

**STATES AND COMMONWEALTHS OF NORTH CAROLINA, CALIFORNIA, CONNECTICUT,
DELAWARE, MAINE, MASSACHUSETTS, MARYLAND, NEW JERSEY, NEW YORK, OREGON,
RHODE ISLAND, AND VIRGINIA**

February 1, 2018

The Honorable Ryan Zinke
Secretary of the Interior
Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

Re: Initial Atlantic and Pacific State Comments on 2019-2024 National Outer Continental Shelf Oil and Gas Leasing Draft Proposed Program

Dear Secretary Zinke:

As the attorneys general of North Carolina, California, Connecticut, Delaware, Maine, Massachusetts, Maryland, New Jersey, New York, Oregon, Rhode Island, and Virginia, we write to express our deep concerns about and opposition to the Department of the Interior's 2019-2024 National Outer Continental Shelf Oil and Gas Leasing Draft Proposed Program (the "Draft Proposed Program"),¹ which would open ocean areas in the Outer Continental Shelf to oil and gas leasing for the first time in decades. The Draft Proposed Program represents disregard for vital state interests, economies, and resources.

You pledged that, under your leadership, the Department of the Interior would be a "collaborative department" that would "solve problems rather than create them."² But the Draft Proposed Program fails to live up to those promises. Instead, it would create multiple problems for nearly everyone who participates in or benefits from our states' coastal and maritime economies. At a minimum, three million jobs across America depend on the ocean and coastal economy, which generated more than \$350 billion in gross domestic product in 2014 alone.³ Your proposal threatens these jobs and the economic prosperity of our states. It also endangers the unique ecologies of our shores and state ocean waters.

The process that the Department is using to develop a new National Outer Continental Shelf Oil and Gas Leasing Program only compounds our concern and gives us little confidence

¹ Available at www.boem.gov/NP-Draft-Proposed-Program-2019-2024.

² Hannah Grover, *Interior Chief Tours Controversial Utah Monument*, Arizona Republic, May 9, 2017, p. A4.

³ Office for Coastal Management, Nat'l Oceanic and Atmospheric Admin., *NOAA Report on the U.S. Ocean and Great Lakes Economy* (2017), available at coast.noaa.gov/data/digitalcoast/pdf/econ-report.pdf.

that the Department's decisions will ultimately be based on sound analysis of the factors required by law.

If the Draft Proposed Program is not terminated, we intend to submit, on or before March 9, 2018, formal comments. Among other things, our comments will detail the Draft Proposed Program's legal insufficiencies and the many harms that it would inflict on our states. Today, we write to outline some of the most salient of these problems in the hope that the Department will change course and terminate the Draft Proposed Program, thereby preventing our states and many other concerned stakeholders from expending limited resources to contest this unprecedented and deficient proposal.

Coastal economies and ecologies put at risk

Our oceans are not only an irreplaceable natural resource, but also a vital engine of economic growth. In 2014, our nation's ocean-based economy generated \$352 billion in gross domestic product, including employing 3.1 million people and generating \$123 billion in annual wages.⁴

Recent history shows how offshore oil and gas drilling carries a significant risk of widespread damage, without regard to state borders. In 2010, the tragic *Deepwater Horizon* oil spill caused economic and ecological devastation across multiple states.⁵ The National Oceanic and Atmospheric Administration has sponsored over 90 scientific studies to date analyzing the extensive damage.⁶ One recent study estimated that the spill caused \$17.2 billion in damage to natural resources alone.⁷

Even without a disaster on the scale of the *Deepwater Horizon* oil spill, offshore oil and gas drilling would threaten our coastal areas. Even a small spill has the potential to devastate sensitive marine and coastal resources and the communities and businesses that depend on them. Risks are especially high in frontier areas such as the Atlantic, which have virtually no spill-response infrastructure or capacity. In thinking about the risks that oil and gas development poses to our states, the Department's analysis of Arctic outer continental shelf development is particularly concerning. For oil and gas development in the Arctic outer continental shelf, the

⁴ *Id.* These are conservative estimates of the oceans' economic impact, including only six economic sectors that are explicitly tied to the ocean and Great Lakes. Including all coastal activity would generate even larger estimates of economic impact.

⁵ See, e.g., National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, *Report to the President* 185-195 (2011).

⁶ Office of Response and Restoration, Nat'l Oceanic and Atmospheric Admin., *NOAA Studies Documenting the Impacts of the Deepwater Horizon Oil Spill* (last modified Jan. 31, 2018), available at response.restoration.noaa.gov/deepwater-horizon-oil-spill/noaa-studies-documenting-impacts-deepwater-horizon-oil-spill.html.

⁷ Richard C. Bishop, *Putting a Value on Injuries to Natural Assets: The BP Oil Spill*, *Science*, vol. 356, issue 6335, pp. 253-254 (Apr. 21, 2017).

Department found a 75 percent chance of at least one spill greater than 1,000 barrels, resulting in toxicity for biota and in petroleum persisting on the surface of the water for weeks or months.⁸ The Department found that the scenario it considered the most reasonable assumption—two spills of this size—“could cause long-term degraded water quality.”⁹ Impacts of this magnitude would pose a severe and unacceptable risk to our states’ economies and invaluable natural resources.

Oil and gas development would also bring increased ship traffic and increased ocean user conflicts. Moreover, the seismic testing that would occur as part of underwater exploration would disrupt and threaten the undersea wildlife that are critical to our coastal economies, including our recreation and tourism industries.¹⁰

Below, we outline some particular economic and natural resources in our states that the Department’s Draft Proposed Program would jeopardize.

California. California is home to more than 800 miles of coastline. Its coastal economies annually generate hundreds of billions of dollars in wages nationally and nearly \$2 trillion in GDP. California is the sixth largest economy in the world and home to two of the largest ports in the nation—the Long Beach and Los Angeles ports, which are a gateway for the entire United States. California’s coastline supports commerce, tourism, recreation, fishing, navigation, marine transportation, public access, and abundant marine life. It is home to dozens of endangered or threatened species that would be put at risk from increased offshore oil and gas development, including the Coho Salmon, Southern Steelhead, Black Abalone, Leatherback Sea Turtle, Guadalupe Fur Seal, Blue Whale, Humpback Whale, Western Snowy Plover, and Marbled Murrelet.

California is all too familiar with the dire impacts from an oil spill from a federal lease. The 1969 spill offshore Santa Barbara killed thousands of birds and marine mammals, commercial fishing was suspended, and tourism plunged. California’s economic drivers are concentrated along California’s coastline, and an oil spill from a federal platform, pipeline, or barge transporting oil would have a catastrophic impact to California’s and the nation’s economy and natural resources.

⁸ Bureau of Ocean Energy Mgmt., U.S. Dep’t of the Interior, *Final Second Supplemental Environmental Impact Statement for Chukchi Sea Planning Area* at 156, 175-76 (Feb. 2015), available at www.boem.gov/uploadedFiles/BOEM/About_BOEM/BOEM_Regions/Alaska_Region/Leasing_and_Plans/Leasing/Lease_Sales/Sale_193/2015_0127_LS193_Final_2nd_SEIS_Vol1.pdf.

⁹ *Id.* at 157 (assumption of two large spills) and 175-76 (consequences of two large spills).

¹⁰ See the comment letter submitted by Maryland, Connecticut, Delaware, the District of Columbia, Massachusetts, New York, North Carolina, Pennsylvania, and Rhode Island to the National Marine Fisheries Service on July 21, 2017, available at www.marylandattorneygeneral.gov/news%20documents/IHA_seismic_testing_comments.pdf.

Connecticut. Connecticut's location on the Long Island Sound is widely utilized by the 23 million people living within 50 miles of the shore. As Connecticut's shoreline is heavily developed, the health of the sound is a major source of economic growth for the state and the nation, including but not limited to the tourism, transportation, fishing, recreation, and military-industrial economic sectors. Current economic value of the region has been estimated at between \$17 and \$30 billion USD annually. Connecticut is also one of the lowest energy consuming states in the nation on a per capita basis,¹¹ while committing to increasing renewable solar and wind energy generation in the state per Connecticut's Comprehensive Energy Strategy.¹²

In particular, Connecticut has a rich heritage of commercial fishing industry that includes the collection of both shellfish and offshore fishing dating back to the Colonial Era.¹³ With commercial fishing already threatened by changes in the regional climate,¹⁴ serious adverse environmental impacts from offshore drilling could increase the risk of destabilizing the industry.

Moreover, to avoid the risks posed by offshore oil and gas development, there have been several intensive planning efforts implemented in the region, including the Northeast Regional Ocean Plan developed by the Northeast Regional Planning Body,¹⁵ joint plans to balance natural resource development and conservation among the coastal states,¹⁶ and Connecticut's Comprehensive Energy Strategy.

Delaware. Delawareans rely upon and enjoy our abundant coastal resources. Within Delaware, over 60,000 jobs directly or indirectly support the fishing, tourism, and recreation sectors. Coast-related activities contribute almost \$7 billion in economic production to the State. According to a 2012 analysis performed by the Delaware Sea Grant, more than 10 percent of the state's total employment, taxes, and production value can be attributed to coastal-related activities.¹⁷ Preserving the coastal environment is essential to Delaware's economic well-being, as well as vital to maintaining a high quality of life for its residents. The majority of coastal

¹¹ U.S. Energy Info. Admin., *Connecticut State Energy Profile* (Jan. 18, 2018), available at www.eia.gov/state/print.php?sid=CT.

¹² Connecticut Dept. of Energy & Env'tl. Prot., *2017 Comprehensive Energy Strategy*, available at www.ct.gov/deep/cwp/view.asp?a=4405&q=500752&deepNav_GID=2121

¹³ See, e.g., Connecticut Humanities, *Oystering in Connecticut, from Colonial Times to the 21st Century*, connecticuthistory.org/oystering-in-connecticut-from-colonial-times-to-today/ and *A Tale of Shad, the State Fish*, connecticuthistory.org/a-tale-of-shad-the-state-fish/ (last visited Jan. 31, 2018).

¹⁴ Jan Ellen Spiegel, *Beneath the Waves, Climate Change Puts Marine Life on the Move*, *The Connecticut Mirror*, Aug. 29, 2016, available at ctmirror.org/2016/08/29/beneath-the-waves-climate-change-puts-marine-life-on-the-move/.

¹⁵ Northeast Regional Planning Body, *Northeast Ocean Plan* (2016), neooceanplanning.org/plan/.

¹⁶ See, e.g., Connecticut Dept. of Energy & Env'tl. Prot., *Long Island Sound Blue Plan*, available at www.ct.gov/deep/cwp/view.asp?a=2705&q=574290&deepNav_GID=1635.

¹⁷ William Latham & Kenneth Lewis, *The Contribution of the Coastal Economy to the State of Delaware* (2012), available at www.deseagrant.org/products/contribution-coastal-economy-state-delaware.

residents perceive offshore oil and gas exploration as a threat to their communities and livelihoods. As the state with the lowest average elevation, Delaware is acutely vulnerable to environmental damage from oil and chemical leaks and spills borne by the water currents and tidal flows. A catastrophic failure such as the *Deepwater Horizon* disaster would imperil Delaware's ocean, bay, and river coastline, inland bays, and tidal marshes, and the many marine, amphibian, reptile, bird, and mammalian species that survive there.

Maine. Maine's iconic coastline stretches for 4,500 miles, and includes 4,600 islands over one acre in size. Its importance to the State's economy can hardly be overstated.¹⁸ Maine is an international tourist destination that attracts 33,000,000 visitors annually, supporting 106,000 jobs.¹⁹ Tourists come for sailing, kayaking, surfing, whale watching, and visiting both the rocky coast and beautiful beaches. Commercial fishing is a way of life in Maine's coastal communities, with the world famous lobster fishery alone bringing in \$530,000,000 in landings.²⁰ In the aggregate, Maine's marine economy generates nearly \$2.1 billion, or 7%, of Maine's Gross State Product.²¹

The unique oceanographic conditions in Georges Bank and the Gulf of Maine would make an oil spill particularly devastating. Georges Bank is characterized by shallow water, tidal fluctuations, and a clockwise spinning gyre that would exacerbate damage to the region's renowned ground fishery. The Gulf of Maine gyre to the north has the potential to draw an oil slick into coastal waters and continuously recirculate the pollution as it coats the shoreline.²² A major oil spill in these waters would cause a unique and unprecedented disaster.

Maryland. Maryland's coastal and marine resources are extensive. For instance, the state is home to a portion of the Assateague Island National Seashore, one of the few remaining undeveloped barrier island environments along the mid-Atlantic coast. Just to the north, tourism supports more than 10,000 jobs in Ocean City and its ten-mile beachfront.²³ Maryland's Chesapeake Bay and Eastern Shore also are the foundation for commercial and recreational

¹⁸ Brian Roach et al., *Measuring Maine's Marine Economy*, Maine Policy Review vol. 8, issue 2 pp. 56-62 (1999), available at <http://digitalcommons.library.umaine.edu/mpr/vol8/iss2/7>.

¹⁹ Tom Groening, *Maine Tourism Grew—Again—in 2015*, Island Institute (Apr. 25, 2016), available at www.islandinstitute.org/working-waterfront/maine-tourism-grew%E2%80%94again%E2%80%942015; Maine Office of Tourism & Maine Dep't of Econ. & Cmty. Dev., *Maine Office of Tourism Annual Report, 2016*, available at digitalmaine.com/decd_docs/168.

²⁰ Penelope Overton, *Maine Lobster Catch Tipped the Scales at Record 130 Million Pounds in 2016*, Portland Press Herald, Mar. 3, 2017, available at www.pressherald.com/2017/03/03/maine-lobster-landings-set-records-in-2016.

²¹ Roach et al., *supra* note 18.

²² Gulf of Maine Council on the Marine Environment, *The Gulf of Maine in Context: State of the Gulf of Maine Report* (2010), available at www.gulfofmaine.org/state-of-the-gulf/docs/the-gulf-of-maine-in-context.pdf.

²³ Tourism Economics, *The Economic Impact of Tourism in Maryland* 116, available at [ocvisitor.com/media/files/newsletters/MD-Visitor-Economic-Impact-2015-county-client%20\(1\).pdf](http://ocvisitor.com/media/files/newsletters/MD-Visitor-Economic-Impact-2015-county-client%20(1).pdf).

fishing and seafood industries that support nearly 20,000 jobs.²⁴ The Bay serves as nursery grounds for hundreds of species that spend part of their lives in the Atlantic, including striped bass, flounder, and crabs. Not only that, but Maryland's coastline provides critical resting and foraging habitat for birds migrating along the Atlantic Flyway.

Massachusetts. The Commonwealth of Massachusetts is the largest contributor to New England's economy with more than 240,000 ocean-related jobs.²⁵ The historic fishing grounds off our coast are among the nation's richest. The Bay State's commercial fishing fleet is the third highest-value fleet in the country. And for seventeen years in a row, New Bedford has been ranked as the nation's highest-valued fishing port, landing \$327 million in revenue in 2016.²⁶ Massachusetts also boasts a robust maritime transportation industry with seven major ports and the Boston Fish Pier, the country's oldest continuously operating seafood processing facility.²⁷

Additionally, Massachusetts is home to miles of pristine beaches and coastline, including the culturally and ecologically important Cape Cod National Seashore. Ocean-related tourism and recreation contributes billions of dollars in spending per year to the state's economy.²⁸ A variety of threatened and endangered species, such as the Piping Plover shorebird and our state marine mammal, the North Atlantic right whale, depend on our coasts and offshore waters. With fewer than 460 North Atlantic right whales in existence, adverse impacts associated with oil and gas drilling could drive extinction of the species.²⁹

Oil and gas leasing in the Atlantic would also be directly counter to the Commonwealth's pioneering clean energy policies. Notably, the Massachusetts Global Warming Solutions Act mandates that climate-warming emissions be reduced 25 percent by 2020 and 80 percent by 2050, and positions the state as a leader in transitioning to a clean energy economy.³⁰

²⁴ National Marine Fisheries Service, *Fisheries Economics of the United States 2015*, at 106-07 (May 2017), available at www.st.nmfs.noaa.gov/Assets/economics/publications/FEUS/FEUS-2015/Report-Chapters/FEUS%202015-AllChapters_Final.pdf.

²⁵ Office for Coastal Mgmt., Nat'l Oceanic and Atmospheric Admin., *NOAA Report on the U.S. Ocean and Great Lakes Economy: Regional and State Profiles 12* (2017), available at coast.noaa.gov/data/digitalcoast/pdf/econ-report-regional-state.pdf.

²⁶ See Michael Bonner, *New Bedford Retains Title of Highest Valued Port for 17th-Straight Year*, South Coast Today (Nov. 1, 2017), available at www.southcoasttoday.com/news/20171101/new-bedford-retains-title-of-highest-valued-port-for-17th-straight-year.

²⁷ *Id.*

²⁸ See 2015 Massachusetts Ocean Management Plan, vol. 2, BA-50, available at www.mass.gov/eea/docs/eea/oceans/ocean-plan/2015-ocean-plan-v2-complete.pdf.

²⁹ See Richard M. Pace et al., *State-Space Mark-Recapture Estimates Reveal a Recent Decline in Abundance of North Atlantic Right Whales*, *Ecology and Evolution*, vol. 7, issue 21, pp. 8730-8741 (2017).

³⁰ See comment letter submitted by Massachusetts Attorney General Maura Healey to the Bureau of Ocean Energy Management on Aug. 17, 2017, BOEM-2017-0050-49550, available at www.regulations.gov/contentStreamer?documentId=BOEM-2017-0050-49550&attachmentNumber=1&contentType=pdf.

New Jersey. New Jersey’s 130-mile coastline is the pride and joy of its residents and has long been vital to New Jersey’s economy. In 2016, the coastal tourism industry generated over \$44 billion in revenue, produced \$4.9 billion in state and local taxes and \$5.6 billion in federal taxes, and supported more than 838,000 jobs—roughly 20% of New Jersey’s workforce. The New Jersey coast also hosts a thriving and nationally prominent fishing industry, which supported over 31,000 jobs in 2015.³¹

The New Jersey coast is also home to an ecosystem of global importance. To take a few examples, New Jersey’s marine waters are a key migration corridor for federally endangered marine mammals and turtles.³² The Delaware Bay estuary provides a critical stopover for threatened and endangered migratory birds and provides spawning grounds for the world’s largest population of horseshoe crabs, which are important to ongoing medical research. Recently, it has been reported that the population of Atlantic Sturgeon, another endangered species, is growing within New Jersey’s coastal waters. The Deep Sea Corals Amendment, passed with help from New Jersey’s commercial fishermen, protects yet another unique resource, the 1,000-year-old deep sea coral communities in the Atlantic Outer Continental Shelf.

Oil and gas exploration and drilling in the North- or Mid- Atlantic Outer Continental Shelf would have devastating effects on these economically and environmentally vital resources, which New Jersey nearly lost just five years ago to Superstorm Sandy. New Jersey cannot afford to expose its treasured coastal communities to the threats posed by the Draft Proposed Program.

New York. New York boasts an ocean economy—living resources, transportation, construction, minerals, ship and boat building, and tourism and recreation—that employs almost 350,000 people, generates \$11.8 billion in wages, and contributes \$24.9 billion in gross domestic product.³³ Tourism and recreation accounts for 92 percent of employment in New York’s ocean economy and 82 percent of its gross domestic product,³⁴ with Long Island’s tourism industry alone accounting for over \$4 billion annually.³⁵

Since 1967, almost 27 million people have visited the Fire Island National Seashore on Long Island’s south shore³⁶ and, each year, roughly 10 million people visit the Gateway National

³¹ See the comment letter submitted by the State of New Jersey to the U.S. Bureau of Ocean Energy Management on August 16, 2017, pp. 1 and 2.

³² See the comment letter submitted by the State of New Jersey to the U.S. Maritime Administration on February 8, 2011, docket number USCG-2010-0993.

³³ NOAA Report on the U.S. Ocean and Great Lakes Economy, *supra* note 3.

³⁴ *Id.*

³⁵ New York Department of State, *Offshore Atlantic Ocean Study* (2013), available at docs.dos.ny.gov/communitieswaterfronts/ocean_docs/NYSDOS_Offshore_Atlantic_Ocean_Study.pdf

³⁶ Nat’l Park Service, U.S. Dep’t of the Interior, *National Park Service Visitor Use Statistics, Fire Island NS (FIIS) Reports*, available at irma.nps.gov/Stats/Reports/Park/FIIS (last visited Jan. 31, 2018).

Recreational Area.³⁷ The Gateway National Recreational Area and the nine other sites that comprise the National Parks of New York Harbor attracted more than 17.5 million visitors in 2010, spending over \$460 million in the parks and surrounding communities, and supporting more than 5,300 jobs in the local area.³⁸ The Gateway National Recreational Area includes the National Park Service-administered Jamaica Bay Wildlife Refuge, a critical stopover area on the Atlantic Flyway, one of the most significant bird sanctuaries in the Northeastern United States,³⁹ and one of the best bird watching locations in the western hemisphere.⁴⁰

The risks of oil spills and other harms from offshore drilling pose an unacceptable threat to New York's coast and ocean resources, and the jobs and economy that depend upon them.

North Carolina. North Carolina's coastal tourism industry creates 30,000 jobs and \$3 billion in annual revenue. Commercial and recreational fishing support an estimated additional 22,500 jobs and \$787 million in revenue each year. Visitors to the Tar Heel coast generated an estimated \$650 million in wages and tips.⁴¹

As Congress has recognized, North Carolina's Outer Banks are "an area of exceptional environmental fragility."⁴² Endangered and threatened species are found throughout the state's coastal waters. North Carolina has 326 miles of ocean beaches and the second-largest estuarine complex in the continental United States, much of it highly sensitive even to comparatively small environmental disruptions. For example, the Albemarle-Pamlico estuary, because of its slow rate of water exchange, is especially susceptible to damage from even small leaks and spills. This estuary covers over 3,000 square miles of open water.⁴³

Rhode Island. With more than 100 beaches, 400 miles of picture perfect shoreline, historical and cultural attractions, and world-class dining, it is no surprise that the travel and tourism industry is a \$5.2 billion industry in Rhode Island, supporting more than 41,000 jobs.⁴⁴

³⁷ Nat'l Park Service, U.S. Dep't of the Interior, *Gateway National Recreation Area NY, NJ*, available at www.nps.gov/gate/index.htm (last visited Jan. 31, 2018).

³⁸ Nat'l Park Service, U.S. Dep't of the Interior, *Economic Benefits to Local Communities from National Park Visitation and Payroll, 2010*, Natural Resource Report NPS/NRSS/EQD/NRR—2011/481.

³⁹ New York Harbor Parks Conservancy, *Jamaica Bay Wildlife Refuge*, available at nyharborparks.org/visit-parks/#tab-id-10 (last visited Jan. 31, 2018).

⁴⁰ John Waldman, Jamaica Bay Institute, Nat'l Park Service, *Research Opportunities in the Natural and Social Sciences at the Jamaica Bay Unit of Gateway National Recreation Area* (2008), available at www.nps.gov/gate/learn/nature/upload/JBAY-Research%20Opportunities.pdf

⁴¹ See comment letter submitted by North Carolina to the U.S. Bureau of Ocean Energy Management on August 17, 2017, pp. 4 and 8, docket number BOEM-2017-0050-49606, available at www.regulations.gov/contentStreamer?documentId=BOEM-2017-0050-49606&attachmentNumber=1&contentType=pdf.

⁴² 104 Stat. 484, 555 (1990), enacting former 33 U.S.C. § 2753(b)(1).

⁴³ See North Carolina's comment letter, *supra* note 41, at pp. 3-4.

⁴⁴ Rhode Island Commerce Corporation, *Tourism*, available at <http://www.edc.ri.gov/growth/tourism/> (last visited Jan. 31, 2018).

Rhode Island also has a diverse and dynamic commercial fishing and seafood industry, with commercial seafood sales generating approximately \$290 million in 2015, \$105 million in income, \$147 million in value added to the economy, and supporting 4,522 jobs.⁴⁵

Recreational fishing in Rhode Island is also extremely important to the State, generating \$332 million in sales in 2015, \$141 million in income, \$216 million in value added to the economy, and supporting 3,554 jobs. Overall, commercial and recreational fishing in Rhode Island in 2015 supported over 8,000 jobs, with a value-added contribution of over \$363 million annually to the state.⁴⁶

Marine trades and recreational boating further generated \$1.3 billion in direct spending, 7,100 direct jobs, and \$327 million in direct wages in Rhode Island. The total economic impact of the maritime trades cluster amounts to over \$2.2 billion in sales for Rhode Island businesses, and generates nearly \$118 million in tax and fee revenue for state and local governments.⁴⁷

Virginia. We are stewards of a large portion of the Chesapeake Bay, including its communication with the Atlantic Ocean. The Chesapeake is the largest estuary in the United States and houses an incredibly complex ecosystem that supports a substantial portion of our economy, all of which could be destroyed for decades in the event of one disaster and crippled or diminished due to the cumulative impacts of smaller spills over the course of time. We are the country's leading producer of hard clams and the East Coast's leading producer of oysters. Moreover, Virginia is the East Coast's largest producer of marine products with total landings of over 417,281,922 million pounds in 2015; the dockside value to watermen alone was \$199,499,690. Also, our coastal tourism supports 45,000 jobs and provides \$1 billion in salaries annually. Virginia's coastal communities are also home to significant military assets, including the world's largest naval base, Naval Station Norfolk. Installation of drilling infrastructure or an unforeseen accident could threaten the ability of military assets based in the region to carry out their vital national security missions. Virginians cannot afford and do not want to risk suffering a loss to these industries. The federal government should not force this risk upon us.

Because of the potential impact of oil and gas development on all of our states, we urge you to withdraw the Department of Interior's Draft Proposed Program.

⁴⁵ Nat'l Marine Fisheries Serv., Nat'l Oceanic and Atmospheric Admin., *Fisheries Economics of the United States 2015* (published May 2017), available at www.st.nmfs.noaa.gov/economics/publications/feus/fisheries_economics_2015/index.

⁴⁶ *Id.*

⁴⁷ Rhode Island Foundation, *Economic Intersections of Rhode Island 9* (published January 2014), available at www.rifoundation.org/Portals/0/Uploads/Documents/RI%20Economic%20Intersections%20-%20Executive%20Summary%20v.WEB.pdf.

Listening to the people of our states

In addition to the economic and ecological threats that offshore drilling would pose, we also have deep concerns about the process that the Department of Interior has followed in developing the 2019-2024 National Outer Continental Shelf Oil and Gas Leasing Program. Program documents specify that the Department will consider “goals and policies mentioned in the comments of affected states,” “concerns of local governments,” and “competing uses” of the ocean.⁴⁸ The Department pledged to prepare the Program based on “comments received” and “analysis of required Section 18 [43 U.S.C. § 1344] factors.”⁴⁹ Yet, on January 9, less than a week after the Draft Proposed Program was released, you announced via Twitter that you were “taking #Florida off the table for offshore oil and gas.”⁵⁰ What you identified as your “full statement” on the topic did not analyze the Section 18 factors, as federal law requires; in fact, your full statement—issued after a brief meeting with Florida Governor Rick Scott—was just five sentences long.⁵¹ Since that initial statement, your agency has offered multiple, contradictory statements about Florida’s status and the reasons for its exemption. These inconsistent remarks underline that the apparent Florida exemption seems not to have been based on reasoned analysis.⁵²

Indeed, the Department has not described in any detail the reasoning for the apparent exemption granted to waters off the coast of Florida, nor for the failure to exempt areas off the coasts of other states. Our states are on the record voicing significant concerns to the Department about oil and gas leasing. We are left to speculate about the basis for your choice, which you reached in such a short amount of time, outside of the legally mandated administrative process, and with minimal opportunity for public input. The Outer Continental Shelf Lands Act, and the basic principles of administrative law, require far greater justification than a few sentences in a Twitter post.

⁴⁸ Draft Proposed Program (Jan. 2018), *supra* note 1, at § 1.3.1.

⁴⁹ *Id.* § 1.3.3.

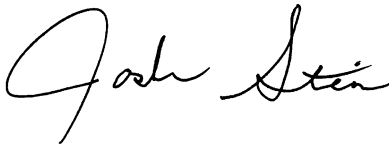
⁵⁰ Sec. Ryan Zinke, @SecretaryZinke, Twitter post and statement (Jan. 9, 2018, 3:48 PM), twitter.com/SecretaryZinke/status/950876846698180608.

⁵¹ *See id.*

⁵² After your January 9 announcement, officials from the Bureau of Ocean Energy Management appeared to signal that you had reversed course, testifying before Congress that Florida actually is still included in the Program. *See* Jim Turner, *Official’s Comment Stirs Up Oil-Drilling Debate*, Daytona Beach News-Journal (Jan. 20, 2018), at C5. However, in a CNN interview a few days later, you again indicated that Florida was excluded from the Draft Proposed Program. *See* Gregory Wallace, *Zinke on Offshore Drilling Flip: Florida’s ‘Coastal Currents’ Are Different*, CNN.com (Jan. 23, 2018), available at www.cnn.com/2018/01/23/politics/zinke-florida-tides/index.html. This time, you cited a different set of purported reasons, stating that the exemption was because of unique “currents” and “geography” in Florida. These are not sufficient reasons to exempt Florida, and you have failed to describe why you have not applied the same analysis to other states.

We urge you to listen to the people of our states and terminate the Draft Proposed Program in its entirety. If the Draft Proposed Program is not terminated, we believe after the appropriate deliberative process, you will find that there are substantial and compelling reasons to retain the current restrictions on offshore leasing in the Atlantic and Pacific outer continental shelf areas.

If the Department of Interior does not terminate the Draft Proposed Program, or remove the areas off our coasts from future consideration for oil and gas leasing, we will vigorously oppose the Department's Program, using appropriate legal avenues.



JOSHUA H. STEIN
ATTORNEY GENERAL OF NORTH CAROLINA



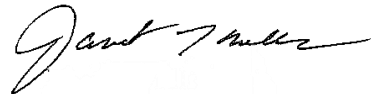
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ATTORNEY GENERAL OF CALIFORNIA



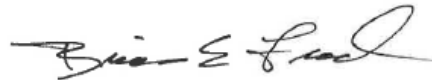
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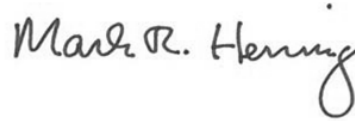
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