**WRITTEN TESTIMONY OF**
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**LEGISLATIVE HEARING ON**
**H.R. 2337: *ENERGY POLICY REFORM AND REVITALIZATION ACT OF 2007***

**BEFORE THE**
**COMMITTEE ON NATURAL RESOURCES**
**U.S. HOUSE OF REPRESENTATIVES**

**May 23, 2007**

Good morning Chairman Rahall, Ranking Member Young, and Members of the Committee. I am Timothy Keeney, Deputy Assistant Secretary for Oceans and Atmosphere at the National Oceanic and Atmospheric Administration (NOAA), in the Department of Commerce. I am pleased to be here today to discuss with you NOAA's comments on H.R. 2337, the *Energy Policy Reform and Revitalization Act of 2007*.

NOAA and the Department of Commerce take our stewardship responsibilities very seriously, and we recognize the importance of adopting energy policies that truly reflect the needs of the American people and provide for our environmental, economic, and national security. Through its data centers, coastal services centers, and environmental prediction centers, NOAA possesses capabilities to provide climatological and oceanographic information suitable for site planning for energy generation facilities relying on wind, wave, or ocean currents. In addition, NOAA provides basic predictive information on environmental conditions, such as severe storms and temperature, necessary for the safe and efficient production and delivery of energy.

We appreciate the intent of the Committee to formulate a bill that provides guidance on addressing our nation's energy needs while acknowledging the importance of our oceans and coasts. The Administration is still completing its review of H.R. 2337, which was introduced on May 16, 2007, and may provide additional specific comments in the future. Today however, I would like to focus my comments specifically on the sections of H.R. 2337 that have direct relevance to NOAA and our mission and programs.

**Section 107: *Federal Consistency Appeals Decision Refinement Act***
Section 107 of H.R. 2337 would amend the Federal Consistency Appeals section of the *Coastal Zone Management Act* (*CZMA*) by expanding the time period for the Secretary to develop a decision record from 160 days to 320 days. In addition, section 107 would allow the Secretary to stay the decision record period for one, unspecified, period of time. Currently, the law allows the Secretary to stay the decision record period for one 60-day period.

The CZMA appeals give the Secretary an important role in balancing national coastal management interests with state decisions. For example, the Secretary may override a state's CZMA objection — or decline to override that objection — based on the record the Secretary develops for an appeal decision. While sufficient time and flexibility are needed to process a CZMA appeal, at the same time established parameters for developing decision records, staying the appeal process, and issuing decisions are desirable. The Energy Policy Act of 2005 amended the CZMA to provide this needed balance between flexibility and establishing deadlines. NOAA believes that this framework should be implemented before Congress deliberates its merit and contemplates any further changes. To date no appeals have been considered under the statute as amended in 2005.

**Section 301: State Outer Continental Shelf Alternative Energy Planning**
Section 301 amends the State Grant Program under the *CZMA*. As amended, the program would support voluntary state efforts to initiate and complete outer continental shelf (OCS) surveys adjacent to a state's coastal zone and coastal waters. These surveys would identify potential areas that are suitable for the exploration, development, and production of alternative energy in a manner consistent with the enforceable provisions of Coastal Zone Management plans (approved pursuant to section 306A of the *CZMA*).

We are concerned that this program may result in considerable duplication of effort. NOAA and other federal agencies already have extensive expertise and existing hydrographic, oceanographic and geographic data for many of these areas. Several other agencies have authorities directly related to the siting of alternative ocean energy activities. Any new surveying or observations should be done in a direct partnership between NOAA and the states, including on a regional basis where appropriate. Any such effort should be consistent with the standards and objectives of the Integrated Ocean Observing System (IOOS), which is included in H.R. 2337. They should also be consistent with ongoing efforts to promote integrated ocean and coastal mapping, including the basic principal to "map once, use many times." The emphasis should be on using existing data and not on funding new surveying activities unless clearly warranted.

**Section 308: OTEC Regulations**
Section 308 would direct NOAA to proceed with licensing of offshore thermal energy conversion facilities under the *Ocean Thermal Energy Conversion Research, Development, and Demonstration Act* (*OTEC Act*). In the late 1970s, there was also a period of interest in alternative energy sources. One of those alternatives — ocean thermal energy conversion (OTEC) — is a process that uses the heat energy stored in the warm surface waters of the world's oceans to produce electricity or other energy-intensive products. The *OTEC Act* gave NOAA responsibility for licensing the construction, ownership, location and commercial operation of OTEC plants.

The *OTEC Act* directed the Administrator of NOAA to establish a stable legal regime to foster commercial development of OTEC. In addition, the *OTEC Act* directed the Secretary of the department in which the U.S. Coast Guard is operating to promote safety of life and property at sea for OTEC operations, prevent pollution of the marine

environment, clean up any discharged pollutants, and prevent or minimize any adverse impacts from the construction and operation of OTEC plants. In addition, the *OTEC Act* was designed to ensure that the thermal plume of an OTEC plantship does not unreasonably impinge on, and thus degrade, the thermal gradient used by any other OTEC plantship or facility, the territorial sea, or an area of national resource jurisdiction of any other nation.

Following NOAA's initial environmental studies and implementation of a licensing program, NOAA has not received any license applications for OTEC facilities or plantships. In 1996, in part because no OTEC license applications had been received, and in part to meet the directive that all agencies eliminate or modify obsolete regulations, NOAA repealed the OTEC licensing regulations and eliminated the OTEC office.

**Section 462: Ocean Policy and Global Warming Program**

Section 462 would create an Ocean Policy and Global Warming Program that provides funding for coastal states and territories, NOAA, and regional collaborations addressing ocean and coastal management. States and territorial coastal management programs have recognized climate change as an important coastal management issue and are already beginning to explore management strategies to mitigate and adapt to the effects of climate change. While we are continuing to review these sections of the bill, we look forward to working with you on this important issue.

Connecting the end-users of climate information at all levels (local, state, and federal) with the type of information needed to make informed decisions is consistent with the goal and focus of NOAA's climate programs. NOAA's Climate Program Office focuses on developing a broader user community for climate products and services, provides a focal point for climate activities within NOAA, leads NOAA climate education and outreach activities, and coordinates international climate activities. NOAA's climate goal is to, "Understand and describe climate variability and change to enhance society's ability to plan and respond." NOAA's pursuit of this goal is an end-to-end endeavor focused on providing decision makers a predictive understanding of the global climate system and to "translate" this information so the public can incorporate the information and products into their decisions. These outcomes are achieved through implementation of a global observing system, focused research to understand key climate processes, improved modeling capabilities, and the development and delivery of climate information services.

One example of current climate services provided by NOAA is the developing National Integrated Drought Information System (NIDIS). NIDIS is a dynamic and accessible drought information system that will provide users with the ability to determine the potential effects of drought and their associated risks and provide the decision-support tools needed to better prepare for and mitigate the effects of drought.

Another example is the research conducted by NOAA and its extramural partners as part of our Regional Integrated Sciences and Assessments (RISA), which addresses complex climate sensitive issues of concern to decision-makers and policy planners at a regional

level. Recent products from the Western Water Assessment, one of seven RISAs spread throughout the nation, include experimental 90-day climate outlooks for the Colorado Water Availability ("Drought") Task Force; 300-year historical stream flows for use by water providers to evaluate vulnerability to drought; and improved springtime streamflow runoff forecasts for use by reservoir managers.

**Section 463: Planning for Climate Change in the Coastal Zone**
Section 463 amends the *CZMA* to require the Secretary of Commerce to establish a coastal climate change resiliency planning and response program. This program would provide assistance to coastal states to voluntarily develop coastal climate change resiliency plans (as amendments to *CZMA* management plans), and provide financial and technical assistance to enable coastal states to implement these plans through their enforceable policies.

NOAA supports the development and implementation of plans by states and territories for addressing the effects of climate change. With respect to the requiring long-term monitoring in Section 320(c)(2)(C), NOAA has concerns over the cost to states and National Estuarine Research Reserves (NERRS) and how the monitoring would be integrated with the IOOS and other ongoing monitoring efforts. While developing plan content, coastal management programs should coordinate with appropriate federal agencies and other state or regional entities to ensure that they are taking advantage of existing resources. Specifically, we encourage states with a National Estuarine Research Reserve to incorporate the contributions of the NERRS monitoring efforts into the Climate Change Resiliency Plans. Plan content should include strategies to address effects on the existing buildings; to site future development, both public and private; and to mitigate direct climate change effects to the natural environment.

**Section 464: *National Integrated Coastal and Ocean Observation Act of 2007***
Section 464 would authorize a National Integrated Coastal and Ocean Observation System. The Administration has long supported an integrated ocean observing system. In July 2003, President Bush expressed his personal support for comprehensive and sustained integrated Earth observations in comments provided to the Earth Observation Summit. Subsequently, the Administration responded to the report of the U.S. Commission on Ocean Policy in the President's *U.S. Ocean Action Plan*. The *Action Plan* supports IOOS and emphasizes that the system will serve many valuable purposes, including improving our understanding of climate change and its socio-economic consequences. IOOS is the ocean component of the U.S. Integrated Earth Observation System, being developed by 15 agencies and 3 White House offices. The U.S. integrated system is our contribution to the emerging Global Earth Observation System of Systems (GEOSS).

In 2006, the Administration released *The First U.S. Integrated Ocean Observing System (IOOS) Development Plan*. H.R. 2337 recognizes this development plan and would codify several of its important aspects, including the valuable contributions of regional components of the system. Regional coordination and the involvement of non-federal interests is an essential component of IOOS, as reflected in the President's FY 2008

budget that requests $11.5 million to support regional IOOS-related efforts. The legislation also designates NOAA as the lead federal agency, a step the Administration took internally in 2005.

The bill also would codify existing institutions, such as the Interagency Working Group on Ocean Observations. This, and related provisions, are important because they recognize that the success of IOOS relies upon interagency cooperation. As noted in the Department's previous views letters and testimony, the Administration shares this objective and has taken major steps to forge such coordination through the Committee on Ocean Policy and its subordinate bodies.

**Section 465: NOAA Report on Climate Change Effects**

Section 465 would amend the *CZMA* to require that NOAA issue a report to Congress within two years of enactment of this section, and every five years thereafter, on the effects of climate change. The bill specifically requests that the reports address the effects on sea level rise, storm activity and intensity, extreme weather, fisheries and ecosystems, and ocean acidification.

NOAA is concerned that Section 465 adds an additional reporting requirement to a growing list of reports already required by law, such as the National Assessment requirement under the Global Change Research Act, or being performed in collaboration within the international community (e.g. Intergovernmental Panel on Climate Change assessment reports). Duplicative reporting requirements are becoming an increasing impediment to the climate science community and have the potential to divert their energy from important climate research questions. NOAA would welcome the opportunity to discuss the reporting needs of the Committee and how to best meet those needs in a coordinated and efficient manner.

**Conclusion**

We appreciate the leadership and efforts by Chairman Rahall and the House Natural Resources Committee in recognizing the need for an environmentally safe supply of energy while addressing the effects of climate change on our oceans and coasts. While we are still examining H.R. 2337 in more detail, we look forward to working with you on these important issues as the legislation moves forward. Thank you for your time and consideration, and I am happy to answer any questions you might have.