jurisdiction if listed under the ESA.

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[4] *https://obamawhitehouse.archives.gov/files/documents/OPTF_FinalRecs.pdf*

[5] "Feds turn flood insurance into a tool for land grabs in Oregon", Damien Schiff for the Capital Press, November 20, 2017.

The scope of similar or identical ESA actions performed by each agency can be extensive, and include designating critical habitat, developing and implementing recovery plans for endangered and threatened species, and more. It would seem intuitive to many that these functions would most effectively and efficiently be conducted under the roof of one government agency and not be arbitrarily split between two different agencies housed in two completely different Federal departments. In fact, up and down the West coast—from California's Central Valley Project, to the Upper Snake River Basin in Idaho, to the Klamath Irrigation Project in Oregon and California—duplicative bureaucracies are generating ESA plans that sometimes compete with one another. When push comes to shove, water users are left to wonder, "how do we do satisfy both agencies, and still provide water for our farms and communities?" In some cases, the farms and communities don't get the water, as demonstrated by the devastating, regulatory-driven curtailment of water to rural communities in California's Central Valley (in 2009, and 2014–2016) and the Klamath Project in 2001.

The NOP—in our view—provides potential to further these types of unfortunate examples. Instead, we should be looking for ways to streamline, improve and consolidate Federal resource management efforts. We need to be sure that new planning groups and programs are necessary and do not waste public resources. One example of a proposal that would streamline and improve management of fisheries on the West coast is embedded in H.R. 3916, the *"Federally Integrated Species Health (FISH) Act."* This bill would amend the ESA to vest in the Secretary of the Interior functions under that Act with respect to species of fish that spawn in fresh or estuarine waters and migrate to ocean waters, and species of fish that spawn in ocean waters and migrate to fresh waters. We believe that by combining the ESA implementation responsibilities of both NMFS and FWS under one Federal roof, we would promote more efficient, effective, and coordinated management of all ESA responsibilities for anadromous and freshwater fish in Western watersheds, from the highest reaches of our headwaters to the Pacific Ocean.

Recommendations

Rather than expend Federal funds to support policies that create new bureaucracies, procedures and regulations that could lead to further uncertainty, restrictions and delays, scarce taxpayer dollars should be allocated to existing entities, programs and activities that have been authorized by Congress and are necessary for businesses and the economy to properly function. Given these concerns, the Family Farm Alliance earlier this year signed letters to U.S. House and Senate Appropriations Committee leadership and President Trump in support of (1) appropriations language that would be restrictive of the National Ocean Policy; and (2) executive action to vacate the Obama-era National Ocean Policy Executive Order and alternatively engage stakeholders to ensure effective, transparent, and beneficial ocean policies under existing statutory frameworks. We reiterate our call for these actions in this testimony.

Conclusions

In a time when our Nation is beginning to return to the path of economic prosperity, we cannot support the creation of an expansive, new Federal watershed planning program, particularly for those states that have existing, productive watershed programs in place. Federal participation should be channeled through existing state and local programs, rather than creating uncertainty through potentially cumbersome new Federal requirements which threaten to derail important water quality and water conservation projects already underway. And, we need to focus Federal ESA-listed fish management within one agency.

American family farmers and ranchers for generations have grown food and fiber for the world, but we will have to muster even more innovation to continue to meet this critical challenge. That innovation must be encouraged by our government rather than stifled with new Federal regulations and uncertainty over water supplies for irrigated farms and ranches in the rural West. We welcome this committee's leadership to help make that possible.

We look forward to working with you and other Members of Congress towards this end.

Thank you for this opportunity to provide this testimony today.

Senator SULLIVAN. Thank you, Mr. Keppen.

Ms. Metcalf.

STATEMENT OF KATHY METCALF, PRESIDENT AND CEO, CHAMBER OF SHIPPING OF AMERICA

Ms. METCALF. Thank you, Mr. Chairman. Thank you for the opportunity to testify, Ranking Member Peters, members of the Subcommittee. I'm going to take 15 seconds and do something that some of your public affairs people would cringe at, and that is throw my notes behind me because I'm sitting here listening to the other testimony, and I'm beginning to realize that we all don't disagree that much, that there's a concept at play here, a need for collaboration and coordination in making decisions affecting potentially conflicting ocean users. But I have to do a little bit of the formal thing.

So my name is Kathy Metcalf. I'm the President and CEO of the Chamber of Shipping of America. I have sailed afloat as a deck officer. I have worked over the last 40 years in the maritime industry.

I am proud to lead the Chamber. And our chamber is made up of a number of members that own and operate and charter oceangoing vessels of a variety of types. We conduct operations throughout the United States, including, Senator Peters, the Great Lakes. Our focus is not only on assisting our members on what they have to do today to comply, but what they will have to do tomorrow to comply or to become or maintain the position of being good environmental citizens.

Shipping is the global engine for trade, handling almost 80 percent of the U.S. imports and exports, valued at over $1 trillion, 13 million jobs, $14.4 billion in GDP. But the National Ocean Policy, from our perspective, at its core, is about good governance. I looked at that diagram, and I wanted to run for the hills, but I've also seen a diagram of the Federal Government that doesn't look all that different, the government that already exists within the executive branch, and it's that part of the executive branch that needs to be compelled to work together to make decisions that are smart for America, smart for the marine environment, and smart for ocean users.

As you indicated, this is not a bipartisan issue, nor should it be. It was initiated with the second Bush administration. It became a little more formalized or a lot more formalized with the Obama administration. So our plea to you today is please don't throw the baby out with the bathwater. There are good pieces of the National Ocean Plan that need to be kept. And the concerns of my colleague witnesses here need to be looked at and seriously evaluated and measures taken to prevent that.

In my written testimony, I indicated we had concerns with it. What happens to the regional planning bodies when they make some sort of a decision or some sort of recommendation? Where does that actually go? Does it become new state regulations, which, from an international shipping perspective, we can't afford. We trade through all the United States, the coastal United States. We can't have different regulations in every state of which we visit.

And now I have thrown the notes out, so my colleagues behind me are probably about ready to fall off their chair.

The National Ocean Policy encompasses a lot of issues, and where we engage and we've found the most beneficial is the use of ocean planning as a tool to address priorities. The data portal, for

instance, is an invaluable set of data for those of the shipping industry, and as it has built upon and hopefully problem data is corrected with more accurate data, we can have a system that people can use to make informed decisions. We value this approach to good governance. The Coast Guard themselves has indicated the need for good marine spatial planning for the purposes of maritime security and maritime stewardship.

Poor planning and lack of consideration for navigational safety has the potential to impact all of our values. Regional ocean planning is not about new regulations, but it's about helping the Federal and State agencies do the jobs you've given them in already existing statutes.

We—my colleague, Director of Maritime Affairs, has worked with the Northeast and the Mid-Atlantic, and we have found positive developments there. We still have concerns about what happens to these decisions, and that needs to be clarified. It needs to be made clear that these just not go off into some other legal stratosphere and then suddenly become detriments to the operation of the industries that use the world's oceans.

In closing, I hope this Subcommittee will allow industries to continue to work with the Federal agencies and states within this format or some revised format. Without it, we will be limited in our ability to adapt to the complex and rapidly changing maritime domain.

And I might add I've got some really good examples of where coordination and collaboration have worked very well. I was hoping Senator Markey would still be here, particularly in the Port of Boston, where we solved an LNG siting problem with a safety of navigation problem and protected endangered North Atlantic right whales, a perfect example of collaboration. A perfect example of lack thereof was one morning when I opened an electronic file and I saw lease plots for wind farms sitting in the middle of the vessel traffic lanes approaching Hampton Roads.

Thank you for the opportunity, sir.

[The prepared statement of Ms. Metcalf follows:]

PREPARED STATEMENT OF KATHY METCALF, PRESIDENT AND CEO, CHAMBER OF SHIPPING OF AMERICA

The Chamber of Shipping of America (CSA) is a membership based organization that acts as a subject matter expert on marine issues including those domestic and international legislative, regulatory, and administrative issues that fall under our expertise. We represent a membership of companies that own, operate, charter, or maintain a commercial interest in ocean-going tanker, container and dry bulk vessels operating in both the domestic and international trades. Our member companies conduct operations internationally and domestically in all major ports in the United States, including Alaska, the Gulf of Mexico, and the East and West coasts of the United States. With more than thirty organizations depending on our representation, we speak for a diversity of interests including freight, oil and gas transportation, marine spill response, marine vessel inspection and compliance programs, and technology development over a wide array of ocean faring industries. Our focus is not only on assisting our member companies in compliance with existing requirements but also on future requirements likely to be imposed on the maritime industry with the goal of assisting in the design of these new requirements in a manner which is economically feasible, operationally practical and with due regard to safe and environmentally responsible operations.

I graduated from the U.S. Merchant Marine Academy and have worked in the maritime sector for almost 40 years. I am currently the President and CEO of the Chamber of Shipping of America. Prior to that, I have held positions in the energy

industry including deck officer aboard large oceangoing tankers, marine safety and environmental director, corporate regulatory and compliance manager, and state government affairs manager. I have served the maritime industry for my entire career.

Ports, container ships, bulk carriers, tankers, and the tug and barge industry are all working to move cargo into and out of U.S. ports. Shipping is the global engine for trade handling almost 80 percent of all U.S. imports and exports, valued at over $1 trillion, and this is only expected to increase with the global economy becoming more interconnected. We are seeing the largest container vessels in history with expansion of the Panama Canal, with tens of thousands of containers now coming into U.S. ports each day. The marine transportation system supports 13 million jobs and the industry contributes over $14.4 billion in GDP. This economic powerhouse and integral part of global trade is inherently linked to operations happening on the ocean and the ability to move freely and with minimal risk on the water.

The National Ocean Policy at its core is about good governance. This policy is the result of decades of research, public outreach, and the recommendations of two separate ocean commissions to ensure ocean management is done in an effective and coordinated way. Policies of this nature were traditionally bi-partisan and should continue to be. Discussions on the need for a national ocean plan were initiated by the George W. Bush Administration with his ocean commission with additional work and a more formal approach implemented by the Obama Administration.

In all candor, I must admit that we viewed the development of a National Ocean Policy with regional components with some concern. While we were and are still supportive of the need for better coordination of ocean policy decisions across all Federal agencies, our concerns were initially focused on the potential for regional decisions which did not take into account the need for consistent national requirements as applied to the maritime industry to ensure the free flow of marine transportation assets to and from U.S. ports and in coastal waters. These concerns still remain particularly relating to how new state regulations, which could result in the proverbial "patchwork quilt" of different or conflicting requirements across the regions or states, would be managed. Should this result, the benefits of transparency, engagement of all stakeholders, both public and private, and the opportunity to provide input on proposals facilitated by the National Ocean Policy framework would be overwhelmed by the negative impacts of inconsistent or conflicting requirements as applied to the maritime industry which relies on the fundamental principles espoused in the Constitution's Admiralty and Commerce clauses, to ensure that a set of uniform national requirements are applied to our industry. Our concerns thus far have been addressed in the regional ocean plans but can be significantly reduced if it is agreed that any regional recommendations are vetted upward to the National Ocean Council for further discussion and debate. While the Policy is non-regulatory and instead works within Federal agencies existing authorities, if future regulatory initiatives are initiated they should be done so through the Federal rulemaking process which provides the opportunity for comment by all stakeholders. We continue to believe that coordination among all the players, especially the Federal agencies that have the authority to regulate our industry is beneficial and should be encouraged. With this caveat in mind, we offer the following comments.

The National Ocean Policy encompasses a range of ocean issues and priorities including marine transportation, addressing illegal, unreported, and unregulated fishing, converting offshore oil and gas platforms to artificial reefs for fishermen, siting of alternative energy installations offshore and resolving ocean user conflicts where necessary. Where the Chamber of Shipping of America engages and finds the most value in the National Ocean Policy is the opportunity for regions to use ocean planning as a tool to address relevant ocean priorities. Many of the global shipping companies that we represent are well versed in ocean planning as more than 65 countries have ocean plans in place around the world. We see this type of marine planning as a common-sense approach to ocean management; it should not be about politics but instead government efficiency and the ability of Federal management agencies to make the best, most informed decisions.

Ocean planning in the United States is voluntary and regionally-driven with states requesting Federal agencies to help them address their ongoing management challenges. While each region's challenges are unique, there are overarching elements of government and permitting efficiency that ocean planning creates and that the Chamber supports. Interagency coordination, so we can talk with one agency about issues that may impact the maritime community rather than with the more than 20 agencies with jurisdiction over the ocean helps us achieve economical, safe and environmentally responsible outcomes for our industry. Having good data and information on our industry in one central location through regional ocean data por-

tals that helps agencies solve conflicts and keeps our mariners safe and our ports operational is also key.

Ladies and gentlemen of the Subcommittee, permitting efficiency and streamlining and the ability to access good data to achieve these goals is bipartisan and fundamental to good government.

I am here today to tell you that we see the value in this approach to good governance. Our business is built on itineraries, logistics, and speed. The data provided through this process helps us achieve those and allows agencies like BOEM who permit projects that have the potential to overlap with shipping traffic separation schemes and ship traffic to make more informed decisions. The result is a reduction in conflicts with industry uses resulting in permitting efficiency and streamlining for industry and a reduction in costs for permit applicants.

Given this is the Subcommittee on Oceans and the Coast Guard, members should understand that the Coast Guard has specifically outlined how important marine planning is to their statutory missions. The Coast Guard has explicitly stated that "*Effective maritime governance has always been, and will continue to be integral to meeting Service responsibilities. It requires prioritization and uniformity throughout the Coast Guard and coordination of ongoing and projected activities with other stakeholders in shaping a consistent national approach, while affording operational commanders necessary flexibility to accommodate unique regional factors. A comprehensive and well integrated concept for the governance, within the bounds of existing Coast Guard statutory authorities, applied to the ocean, coastal areas, the Great Lakes and inland waterways, will have positive impacts across all Coast Guard mission areas.*"

As someone who has been fortunate enough over the years to work with the Coast Guard, I can attest to the importance of their mission in keeping our mariners safe and our Nation secure. Regional coordination and data helps the Coast Guard and the Navy accomplish these objectives. As the ocean becomes increasingly crowded with recreational uses, shipping, energy development, and other activities, comprehensive ocean plans ensure that the Coast Guard can continue to carry out its Maritime Security and Maritime Stewardship missions, including protecting and managing America's ports and waterways, securing our coasts from threats, protecting valuable marine living resources, and ensuring the safety of Americans on the water.

While the ocean may look vast, it is an incredibly busy place. Our mariners know more than anyone the potential for use conflicts out on the water. The shipping industry operates at a large, global scale. When thinking about shipping or the cruise line industry, it's the cumulative impacts over time to navigate around, for example offshore wind and oil and gas platforms, that can add up to hundreds of thousands of dollars in lost revenue over the course of a year simply in fuel costs. This in turn, has an effect on the economy and the price of goods. Understanding the complexities of our industry through ocean planning will help ocean managers make better, more informed decisions that better serve our industry and the American people. Additionally, as entities like the Coast Guard work to ensure navigation and safety for our mariners, having information on other ocean use activities such as commercial fishing traffic and recreational fishing and boating activity is helpful when addressing navigation and safety concerns as it relates to placing offshore structures that could impact these uses and potentially conflict with safe navigation.

Shipping companies need certainty and the ability to get into and out of ports safely. This not only matters to the bottom line for shipping companies but has the potential to impact ports as well. A company will chose another port to conduct its business, if it is no longer cost effective to offload cargo or conduct other business operations. This Subcommittee represents some of the Nation's busiest ports. Poor planning and lack of consideration for navigational safety has the potential to impact those values significantly. The impact to the port will, in turn, impact the state and local economy with secondary impacts in lost wages to port workers and ship pilots who depend on business coming into and out of the port. Navigation and risk assessment is inherently linked to regional ocean planning. In fact, because of this planning process the Coast Guard now hosts a maritime commerce and navigational safety working group to better coordinate with maritime stakeholders on relevant planning issues.

Regional ocean planning is not about new regulations but about helping Federal and state agencies do their job better. The Chamber and many of the industries we interact with feel strongly that regional approaches to ocean management with involvement of Federal and state agencies, and stakeholders are invaluable. We also find value in regional ocean data portals that house ocean data from agencies and industries in one central, publically accessible location. Using these data portals, permitting applicants and industry can leverage the broad spectrum of data sources

to conduct risk analyses, identify potential conflicts, analyze trends, and plan for future uses, thereby ensuring better predictability for our businesses and avoiding disruption. Within existing ocean plans, agencies have committed to this early engagement when planning major actions offshore. Early stakeholder involvement leads to improved permitting efficiency and ensures agencies are prepared in advance to make more informed permitting and management decisions. This approach also ensures conflicts are avoided, which are often the result of a lack of government coordination and outreach. Lastly, industries suffer when agencies are not coordinated, and ocean industries are uniquely vulnerable with over 20 Federal agencies and entities sharing responsibility for management of Federal ocean waters. Regional ocean plans provide an opportunity for agencies to work more effectively with one another and that government efficiency has in turn helped the maritime sector.

We have actively engaged with the Northeast and Mid-Atlantic Regional Planning Bodies to ensure harmonization of policies, data, and practices as it pertains to the shipping industry. We agree that a regional approach is the appropriate lens through which to plan, but made sure that consistency was addressed as it relates to our industry. We know that a better understanding from decision-makers on the scale at which our industry operates will lead to more informed decisions that support our shipping economy. The Chamber of Shipping of America's Director of Maritime Affairs serves on the Mid-Atlantic Ocean Council's Stakeholder Advisory Committee. We have attended meetings and made recommendations on data and information reflected in the ocean plans and data portals, and encourage all ocean users, including those testifying today, to do so.

We have made recommendations about the support and inclusion of Automatic Identification System (AIS) data in the regional data portals. Availability of this data is critical to ensuring shipping and piloting routes are safe and protected. Maps on navigation and commercial traffic are valuable for those making decisions and working to address these regional, cumulative impacts. In fact, this data set is one of the most valuable and used data sets on both the Northeast and Mid-Atlantic Regional Ocean Data Portals, highlighting the need and value of data on the shipping industry in management and permitting. Ability for permitting agencies as well as state and Federal managers to access this AIS data to view ship traffic and overlay with other ocean uses like commercial fishing, recreational boating, and offshore infrastructure platforms all in one place means smarter more efficient decisions that lead to better outcomes for all industries. Government efficiency is a key component of these data portals and we fully support these efforts.

Agency commitments within the Northeast and Mid-Atlantic Regional Ocean Plans to improve not only early coordination with industry but to improve coordination with one another are invaluable. This is especially true with respect to USCG, MARAD, and Army Corps of Engineers (USACE) as it relates to the maritime community. We fully believe that better coordination among the agencies managing our waterways results in better decisions for the shipping industry. USCG, MARAD and USACE are important voices for the shipping industry in Federal decision-making. The commitment to continue engagement with potentially affected ocean users before a proposed project occurs offshore is of the upmost importance to the Chamber and our members. As I discussed above, cumulative impacts of proposed projects can be incredibly devastating to the shipping industry.

In closing, I hope this Subcommittee will allow industries to continue to work with Federal agencies and states to solve the conflicts and challenges we encounter every day. The Chamber supports the regional data portals, continuing to push for interagency coordination during permitting processes, and commitments from Federal agencies to involve industry earlier in decision-making. Our hope is that the good work related to the regional ocean plans and data portals continue and that the Subcommittee will not let politics get in the way of good governance. The ocean economy needs smart approaches to management and having Federal agencies coordinate with one another on information and data sharing is just common sense. Our members fully support these objectives. Without it we will be limited in our ability to adapt to the complex and rapidly changing maritime domain.

Senator SULLIVAN. Well, thank you, Ms. Metcalf.

Let me begin with a couple of questions, and I really want to open this up. I appreciate all of the witnesses' testimony today.

You know, as I mentioned, Ms. Brady, you gave a very powerful testimony. I like the phrase "You're the original stakeholders," and I think sometimes that's forgotten with regard to the men and

women and their families who have been fishing our oceans for generations.

You mentioned and you spelled out pretty well, with this policy and this setup, which by any measure is quite unwieldy, your voice is not heard. But you also talked about the resource misalignment—right?—with some of the groups that are participating. How difficult is it if you're a small fisherman, not only to have your voice heard, but to make it through this labyrinth of—well, I don't even know what you would call it—regulations and committees and subcommittees to get to really Ms. Metcalf's point, which is trying to get policy ideas and finality out of it? Can you talk to those two points?

Ms. BRADY. Well, I can try. I think the big difference, however, between shipping and fishing is you have to find them first. And for shipping, it's going from point A to point B. For us, I actually came—the Mid-Atlantic Fishery Management Council is being held in Annapolis right now, in case anybody wants to come by and be numbed to death with the regulations.

We have so many constraints upon us right now regarding our fisheries regulation: where we're allowed to catch, where we aren't, depending on gear type, where you go, what kind of gear, gear-restricted areas, rolling closures, other closures, whether you use a trawl, what the regulations are for that, if you use a longline or if you use a trap, regulations specific to each.

The biggest concern that we have is being closed off for more areas that, under the guise of marine-protected areas, where there are no regulations, like through National Marine Fisheries Service with the Sanctuary Act where you can actually show real science. The science that's being created, the MDAT data, is for whales, it's very good, for birds, it's very good. There is no bad data, for those of you that are bat fans, offshore, in which the eastern red bat is one of the guys that actually travels offshore, but there's—the fish data is really, really bad.

They're only using the fall Trawl Survey. So when all the other surveys, they start to spin and show the great migration patterns of where the fish go or where the birds or where the whales go, it's a blank screen, and then in the fall, in September, they show a blip for 2 months, and then it's gone. They haven't used the appropriate data. The data that they use isn't indicative of where these species of fish are.

And we just can't take the chance of being closed out of more areas by another splinter group that decides to put new restrictions upon us by possibly extending territorial waters through interagency consistency requirements of the Coastal Zone Management Act, and then deciding this is the area that we want to use or to close.

Senator SULLIVAN. Yep.

Let me ask a similar question for you, Mr. Keppen, in terms of your voice. And I think that your testimony is very interesting because, to be honest, you represent a group that you don't always think about with regard to fishing and coastal communities, and yet your testimony was powerful in that you could or are being impacted. How do you get the voice of the rancher or farmer in the western part of the state into this process?

Mr. KEPPEN. Well, it looks very daunting. And, frankly, I really don't know a lot about the process or where they're at right now. I kind of found out from other folks in the regulated community as to what was going on, you know, a couple years ago.

But I know, you know, we've dealt with similar types of processes, which I identify in my written testimony. I live in the high desert of Oregon, several hundred miles from the ocean. We have five large dams in the Klamath River between our irrigation project and the mouth of the river. We've got listed fish. Coho salmon, they're threatened under the Endangered Species Act. National Marine Fisheries Service has jurisdiction over them. When those fish were first listed, irrigation diversions weren't even mentioned as a stressor to the fish, but since we're a Federal project, it's become the sole focus, a means of protecting the fish from being exterminated, we're sending more flows downstream for those fish.

So here we are hundreds of miles away, we've got anadromous fish in the ocean and in another state that are impacting our farmers to the degree in 2001 so much water was sent downstream for the fish and reserved in our lake for suckers and other listed fish, the farmers went without water for the first time in 95 years. It did a $300 million impact to our economy.

Our farmers tried to influence that process that was going on downstream that led to the flow recommendations. It was very difficult, not only because of the distance, but the limited resources they had to engage in that process.

Senator SULLIVAN. Thank you.

Senator Peters.

Senator PETERS. Thank you, Mr. Chairman.

Again thank you to each of our witnesses for your testimony today. I want to drill down a little and get a little sense of some specific kind of issues.

Ms. Metcalf, in your written testimony, you talked about the importance of marine planning to the U.S. Coast Guard. And as you know, this Committee also has jurisdiction over the oversight of the U.S. Coast Guard, so I want to expand a little bit on that, if you could for us, and the Coast Guard's ability to carry out maritime security and stewardship missions. The National Ocean Policy allows the Coast Guard to address a number of these issues, and I just wanted to know kind of your sense of how maritime planning has improved national security and the ability for the Coast Guard to do its job, if it has.

Ms. METCALF. I will answer on the Chamber's behalf, and hopefully it will be what the Coast Guard would respond as well.

Senator PETERS. Well, your perspective would be helpful.

Ms. METCALF. Marine spatial planning, as you know, is locating and siting activities on the oceans and the coastal waters, and to be able to know what's there and when it's there and in what densities is very important to us, particularly in shipping, for the purposes of safe navigation. It's also important to the Coast Guard to know where ships are and who those ships are.

So not only does marine spatial planning assist in the marine stewardship piece of the Coast Guard, the safe and environmentally responsible operations of vessels, but it also provides them a maritime security perspective and additional data that al-

lows them to evaluate any potential threats that may be coming in from the water's side.

Senator PETERS. Great. Thank you.

The many uses of our oceans' coasts and Great Lakes also require infrastructure, something that I've been working on a great deal in the Great Lakes area in particular, and as a shipper, having access to ports and other types of infrastructures important to move goods back and forth. I'll just get your sense of, how can strategic maritime planning help us really meet these infrastructure needs? And what are some of those pressing needs that you see as a shipper?

Ms. METCALF. Well, as a shipping—someone representing the shipping industry, obviously, a safe path in which to travel to and from a port area in a very predictable way and in a safe way. The efficiencies of port operations can be enhanced by making sure all the potential conflicting users know where each other are and don't get in each other's way. And I think the extension from—increasing the efficiency of the ports also increases the efficiency of the state, its economies, and the jobs that are supplied by the port infrastructure. So it's all connected.

Senator PETERS. Very good.

Ms. Brady, in a March 2017 political article, you were quoted in reference to offshore energy development in the Northeast by saying, and I think this is your quote, hopefully it's accurate, and you can tell me if it is or not.

Ms. BRADY. I will. I will. Don't worry.

Senator PETERS. It says, "If they keep selling off these portions of the ocean indiscriminately without determining first where they shouldn't be going, it will be too late. You'll be bankrupting these coastal communities." Is that an accurate quote?

Ms. BRADY. That is an accurate quote, yes.

Senator PETERS. And so I read that with great interest, and I agree with you, that we have to be very careful before we sell off these properties, and we need to make sure that we are conducting proper ocean planning.

So my sense is, how do you believe that we can accomplish that sort of planning? And is there a role for a regional planning body in trying to do what's right when it comes to protecting these vital areas from oil and gas exploration?

Ms. BRADY. I don't believe, unfortunately, that the regional planning body, because if you look at the sustainable uses that they choose for ocean uses, they've got commercial and recreational fishing, they have aquaculture, and the only energy choice that they gave was offshore energy as being the option.

I think that BOEM, in and of itself, if they had the ability to include the National Marine Fisheries Service and the fish councils as having first dibs to be able to say, "These are traditional historic fishing grounds, you cannot go there," and then from there, decide where are options, then that could be. They could easily go off the shelf, but the companies that create those might not make as much profits as they wish to, and that's inherently the problem.

But, I mean, as far as in—giving the fish councils, giving NOAA, the ability—the only way that a project, if it's in a certain area, could have a consult by NOAA is if they have an ESA—ESA spe-

cies, Endangered Species Act species, and that's the only option for them to say, "No, don't go there." Other than that, it's all wide open. That's the problem.

Senator PETERS. Thank you.

Senator SULLIVAN. Let me, I want to go back to just a couple other points on the broader structure of this. The Executive order for the National Ocean Policy says it's voluntary marine planning, that's a quote, but it also made clear that even in regions of the U.S. where the states decide not to participate, which includes Alaska and some of the Great Lakes states, Federal agencies still need to address things such as information ocean management issues associated with maritime planning, as described in the Executive order, and I'm reading a quote.

So, Mr. Guith, let me just start with you. Does that sound voluntary?

Mr. GUITH. As long as enforcement is voluntary as well.

[Laughter.]

Mr. GUITH. No, it clearly isn't. And I think you hit exactly on the primary reason why this is an issue. I mean, I agree with Ms. Metcalf, that there's a considerable amount of overlap as far as what we all want by way of ensuring that you can essentially have your cake and eat it, too. I mean, we want—there are multiple uses of the ocean, and we all want to do it in sustainable ways that, you know, protects the environment.

But the primary issue here is the lack of statutory authority.

Senator SULLIVAN. Yes.

Mr. GUITH. Even if it's the greatest thing in the world, you can't do it without Congress designating that. And if we ever get to a point of an actual final regulatory action, I think you would see several lawsuits filed successfully.

Senator SULLIVAN. So your point on that, is it also illustrative of that issue of lack of legal authority that there has been numerous attempts not only to pass this legislatively, which would be the proper way to do that, which have not happened, and, again, as I mentioned, under Congress's control by both parties, but also Congress's attempts to defund the program, which is another way of saying that the Congress believes that if this kind of process is going to go forward, it should have a statutory basis? Does that further kind of bolster your claim that this has some shaky legal grounds?

Mr. GUITH. Precisely.

Senator SULLIVAN. Great. Thank you.

Let me ask, Ms. Metcalf, we were talking about elements of this that I appreciated you going off script, even if the folks who you came with might not have, in your testimony. But I think you made a good point, right? There are some things in here that are important where there is—I think we would have bipartisan consensus certainly on this Committee.

Can you point out the few things that you think are positive, but also things that you have challenges with? I note that associated groups, maritime industry groups, like the AFL–CIO's Maritime Trade Department, the American Waterways Operators, the Transportation Institute, have all weighed in with either their opposition

to this National Ocean Policy Executive order or raising some significant concerns.

So can you give me your sense again on kind of some of the positive aspects, but also some of the negative aspects that you and some of your affiliated groups in the maritime industry have voiced concerns about?

Ms. METCALF. Yes, Mr. Chairman. I think the response to your last question is one of those. I happen to be an attorney, but I don't engage in the practice of law, as they say in the ethics rules. I have not done a legal analysis of this. I have looked at this from a practical operating standpoint from shipping, and so I am not in the position to suggest that there are lawsuits or other legal action that would be warranted, although I certainly defer to my colleague that so stated.

We look at the National Ocean Policy, not as a new bunch of requirements, but as a formative tool to help the agencies do the jobs you have already given them in existing statutes. They all have responsibilities, but sometimes the sandbox either gets too crowded or people are too cranky, and the coordination does not happen that should.

So the positive part of this is the urge to have bodies not hidden behind closed doors, and that have been some of the concerns we have voiced in our—in the written testimony, as a matter of fact, is, "What happens? What's the process?" rather than to in the full sunlight say this is a process to make agencies, with their responsibilities from Congress already established, do it better, do it more efficiently.

So the negative side is the uncertainty associated with some of the provisions in there. I was astonished, quite frankly, because when my colleague from the Farm Alliance Bureau, just I'm going, "What does this have to do with the National Ocean Policy?"

Senator SULLIVAN. Yes.

Ms. METCALF. And then I see this language in here that some I guess smart text drafter threw in that potentially brings in the inland waterways and, heavens to bid, all the way up in the mountains. And it's the National Ocean Policy, folks, it's not the national let's do all the environmental litigation—or not litigation, but regulation we can by taking advantage of a process that was not intended to do that. So the negative——

Senator SULLIVAN. Yes. That's a very good point, and that's why I think having Mr. Keppen here is powerful because, like I mentioned earlier, it's not what you normally would anticipate on such a hearing, but I think it just gives you the sense of the expansiveness of this.

Let me end with one final question, and I'll just pose it to each of the panelists. As I mentioned, we're trying to do this in terms of oversight. Some of you have recommended, hey, we need to start over again particularly because of legal aspects that look dubious or because it's just almost an end-around to existing statutory authority, such as the Magnuson-Stevens Act.

And I know, Ms. Brady, you're here for the council process in Annapolis, but that is a well-established process set up by statute that I think, although, not without some controversy, it has done a good job over the decades, bringing public input in to help us

manage our fisheries in the most sustainable way. Everyone wants to do that. Everyone on this Committee wants to do that.

I just ask for each of you to close with your thoughts on what you see as kind of the most egregious aspect of this, but then also again trying to get a balance here if there are any positive elements that as we're looking at new legislation, for example, the reauthorization of Magnuson-Stevens, we've had several hearings on that already, what would be something that could be possibly viewed as positive from here that we could put in statutory form that could maybe help advance what we all want, which is clean oceans, sustainable fisheries, the ability to use all the resources in the oceans in an environmentally sensitive way, including energy, which is very important to my state.

So we're going to end just with all of your thoughts on those two points, that would be helpful.

We'll start with you, Ms. Brady.

Ms. BRADY. I was hoping I'd be last this time.

[Laughter.]

Ms. BRADY. Let's see, I just—I will slightly disagree. I would like the baby to be tossed out with that bathwater completely, send the baby and the bath right down the stream.

The most egregious is the fear of having additional closures.

Senator SULLIVAN. Yes.

Ms. BRADY. I mean, we are being——

Senator SULLIVAN. With a process that's very hard to understand.

Ms. BRADY.—with a process that has ulterior motives. And if you can't put it in through law and have it passed, go through the council process, go through the scientific process, of proving that something is of such a value that it needs extra protection, that is the council process.

Senator SULLIVAN. Yes.

Ms. BRADY. And create an alternative pathway to getting it done. That's the problem.

Senator SULLIVAN. Great. That's powerful.

Ms. BRADY. As far as what we would keep from it, can I—can you get back to me?

Senator SULLIVAN. You can submit anything about that for the record. And if you don't have anything positive, that's all I'm going to ask for.

Ms. BRADY. I think everyone should do the jobs that already exist. You know, the fact that they have to get together in a room and hang out and chat and have great lunch together and, you know, have this idea, that should already be going on, and it isn't.

Senator SULLIVAN. Yes.

Ms. BRADY. And—but to create a new policy that has multisequelae that none of it's good for us in the fishing industry, this is not the way. Send it downstream.

Thank you.

Senator SULLIVAN. OK. Mr. Guith.

Mr. GUITH. As I stated in my testimony, I mean, first and foremost, the breadth. I mean, I think we're all in agreement, we just—we just established that, that, you know, reaching to the Con-

tinental Divide or inland Alaska is not where ocean policy should start. Uncertainty is very real.

Senator SULLIVAN. Yes.

Mr. GUITH. I mean, the inability to make plans, especially when you're talking about multi-million or billion dollar investments, knowing how that is to be navigated and what the repercussions are going to be. And then ultimately the risk. I mean, I appreciate that you brought up offshore energy development. I mean, obviously, it's a huge component of the Alaskan economy and, more importantly, of the American economy.

Senator SULLIVAN. Yes, I agree.

Mr. GUITH. And as we wait for this administration to propose a new offshore development plan, I mean, we've seen how the Outer Continental Shelf Lands Act works. I mean, it requires consultation with stakeholders and with states. I mean, those processes already exist, and all of a sudden, you overlay that on top of it, what does that mean for these companies that we're looking to, to make multi-billion dollar investments over the course of 20 years to secure America's energy future? Who knows? But if you have to face that on top of everything else, why would you go here as opposed to South America or the North Sea or what have you?

Senator SULLIVAN. Right. Thank you. Excellent.

Mr. Keppen.

Mr. KEPPEN. I think it's just, again, it's the uncertainty and the breadth of it all. I think a lot of our folks really took some offense to the makeup of these regional bodies. They're all Federal agencies. There are some tribal interests in there, but there are no opportunities for the producers to have any say, you know, and why is that?

I guess there's not a lot about the overall policy that I'm really keen on, but I just think maybe this is an opportunity. I think, like you, it needs to be vacated, but use this opportunity to draw attention to the issue and really try to find ways to underscore what existing programs are doing and try to make those more transparent and effective.

Senator SULLIVAN. Great.

Ms. Metcalf.

Ms. METCALF. Thank you, Chairman. I'm not prepared to suggest vacation of this. If that's the process that allows us a clean slate to take the good things out of the current policy and start anew——

Senator SULLIVAN. Yes.

Ms. METCALF.—then fine. And I will leave it to the professionals here on Capitol Hill to decide how that's best done, but we cannot throw the good aspects of this out. We've come too far with the coordination and the collaboration.

I do take notice, though, that the different ocean users have very different perspectives on this, particularly, you know, the offshore, the fishing.

And heaven forbid how you got involved here. I'm sorry.

[Laughter.]

Ms. METCALF. But—so some sort of a Federal level ocean council, committee, that oversees this process. It's no new statutory requirements, it's an attempt to coordinate activities. And we do see ambi-

guity in the current plan. Clarify that, no, we're not going to go to the Rocky Mountains with the National Ocean Plan. Get rid of some of the overreaching that seems to have been slid into the text of the pan—plan, and make sure that it is never going to be a tool for mischief for those that can't get what they want through the transparency of the legislative process.

Senator SULLIVAN. Excellent. Thank you.

Senator Blumenthal.

STATEMENT OF HON. RICHARD BLUMENTHAL, U.S. SENATOR FROM CONNECTICUT

Senator BLUMENTHAL. Thank you. Thanks, Mr. Chairman. And thanks for holding this excellent hearing.

I want to focus on the National Ocean Policy and its impact on shipping, particularly in the medium-size ports, like Bridgeport, New Haven, and New London.

Does the National Ocean Policy do enough, Ms. Metcalf, to support shipping in these ports, which are really oceangoing, in terms of the kind of trade and jobs that they support?

Ms. METCALF. To go back almost 40 years ago, I will say that my first assignment as a third mate on a tanker, I was going in and out of New Haven, so I appreciate the efficiency of that port back then, and I'm sure it's only gotten better.

I think we can always get better. I can tell you that the ports of New Haven, and some of the smaller northeastern ports, but very important ports, such as the ones in your state, can always be made better because remembering that Long Island Sound, much like the Great Lakes—I'm sorry the Senator from Michigan had to leave—but the more enclosed your space is, the more important it is to identify ocean user conflicts. And so we can more logically wade through the problems.

And I would hope—the example that Ms. Brady provided gave me some pause because this should never be about choosing one user over another; it should be about coordinating use among all the users. And so the answer—that was a long answer to the question. Yes, I think the National Ocean Policy and the principles for coordination and collaboration can help any port, but especially those that are in more constrained waterways.

Senator BLUMENTHAL. And dredging is probably important for those ports.

Ms. METCALF. Dredging is really important. Yes, sir.

Senator BLUMENTHAL. Let me ask you, Ms. Brady, in terms of, once again, going to the fishing industry in Connecticut, I know you're a strong supporter, the mishmash of supposed oversight——

Ms. BRADY. I can't even see it from here.

[Laughter.]

Senator BLUMENTHAL. And you don't need your eyeglasses because seeing it won't make it any more understandable.

Laughter.]

Senator SULLIVAN. It makes it worse.

[Laughter.]

Ms. BRADY. Great.

Senator BLUMENTHAL. Right. I would probably make it worse, more frustrating——

Ms. BRADY. Right.

Senator BLUMENTHAL.—if you see it, even more frustrating if you experience it. But one of the imperatives I think about ocean policy is to translate policy into action and make it fair and effective, which right now it is not for our fishing industry. If you had to identify two or three of the most important changes you would like to see either in the structure or in the policies, what would they be?

Ms. BRADY. Other than the baby in the bath downstream, the ability of NOAA to say no. Our traditional historic fishing grounds, that's where we go. And we adhere to everything. I mean, if you're been around since Magnuson started, we've got—I should have brought like a fishery management plan or an amendment just to be like "thunk."

We adhere to the highest regulations in the world. Our stocks are sustainable. What is it, 91 percent overfishing isn't occurring, 84—no, 91 percent aren't overfished, and 84 percent overfishing isn't occurring? Either/or, we have 250 species of stocks in the U.S. that we sell commercially, you know. But we have adhered to all regulations that exist, and yet we're at 92 percent imports because no one else holds any of those values when they ship it into this country.

A really quick fact, I looked this up, 1996, Magnuson-Stevens Sustainable Fisheries Act with a 10-year timeline went into place, as I'm sure both of you guys are aware of. We were at 52 percent imports in the U.S. Twenty years later, we're at 92 percent, and that's because the consumers did not stop eating fish, they just got them where—because it's price point, everyone wants—they don't want to have to spend a fortune. So we've had to be forced to a higher standard than everyone else, and we've seen no—I'm going to use the pun, no net benefit from that since then.

How to make it better? I thought about one thing on the Outer Continental Shelf Act. There is no fund for offshore wind at all. They have up to I think it's a million dollars if you trash a net when you're on the Gulf on a thing or something like that, but there's no—because offshore wind energy wasn't even in existence. So there is no fund that needs to deal with short-term, medium-, and long-term mitigation in case things happen. There is—I have—I could contact one of your staffers, but there are a lot of things that would wish that they would go off the shelf to do it because you don't—you don't set your fields on fire and you don't destroy your traditional fishing grounds in order to produce energy, you can go—I lived overseas for 2 years, no energy, you know, and that was fine, but food, you still need food. And it's national food security as far I'm concerned when it comes to fish.

Senator BLUMENTHAL. Is the 92 percent figure, which I find staggering——

Ms. BRADY. Yes.

Senator BLUMENTHAL.—true of both coasts? In other words, is that national——

Ms. BRADY. It's 92 percent nationally. I believe some of it is because—and I'm sorry to take up time with fish stuff, but, hey, you know, you've got a couple people—it's because it's cheaper to catch the fish here, ship them overseas to have them processed in some

places, and then return them back to this country because we can't get processing in this country because of the amount of regulations that's involved. There are some places that do it, but we lost a lot of infrastructure since the Magnuson-Stevens Act went into play and since a lot of the regulations started taking place.

Senator BLUMENTHAL.—and would you attribute the increase from about 50 percent to 92 percent to the regulation of the processing or the regulation of the fishing?

Ms. BRADY. No, no, no. Regulation in general. I mean, you had like the—you know, it used to be work as hard as you can and just, you know, that it was forever. Obviously, we have regulation, we understand that. We want to have fish for the next couple of centuries. But the problem is, is that the death by 1,000 cuts and not looking at the cumulative effect of multiple fishery management plans upon fishermen that catch them, and having cuts upon cuts, and we're—at MPA, where if it's not coming—you know, we have gear-restricted areas all the time, but that's based on science.

What they're doing now—and I know the scientists that are working, you know, but they're bringing back deliverables with the National Ocean Policy, and that's not exactly science, and that's a problem.

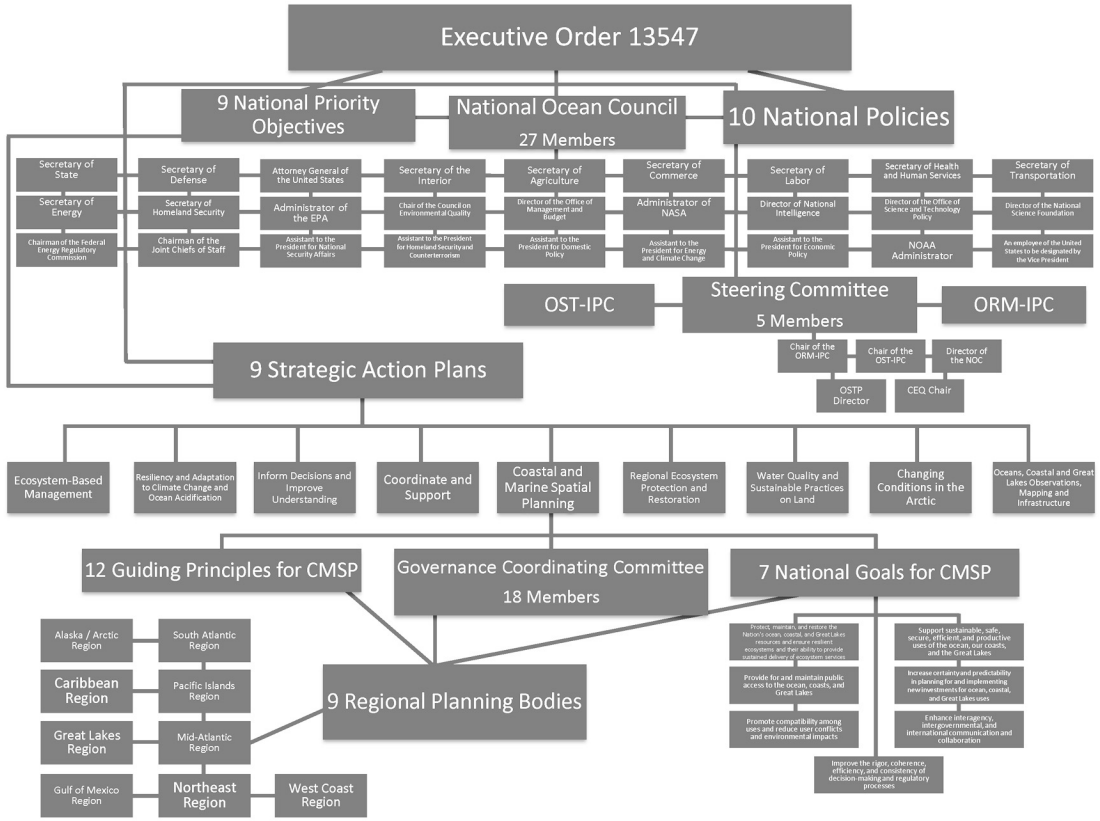
Senator BLUMENTHAL. Thank you.

Thanks.

Senator SULLIVAN. Thank you, Senator Blumenthal.

If there is no objection, I would like to submit for the record this slide, illustrating the bureaucracy called for in the National Ocean Policy, a letter in opposition of the National Ocean Policy written by various stakeholders, and a letter on the National Ocean Policy written by the Joint Ocean Commission Initiative, which I believe is supportive.

[The information referred to follows:]


Executive Order 13547
9 National Priority Objectives
National Ocean Council
27 Members
10 National Policies
Secretary of State
Secretary of Energy
Chairman of the Federal Energy Regulatory Commission
Secretary of Defense
Secretary of Homeland Security
Chairman of the Joint Chiefs of Staff
Attorney General of the United States
Administrator of the EPA
Assistant to the President for National Security Affairs
Secretary of the Interior
Chair of the Council on Environmental Quality
Assistant to the President for Homeland Security and Counterterrorism
Secretary of Agriculture
Director of the Office of Management and Budget
Assistant to the President for Domestic Policy
Secretary of Commerce
Administrator of NASA
Assistant to the President for Energy and Climate Change
Secretary of Labor
Director of National Intelligence
Assistant to the President for Economic Policy
Secretary of Health and Human Services
Director of the Office of Science and Technology Policy
NOAA Administrator
Secretary of Transportation
Director of the National Science Foundation
An employee of the United States to be designated by the Vice President
OST-IPC
Steering Committee
5 Members
ORM-IPC
Chair of the ORM-IPC
Chair of the OST-IPC
Director of the NOC
OSTP Director
CEQ Chair
9 Strategic Action Plans
Ecosystem-Based Management
Resiliency and Adaptation to Climate Change and Ocean Acidification
Inform Decisions and Improve Understanding
Coordinate and Support
Coastal and Marine Spatial Planning
Regional Ecosystem Protection and Restoration
Water Quality and Sustainable Practices on Land
Changing Conditions in the Arctic
Oceans, Coastal and Great Lakes Observations, Mapping and Infrastructure
12 Guiding Principles for CMSP
Governance Coordinating Committee
18 Members
7 National Goals for CMSP
Alaska / Arctic Region
South Atlantic Region
Caribbean Region
Pacific Islands Region
Great Lakes Region
Mid-Atlantic Region
Gulf of Mexico Region
Northeast Region
West Coast Region
9 Regional Planning Bodies
Protect, maintain, and restore the Nation's ocean, coastal, and Great Lakes resources and ensure resilient ecosystems and their ability to provide sustained delivery of ecosystem services
Provide for and maintain public access to the ocean, coasts, and Great Lakes
Promote compatibility among uses and reduce user conflicts and environmental impacts
Improve the rigor, coherence, efficiency, and consistency of decision making and regulatory processes
Support sustainable, safe, secure, efficient, and productive uses of the ocean, our coasts, and the Great Lakes
Increase certainty and predictability in planning for and implementing new investments for ocean, coastal, and Great Lakes uses
Enhance interagency, intergovernmental, and international communication and collaboration

September 23, 2016

Hon. HAROLD ROGERS,
Chairman,
Committee on Appropriations,
U.S. House of Representatives,
Washington, DC.

Hon. THAD COCHRAN,
Chairman,
Committee on Appropriations,
U.S. Senate,
Washington, DC.

Hon. NITA LOWEY,
Ranking Member,
Committee on Appropriations,
U.S. House of Representatives,
Washington, DC.

Hon. BARBARA MIKULSKI,
Vice Chairwoman,
Committee on Appropriations,
U.S. Senate,
Washington, DC.

Dear Chairmen Rogers and Cochran and Ranking Member Lowey and Vice Chairwoman Mikulski:

In connection with congressional efforts to fund the Federal Government for Fiscal Year 2017, the undersigned groups request your support for including language that ensures commercial and recreational interests spanning nearly every sector of the U.S. economy are not saddled with additional uncertainty or new regulatory hurdles as a result of implementation of two particular components of the July 2010 Executive Order establishing the National Ocean Policy.

Among other things, the Executive Order directs a multitude of Federal entities to participate in "Coastal and Marine Spatial Planning" (CMSP) in all nine U.S. coastal regions. The Interior Department has likened CMSP to a "national zoning plan" that "will serve as an overlay" in Federal decisions, NOAA recently stated that government-only Regional Planning Bodies created under the policy "may consider [marine protected areas]," and draft Northeast and Mid-Atlantic marine plans include proposed actions to identify "important ecological areas" and "ecologically rich areas." Concerns are further heightened given that the geographic coverage of CMSP includes inland bays and estuaries and upland areas as the new Regional Planning Bodies deem appropriate, and since Federal entities will "address priority . . . ocean management issues associated with marine planning as described in the Executive Order" even if all states in a region decide not to participate.

In addition to CMSP, the National Ocean Policy requires the Federal Government to implement "Ecosystem-Based Management" (EBM), which is described as a "fundamental shift" in how the U.S. manages ocean, coastal, and Great Lakes resources, with Federal entities directed to "[i]ncorporate EBM into Federal agency environmental planning and review processes" by 2016.

Language adopted by the Executive Order states that effective National Ocean Policy implementation would "require clear and easily understood requirements and regulations, where appropriate, that include enforcement as a critical component," and acknowledges that the policy "may create a level of uncertainty and anxiety among those who rely on these resources and may generate questions about how they align with existing processes, authorities, and budget challenges." In order to ensure that further implementation of some of the most concerning and potentially impactful aspects of an initiative that has not been authorized by Congress does not create additional regulatory uncertainty, result in new regulatory hurdles, or siphon away scarce Federal dollars from critical and authorized activities, the undersigned groups respectfully request that any FY 2017 funding bill includes language stating that "None of the funds made available by this Act may be used to further implementation of the coastal and marine spatial planning and ecosystem-based management components of the National Ocean Policy developed under Executive Order 13547."

Including this language will provide Congress with an important opportunity to more closely examine the National Ocean Policy and the full range of its potential impacts before it is fully implemented. It would also follow 35 House and Senate floor votes since 2012 in support of actions to prohibit, restrict, or shed light on National Ocean Policy implementation, including several bills that were signed into

law. In closing, we appreciate your attention to this issue and respectfully request inclusion of the proposed language in any legislative vehicle(s) for FY 2017 funding.

Sincerely,

Agricultural Retailers Association
Alabama Charter Fishing Association
Alaska Bering Sea Crabbers
Alaska Groundfish Data Bank
Alaska Miners Association
Alaska Oil and Gas Association
Alaska State Chamber of Commerce
Alaska Support Industry Alliance
Alaska Whitefish Trawlers Association
Alliance of Communities for Sustainable Fisheries
American Energy Alliance
American Exploration and Mining Association
American Farm Bureau Federation®
American Fishermen's Research Foundation
American Loggers Council
American Petroleum Institute
At-sea Processors Association
B Cubed Associates LLC (Powder Springs, GA)
California Wetfish Producers Association
Charisma Charters
Charter Boat Miss Mary (Mexico Beach, FL)
Consumer Energy Alliance
CropLife America
Directed Sustainable Fisheries, Inc.
Family Farm Alliance
Florida Keys Commercial Fishermen's Association
Forest Landowners Association
Freezer Longline Coalition
Garden State Seafood Association
Grand Strand Fishing Alliance
Great Lakes Boating Federation
Gulf Economic Survival Team
Half Hitch Tackle (Destin, Panama City Beach, Port St Joe, FL)
Hispanic Leadership Fund
Independent Petroleum Association of America
Institute for 21st Century Energy
International Association of Drilling Contractors
International Association of Geophysical Contractors
LA 1 Coalition
Long Island Commercial Fishing Association
Louisiana Trade Consultants
Mexico Beach Charters
Mexicobeach.bz Inc. (Mexico Beach, FL)
Montauk Inlet Seafood
National Agricultural Aviation Association
National Association of Charterboat Operators
National Cattlemen's Beef Association
National Fisheries Institute
National Ocean Industries Association
National Ocean Policy Coalition
National Onion Association
1New Bedford Seafood Consulting
North Carolina Watermen United
North Myrtle Beach Fishing Charters
Offshore Mariners Wives' Association
Organized Fishermen of Florida
Pacific Seafood Processors Association
Panama City Boatmen Association
Public Lands Council
Recreational Fishing Alliance
Recreational Fishing Alliance-Forgotten Coast Chapter
Recreational Fishing Alliance—Oregon State Chapter
Resource Development Council for Alaska
Seafreeze Ltd.
Small Business & Entrepreneurship Council
Society for Mining, Metallurgy and Exploration
Southeast Alaska Fishermen's Alliance
Southeastern Fisheries Association
Southern Offshore Fishing Association
The Fertilizer Institute
Transportation Institute
United Catcher Boats
U.S. Chamber of Commerce
U.S. Oil and Gas Association
Virginia Charter Boat Association
Wahblee LLC (Mexico Beach, FL)
West Coast Seafood Processors Association
Western Energy Alliance
Western Fishboat Owners Association

JOINT OCEAN COMMISSION INITIATIVE
Washington, DC, December 12, 2017

U.S. Senate,
Committee on Commerce, Science, and Transportation,
Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard.

Dear Chairman Thune and Ranking Member Nelson, Subcommittee Chairman Sullivan and Subcommittee Ranking Member Peters,

Thank you for scheduling a hearing on the National Ocean Policy, a topic of the utmost importance to a maritime nation that looks to its oceans for prosperity, transportation, protein, energy, protection, and inspiration.

The Joint Ocean Commission Initiative (Joint Initiative) was established in 2005 to continue the legacy of the U.S. Commission on Ocean Policy (USCOP) and the Pew Oceans Commission. The Joint Initiative's work embodies the vision that comprehensive, coordinated ocean policy is paramount to successful management of our oceans and coasts, both now and for future generations. As Co-Chairs of the Joint Initiative, we are writing to express our support for a broadly supported, bipartisan

National Ocean Policy that coordinates and integrates ocean governance in the United States.

The USCOP's landmark report, *An Ocean Blueprint for the 21st Century,* was groundbreaking in its vision for comprehensive ocean governance in the United States. Its guiding principles established a bipartisan path forward to support ocean and coastal economies, communities, and ecosystems. These principles, including stewardship, multiple use management, and science-based decision making, should guide Congress and the Administration as they consider updates or revisions to the current executive order establishing a National Ocean Policy. As part of any review, existing mechanisms that effectively advance these principles should be preserved. In addition, Congress could work to develop a national ocean policy that supplements the current executive order, garners support from all relevant sectors, and maximizes use of our oceans for the commonwealth.

In the meantime, many elements of the current National Ocean Policy are delivering results and are strongly supported by industry, states, regions, and other stakeholders. Through its implementation, stakeholders have gained broader access to ocean policy decision making, thereby fulfilling the USCOP principles of stewardship, participatory governance, and accountability. By supporting the creation of new data products that increase data and information availability to all stakeholders, the National Ocean Policy is ensuring the use of best-available science and information in public and private sector decision1making. In supporting action on illegal, unreported, and unregulated fishing, the National Ocean Policy promotes international responsibility. By integrating ocean governance, the National Ocean Policy helps to insure sustainability and stewardship of our oceans and coasts.

Perhaps most importantly, the National Ocean Policy improves coordination among government agencies and Federal oceans programs. This coordination increases the efficiency of Federal efforts to assist states and regions in achieving critical resource management goals for our oceans and coasts. It also increases efficiency in regulatory decision making. This dual efficiency not only exemplifies the vision of the USCOP, it also embodies the bipartisan need to ensure that Federal spending goes as far as possible.

The current National Ocean Policy is far from perfect, and should be improved on. This underscores the need for a visionary, durable policy that can withstand changing administrations, and brings coherence and a sound strategy to ocean management. The United States lacks a strategy for sustainable development of its offshore areas. Conflicts abound among users, among agencies, and between different levels of government over the use of ocean resources and space. In some cases, such as energy development, U.S. policy oscillates between unmitigated development thrusts and the adoption of wholly conservationist approaches. This oscillation precludes a balanced, long term sustainable outcome and creates a policy vacuum that remains untenable. The prosperity of our Nation's bustling ocean economy and the longevity of our marine resources depends on sound, integrated ocean governance.

We urge you to demonstrate leadership by ensuring that the principles of stewardship, multiple-use management, best-available science, adaptive management, coordination, participatory governance, and government efficiency are enshrined in U.S. ocean policy, as the USCOP intended. Regardless of policy mechanism, these principles must be maintained for coastal communities and economies to thrive. The current executive order establishing a National Ocean Policy is accomplishing many of these goals and, in our view, should be improved and not abandoned. The Joint Ocean Commission Initiative remains dedicated to helping you and other U.S. leaders address ocean policy priorities through integrated ocean governance.

Sincerely,

CHRISTINE TODD WHITMAN,
Co-Chair,
Joint Ocean Commission Initiative.

NORMAN Y. MINETA,
Co-Chair,
Joint Ocean Commission Initiative.

Senator SULLIVAN. I want to thank the witnesses again for their outstanding testimony. This hearing is now adjourned.

[Whereupon, at 3:40 p.m., the hearing was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. BILL NELSON, U.S. SENATOR FROM FLORIDA

The success of Florida's economy is intimately connected to our Nation's oceans.

Florida is the fishing capital of the world, home to some of the country's largest ports, and every year our beaches attract millions of tourists. It goes without saying that when our oceans are healthy and well-managed Floridians prosper.

But keeping our oceans healthy and well-managed is not an easy task. First and foremost, the Earth's climate is changing and it is disproportionately affecting our oceans. In the U.S., a variety of local, state, and Federal stakeholders are trying to navigate these changes while simultaneously complying with a mix of laws and regulations. Further, our oceans are affected by actions of foreign states, which is why we must continue to lead the international community on sensible ocean policy.

On July 19, 2010, President Obama signed Executive Order 13547, which established the National Ocean Policy. The National Ocean Policy is the culmination of a bipartisan, decades-long process to determine how to best manage our Nation's oceans.

It directs the Federal Government to coordinate with local and regional stakeholders on policies that will lead to healthier and better-managed oceans.

These policies address such issues as IUU fishing, harmful algal blooms, ocean acidification, coastal resilience, coastal mapping, and coordinated ocean management; all of which have a direct impact on Florida.

Americans that rely on our oceans need responsive executive agencies that are willing to put energy into helping efficiently solve problems.

The National Ocean Policy charges the Executive Branch with doing just that. And when our Federal Government is directed to listen to local communities on ocean policy, all Floridians, and all Americans benefit.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. GARY PETERS TO BONNIE BRADY

Question 1. Senator Peters, thank you for giving me the opportunity to speak further re: alternative data streams that I believe should be included within the Regional Planning Bodies data on commercial fishing.

- The present MDAT data for fisheries uses only fishery-independent trawl data from four research trawl surveys (as per its technical report on methods and development *http://seamap.env.duke.edu/models/mdat/MDAT-Technical-Report-v1*_1.pdf pg 21,)

"While the marine mammal and avian MDAT partners developed models to show abundance and distribution, the Work Group guiding the process for fish products decided on products that represent the original data. There are four sources for fisheries trawl data: the NOAA Northeast Fishery Science Center (NEFSC), North East Areas Monitoring and Assessment Program (NEAMAP), Massachusetts Division of Marine Fisheries (MDMF), and Maine & New Hampshire state trawls (ME/NH). There is some spatial overlap among the surveys, and the NEFSC survey area is much larger than any of the others (Figure 5). Each set of data sources have used standardized survey designs and data collection methodologies but some have used different vessels and gears over time. Results have been normalized to account for these vessel and gear differences within each data source, however no method has yet been applied to normalize data across the different sources. For that reason, they are presented separately."

- Only the fall NOAA research survey trawl survey is used for MDAT, and in recent years the RV Bigelow has missed portions of, or complete legs of, the fall surveys due to vessel breakdowns.

- MDAT does not utilize additional state trawl surveys other than the Massachusetts and the joint NH/ME trawl survey. As is noted in the MDAT tech report, when describing the four trawl surveys used, two regional and two state-specific, each has its own sized boat, net, speed, and gear configuration. To the best of my knowledge, there are no joint protocols and no calibration between the surveys has been attempted.
- Two out of four MDAT-used surveys take place in state waters north of Rhode Island. Mid-Atlantic fish abundance and/or distribution trends may not be effectively captured without including other state trawl surveys south of Massachusetts.
- There are also clear limits to the data resolution of the NOAA trawl survey. Used for stock assessment to show abundance and distribution trends via the RV Bigelow, its survey data resolution is coarse, detecting variations in abundance only within approximately 40 kms (24 miles.) It cannot fine tune data at a smaller spatial scale.
- MDAT does not use other fisheries-independent data sources, like longline or plankton surveys, to capture fisheries data for areas where bottom trawls would not be effective.
- No fisheries-dependent data is used within MDAT, including observer data, or trusted electronic monitoring programs such as the NEFSC's Cooperative Research Study Fleet, comprised of industry fishing boats who work collaboratively with NEFSC scientists on real-time fisheries tow-by-tow data.

The accuracy of Portal maps portraying commercial fishing vessel activity is also a concern. Northeast and Mid-Atlantic ocean "Portals" show Vessel Monitoring Systems (VMS) data as the basis for commercial fishing activity on both the Northeast and Mid-Atlantic ocean portals, additionally with Vessel Trip Report (VTR) data included for the Mid-Atlantic portal. Many caveats to using both VMS and VTR data are not noted however.

- Not all New England/Mid-Atlantic fisheries were/are required to carry VMS. Only some VMS fisheries are listed on the portal, for small sample years, which can translate to a very cherry-picked one-dimensional snapshot of commercial fishing activity, not one for those wishing to understand where species of fish exist in the context of fishing effort through time and space.
- VTR data (which shows listed fishing effort within a statistical area) gathered by NOAA has often been viewed by the NEFSC as inaccurate, or a somewhat incomplete picture of where fishing occurs due to clerical errors on the part of fishermen filling out the forms. The portal data also acknowledges it does not separate fishing activity from transit areas to/or from ports.

So while MDAT models temporal and spatial movement for avian and marine mammals, none of the MDAT fish products capture a complete picture of biomass or individual fish species richness, or capture the same movement, temporally or spatially of fish or fishermen based on migrations of fish, or seasons, on the Portals. Unfortunately, the majority of the MDAT data is static, and lacks the requisite types of industry-informed, cooperatively-gathered data products that can show the dynamic nature of the ocean, including temporal and spatial movement of both the fish and the fishing industry.

The Mid-Atlantic and New England Fishery Management Councils, via their Science and Statistical Committees (SSC), utilize both fishery-independent data streams to estimate stock abundance and set total allowable biological catch limits, and fishery-dependent surveys, such as those utilizing observers and landings to determine level and scale of removal through fishing effort.

Collaborative research, once peer-reviewed, can be added to fisheries data during an SSC Benchmark Assessment of a fishery for consideration as it relates to stock abundance. NOAA has already approved cooperative and collaborative science research projects with industry to augment fisheries data, in part through research set-aside projects, such as with the scallop industry,

The types of alternative data streams that I believe should be added within the Regional Planning Bodies MDAT data should include:

- Fisheries-dependent data streams such as those from the NEFSC's Cooperative Research (CR) Study Fleet. This program includes gathering a whole range of ecosystem data and products, including as mentioned previously, real time catch data at the individual haul level. This type of data has already been vetted through the NEFSC, and includes the work of John Manderson of NEFSC-Cape May and his peer-reviewed butterfish model.

- A push-in crowd-sourcing program of data, one that integrates the ocean observing capability of the on-the-water fishing industry with real-time peer-reviewed fisheries data via the CR-Study Fleet. I'm told such a program is currently under development by the NEFSC's CR department, one that could add multiple layers of ecological, biological and economic real-time data and value to lacking MDAT data. I believe that could solve a lot of the gaps of the present data picture.
- Fishery-independent data surveys such as the CR bottom long-line survey, one that is focused on surveying species in rocky complex habitats that are very difficult to detect using trawl survey gear. This type of survey can help to address gaps in regional abundance and distribution trends, and captures fisheries data at a finer level of data resolution.
- Another way to improve the data streams would be to create more state-wide fishery-independent surveys using the NEAMAP model (which has high trust among industry) for each Southern New England and Mid-Atlantic state (with uniformity of gear etc.), working collaboratively to assure effective, accurate and uniform regional fishery-independent data.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. GARY PETERS TO DAN KEPPEN

Question 1. Agency Coordination: Mr. Keppen, in your testimony you discuss the need to streamline the existing fisheries management framework. One of the major advantages of having regional planning bodies is to address the problem you have described: to get all of the federal, state, and local partners into one room so that they can identify discrepancies and coordinate solutions. Clearly the best outcome would be to have the government work in the most efficient and effective way possible. What is your ideal process for all of the Federal agencies to cooperate in a successful multi-faceted economy, which includes fisheries, farmers, energy, and shipping?

Answer. It is true that regional planning bodies provide a forum to get all of the federal, state and local partners into one room so that they may identify discrepancies and coordinate solutions. Fishermen, farmers, and shippers are all producers, whose interests are often best represented by industry associations who advocate for them. Unfortunately, the National Ocean Policy (NOP) created regional planning bodies made up of government officials and no private sector representatives. An ideal, collaborative process should include key federal, state and local government representation—as well as participation from key *private sector and non-profit* interests.

Such processes will be unique to each specific region and the challenges facing that region. My experience suggests that there is no "one size fits all", ideal solution. However, there are templates for success in the region spanned by my membership, some of which are described in a 2016 report the Family Farm Alliance prepared and presented to President Obama's White House Water Forum, conducted on World Water Day in March 2016. That report, entitled "*Western Farmers and Ranchers as Problem Solvers: A Compilation of Case Studies Highlighting Locally-Driven Solutions to Western Water Resource Challenges*" includes two case studies that might be considered as examples to further supplement this response to your question. One is "Collaboration, Ecosystem Restoration, and New Storage: Yakima Basin (Washington)" and the other is "Collaboration, Conservation, Energy and Water Reliability, and Regulatory Assurances: Deschutes River Basin (Oregon)". Both of these efforts are notable for the vast and diverse array of local, state and Federal agencies and stakeholders that came together to forge reasonable, successful solutions to natural resources challenges. You can download our full report *here.*

Question 2. Improving Restoration: Mr. Keppen, you have identified how nutrient and sediment pollution from inland farms can have detrimental environmental effects on the marine environment. In your written testimony, you state that the Family Farm Alliance is "pleased to see the NOP acknowledge that collaborative watershed restoration efforts are important to the overall success of coastal and marine habitat conservation . . ." I am very pleased to hear that the FFA supports comprehensive watershed restoration efforts. While the NOP does not grant regulatory authority to the regional planning bodies nor extra authority to the Federal agencies that participate, they do have the ability to increase coordination of restoration efforts on a voluntary basis at a more local level. What would you recommend to improve these efforts?

Answer. While the NOP may not grant regulatory authority to the regional planning bodies nor extra authority to the Federal agencies that participate, the Regional Planning Body actions *are* binding on the participating Federal agencies, with potential impacts including restrictions on human activities. Something similar to these regional bodies—modeled on the considerations I outlined in my previous response—might indeed offer the ability to increase coordination of restoration efforts on a voluntary basis at a more local level. However, additional actions would further improve these efforts.

First, the NOP Executive Order should be vacated and efforts should instead be directed to work with all stakeholders to ensure transparent and thoughtful ocean policies. This effort should seek to underscore the primacy of existing authorities and processes that are authorized, well-established, and well understood. Federal agencies must recognize the concerns and contributions that ocean-using stakeholders have regarding ocean policy. The collective effort should adhere to and embrace policies that promote sound and science-based decision making.

All of these recommendations are intended to address one of our primary concerns with this process: avoiding unnecessary duplication and confusion.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. GARY PETERS TO KATHY METCALF

Question 1. Stakeholder Engagement: Ms. Metcalf, in your testimony, you mention the Chamber of Shipping of America's active engagement with the Northeast and Mid-Atlantic Regional Planning Bodies. Stakeholder participation seems critical to the success of these bodies. Can you talk about your experience in dealing with the Regional Planning Bodies and their willingness to accept stakeholder input?

Answer. Our experience in participating in and contributing to the Regional Planning Body process has been positive. The most beneficial stakeholder engagement in this process has been the networking and one day or half day workshops prior to the Regional Planning Body meetings. These workshops were the only opportunity to sit down around a table, off the record, with commercial stakeholders and Government officials to discuss issues/areas of concern, accurate or inaccurate perceptions and mutual points of interest. These roundtable discussions are the heart of this process and our reason for engagement. We found that our involvement and talking points stated in these workshops were raised in the RPB meeting the following day, sometimes with our Organization's name and exact words.

In particular, during one workshop we interacted with the USCG, State of New York and other stakeholders to help them understand that a wider buffer zone was needed between the New York wind energy area lease and the traffic separation schemes in the approaches to the port of New York. We believe these conversations were essential pieces in the buffer zone being increased for the safety of ships entering and exiting the port.

Since the decisions of the Regional Planning Body and Ocean Plans are not regulatory, we can openly express the concerns and needs of the shipping industry without fear of regulation following. We convey our critical views that the regional plans must coincide to prevent confusion for ships transiting multiple region ocean plans. Additionally, the involvement of the U.S. Coast Guard in the process as a Federal Agency that understands and regulates commercial shipping is vital contrary to riders to bills that have been introduced to keep USCG out of the planning process.

Question 2. Ocean Use: Ms. Metcalf, you stated that having information on other ocean use activities such as commercial and recreational fishing and boating activity is helpful when addressing navigation and safety concerns as it relates to placing offshore structures that could impact these uses and potentially conflict with safe navigation. Anytime there are multiple stakeholders with diverging interests, conflicts are bound to ensue. What does the NOP do to address conflicts and help mitigate future conflicts between stakeholders with different priorities and interests regarding their uses of the ocean?

Answer. We believe that NOP and the regional planning bodies when fully operational will allow for the identification of conflicts early on in the process, permit a full discussion including comments from stakeholders (public and private) and lead to a better final decision on ocean uses.

Question 3. Emergency Response: Ms. Metcalf, you also mention the conflicts and dangers that exist in and around the marine environment and maritime community that the National Ocean Policy helps make sense of through contingency planning and preparedness. This is not limited to weather events like hurricanes or environmental hazards like oil spills, which can negatively impact our economy and national security, but it now includes cyber and terrorists' threats as well. Can you

give an example of how interagency coordination and planning has helped when emergencies occur?

Answer. As you are aware, the National Contingency Plan (NCP) already establishes a unified response system for maritime emergencies. For more information, please see *https://www.epa.gov/emergency-response/national-oil-and-hazardous-substances-pollution-contingency-plan-ncp-overview* similar national planning work is being done for the "new" threats *e.g.,* cybersecurity and terrorism as it relates to the maritime sector.

While these national planning efforts predates the creation of the National Ocean Policy and regional planning framework, we believe that they can be a facilitator to ensure that all stakeholders and all levels of government understand the multi-agency planning efforts which already exist and can contribute to the regular review and revision of these plans to better respond to maritime sector emergencies.

Question 4. Coordinated Data: Ms. Metcalf, your testimony highlighted the importance of having data from multiple agencies, states, and regions in a central location for permitting and decision-making. What differences do you notice between regions with coordinated data portals created through the National Ocean Policy and regions without such centralized data hubs?

Answer. At these early stages of data portal development, we have not observed differences to date. We fully support all data points including offshore energy not currently in the data portal to be added. We believe that the full development and funding of regional data portals will most certainly result in a decision making process which takes into account all ocean users and fully coordinates the Federal and state agencies' discussions leading to a final well-informed decision. These efforts will never resolve all the conflicts but we believe they will result in a forum where concerns can be voiced and considered before a final decision is made.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. EDWARD MARKEY TO KATHY METCALF

Question 1. Back in 2005, Massachusetts joined with other New England states to form the Northeast Regional Ocean Council, an effort that helped pave the way for the development of the Northeast Ocean Plan under the National Ocean Policy. This work brought together various stakeholders such as the environmental community, fishing and shipping industries, and local and Federal governments to create a planning process where we could be smart from the start in deciding how to use our oceans and minimize potential conflict. This type of ocean planning is a perfect example of working smarter, not harder. By increasing coordination between these stakeholders, it helped pave the way for the successful first commercial offshore wind project off the coast of New England, off of Block Island. Can you describe for me how the enhanced planning and coordination provided by the Northeast Ocean Plan can help ensure that we can select and permit offshore wind projects in locations that minimize potential conflicts and have the support of the various stakeholders?

Answer. History as always is the best teacher and thus past experiences and challenges will better inform future decisions made in conjunction with the NE Ocean Plan. As indicated in my testimony, several years ago, I received a copy of a chartlet for the approaches to Hampton Roads, Virginia and on that chartlet, lease plots being offered for offshore wind projects were overlaid. These plots included areas in the established traffic lanes and vessel traffic systems for the approaches to Hampton Roads and the entrance to Chesapeake Bay. In this case, the horse appeared to have already left the barn and proposals were being offered for these areas key to the safe navigation of vessels into and out of Hampton Roads. Although we learned that several local meetings had been held to receive comments of stakeholders (which we understand the local U.S. Coast Guard attended), the process moved forward without consideration of the safe navigation issues associated with keeping the traffic lanes open and clear. Unfortunately, the only way to put rational brakes on this initiative was to discuss with senior U.S. Coast Guard officials (in this case the Commandant) at which time the U.S. Coast Guard initiated a Port Access Route Study (PARS) for the entire Atlantic Coast. The large unprecedented geographic scope of the PARS study was justified because a number of similar projects were being proposed in multiple locations on the Atlantic Coast (New York, New Jersey, Virginia, North Carolina) and little or no consideration seemed to have been given for established traffic routes/systems for entry into nearby ports. As a result of the PARS study, these considerations were finally taken into account.

This lesson leads to the answer to the question you have posed. If the NE Ocean Plan (and any other regional plan) works the way it should, these discussions and

potential conflicts will occur BEFORE one agencies process (in this case, DOE/DOI proposed lease plots are published) is underway and future proposals will have taken into account potential conflicts for a specific area and resolved with input from ALL stakeholders.

Question 2. Do you think that the coordination provided under the National Ocean Policy, which we have demonstrated in the Northeast, can provide similar benefits to other regions of the country in terms of developing offshore wind?

Answer. Yes, we do and evidence of that is also showing up in the Mid-Atlantic Plan process. All stakeholders can benefit from having a forum where all can provide input to the process and assure that all considerations are taken into account before any decisions to move forward are made.

Question 3. Senator Wicker and I worked together with the President Obama's Task Force on Combatting Illegal, Unreported, and Unregulated Fishing and Seafood Fraud to establish the NOAA Seafood Import Monitoring program. That taskforce is now a committee under the National Ocean Council and oversees progress in implementing the Taskforce's recommendations. Stopping Illegal, Unreported, and Unregulated Fishing requires many agencies including the Departments of Commerce, Health and Human Services, and Homeland Security, among others. The National Ocean Policy is crucial because it helps these many agencies work together.

In your testimony you say that "Regional Ocean planning is not about new regulations but about helping Federal and state agencies do their job better." In your experience, how do regional ocean plans help ensure that these sorts of efforts that cross the jurisdictional boundaries of multiple agencies are successful?

Answer. There is no guarantee that regional ocean plans will achieve these very important goals but regional planning bodies are a good step forward to ensure this coordination. However, without a regional ocean planning body, issues which cross jurisdictional boundaries of multiple agencies and impact potentially conflicting ocean user may not be fully appreciated by all the stakeholders and we are left with the same situation as we encountered in the Hampton Roads example referenced above.

Question 4. In 2007, federal, state, and local groups collaboratively developed new shipping guidelines to prevent mariners from hitting endangered right whales in the Boston Harbor and in Cape Cod Bay, a move predicted to reduce whale strikes by as much as 81 percent. We are now in the middle of what NOAA has declared an Unusual Mortality Event for Right Whales: more than 3 percent of the entire population of this endangered species has died in the past year. How does the shipping industry use Regional Ocean Plans to coordinate with other federal, state, and local stakeholders to protect species such as endangered Right Whales?

Answer. At this point, we have not since the creation of the NE and Mid-Atlantic plans are really in their infancy. In the case noted above re: endangered right whales in the Boston and Cape Cod Bay areas, the shipping industry, NOAA and the U.S. Coast Guard has been working on this problem for over a decade not only in this area but along the entire Atlantic Coast migration route of the endangered right whales which eventually led to the final regulation focused on mitigating ship strikes. In this case, the two Federal agencies and the shipping industry recognized the need to collaborate in designing a solution that worked *e.g.,* seasonal management areas with mandatory speed restrictions, dynamic management areas with recommended speed restrictions. This resulted without the benefit of having a regional ocean planning body as we now have and was a good example of collaboration at the Federal level, but with little input from local stakeholders. We would hope that issues of this type will now be the topic of discussion among Federal and state agencies with input from all stakeholders.

Question 5. The Northeast Massachusetts Aquaculture Center at Salem State University used data from the Northeast Ocean Plan to advise the development of the first shellfish farm in Atlantic Federal waters. Because the data was in one central, public location, Salem State was able to determine that the 33-acre farm for blue mussels, would not adversely affect whales, shipping traffic, or existing fishing activity. Can you speak to how important and useful Data Portals have proven to be in your own experience?

Answer. Given that the data portals are only just now being populated with data from multiple ocean users, we have not had the benefit that is expected to be provided when they are fully populated with information from all the ocean users in a region. Commercial shipping is readily available via the now mature Automatic Identification System (AIS) and is included in the data portals now. It will be very important that similar data from other ocean users be collected and included in the data portals to fully appreciate the multiple uses in a given region. One additional

and obvious point about data portal information, is that it needs to be accurate. During the hearing, the witness from the fishing industry indicated significant concern about what she indicated was inaccurate data being loaded in the data portals which is a legitimate concern that will need to be addressed to ensure the support of this process from ALL ocean users.

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