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DEVELOPMENTS AND OPPORTUNITIES IN U.S. FISHERIES MANAGEMENT

HEARING

BEFORE THE

SUBCOMMITTEE ON OCEANS, ATMOSPHERE, FISHERIES, AND COAST GUARD

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

MARCH 19, 2013

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ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

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DEVELOPMENTS AND OPPORTUNITIES IN U.S. FISHERIES MANAGEMENT

TUESDAY, MARCH 19, 2013,

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 10:30 a.m. in room SR–253, Russell Senate Office Building, Hon. Mark Begich, Chairman of the Subcommittee, presiding.

OPENING STATEMENT OF HON. MARK BEGICH, U.S. SENATOR FROM ALASKA

Senator BEGICH. Thank you very much. We'll call this hearing to order, the first of the Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard in the 113th Congress.

Welcome to the witnesses and the audience. We appreciate you being here. I want to acknowledge the new Ranking Member, Senator Rubio, and welcome his shared desire about developing an active schedule for the Subcommittee this year. Thank you very much for being here.

We have no lack of important issues we want to face and discuss this session: ensuring adequate budgets for Coast Guard and NOAA to do their important work, responding to the needs of the changing Arctic and strength in our nation's fisheries, addressing marine debris and the other challenges facing our oceans, other concerns and legislation brought by other subcommittee members, and overall, the pending reauthorization of the Magnuson-Stevens Act.

And let me just say just a couple things on that so people will have a sense of where we will go on that. As we know, there are many complex issues with the Magnuson-Stevens Act. As we get ready for reauthorization, we're going to take a deliberative process in examining the many issues. We're going to welcome comments from all the different stakeholders, fisheries councils, fishermen, processors, the public, as well as many other organizations. We plan to hold a series of hearings, we haven't set the schedule, that will reach out across the nation to touch bases with folks who are doing fishing all across this great nation, and the upcoming Managing Our Nation's Fisheries 3 conference in May will be a good start to this process.

Today's hearing will provide an overview of interjurisdictional marine fisheries management examining the extent to which states

and the Federal Government are effectively coordinating the conservation and management of shared fishery resources. We'll have testimony from Federal and state and intergovernment partners and stakeholders to explore recent developments, emerging opportunities, and ongoing challenges for interjurisdictional fisheries management and the role of the regional marine fisheries commissions in the process.

Senator Schumer raised some concerns over this and particularly in reference to the management of the summer flounder fisheries off his shores, and we welcome Senator Schumer here today to be at the dais with us to participate.

We understand this is a longstanding issue, and we welcome the perspectives of this today from the National Marine Fisheries Service, the Atlantic States Marine Fisheries Commission, and the states of New York and New Jersey. Also, welcome representatives of the Pacific and Gulf States and marine fisheries commissions for their comments on how the process is working for them and how it affects their states.

Today's hearing is also an opportunity to look at the broader implications of the Interjurisdictional Fisheries Act and other such legislation. It is also an opportunity to touch on other issues such as seafood traceability. I've introduced Senate bill 520 to crack down on the problem of seafood fraud and look forward to learning about the traceability issues from the experiences of the Gulf States Marine Fisheries Commission.

I welcome David Donaldson of the Gulf States Commission and look forward to his thoughts on how this worked out. I look forward to all the testimony here today.

Let me first ask the Ranking Member, Senator Rubio, and again, we welcome him to the Subcommittee. This is his, as my, first one for this year, and we welcome him, and then I'll ask Senator Schumer to say a few words.

STATEMENT OF HON. MARCO RUBIO,
U.S. SENATOR FROM FLORIDA

Senator RUBIO. Thank you, Chairman. I'm honored to be here in this new capacity. I believe that many of the issues we're going to address in the Subcommittee are of great importance to my state, to the state of Florida, and actually to the country, and I look forward to working with you on it.

Just to highlight the importance of what the work we're going to be about here is that, you know, commercial and recreational fishermen, of which I consider myself one, a recreational fisherman, are a vital component of our national economy and a critical component of Florida's economy. In 2011 alone, the commercial seafood industry supported approximately 1.2 million full and part-time jobs in the United States, and in the same year, there were 11 million recreational saltwater fishermen who help support over 450,000 jobs and generate over $70 billion in sales. In my state alone, recreational saltwater fishing has an economic impact of $5.7 billion supporting more than 54,000 jobs. Our commercial saltwater fishing industry provides more than 100,000 jobs in Florida. This industry is not just a job creator, it helps drive our thriving tourism business, one of the top industries in Florida.

However, the fishing industry faces many challenges, and as you will hear from the witnesses today, some of these challenges are uniquely regional.

However, there are common needs among all of our nation's fisheries, and I believe that there is one fundamental need that requires immediate attention by both stakeholders, NOAA, and Members of Congress, and that's the need to increase the frequency, the accuracy, and the validity of the science that we use as the basis for every single fishery management decision in Florida, in the Gulf, in the South Atlantic, and all across our nation's coastlines.

This data collection starts first with benchmark stock assessments. By having up-to-date information on the status of the stock, we can avoid conservative quotas that limit fishing trips for both commercial and recreational fishermen.

In May of this year, we expect to have the first stock assessment in over 5 years for the red snapper fishery in the Gulf of Mexico, and many anticipate this assessment is going to show a healthier and larger fishery. I hope so.

However, as dictated by the Magnuson-Stevens Act, our fishery management council in the gulf could not wait for this assessment to manage their fishery. In fact, they've been forced to make difficult decisions regarding the length of the Federal season for the red snapper fishery despite the lack of up-to-date information on the status of the stock. We're seeing firsthand in the gulf how this lack of data has significant implications for fishery management. Louisiana and Florida, for the first time in a long time, are moving forward with state seasons that do not match the short 27-day Federal season, and these states are doing so out of sheer frustration with the Federal management process. Fishermen are seeing more and more red snapper every day as the Federal season becomes shorter and shorter. And while a shorter season is largely the result of our fishermen catching bigger fish, our management decisions are being based on old data that does not accurately reflect the health of the stock.

From the testimony we're going to hear today, it sounds like our friends in the Atlantic are experiencing similar difficulties, and I believe we are only touching the tip of the iceberg, no pun intended, on how the lack of data in the gulf is going to impact, not only our fishermen, but the fisheries themselves as we're confronted with mismatched regional management with multiple conflicting authorities.

Today, I hope to hear from NOAA how they're addressing this infrequency and overall inadequacy of the data that drives our management system, and I'd also like to hear from each of the representatives from the regional commissions what they see is the data gaps that need to be filled.

Finally, I'd like to have a better understanding as to some alternative management plans, such as what exists for the summer flounder in the Atlantic.

While many of the specific issues we're reviewing today are regional issues, it does not mean that we cannot draw on the lessons learned as we examine management of our fisheries nationwide.

I may have to step out for a previously scheduled engagement before our second panel is able to testify, but I have read their testi-

mony, and I have some questions, for the record, but with that, Mr. Chairman, I want to thank you for holding this hearing, and I look forward to the testimony.

Senator BEGICH. Thank you very much, Senator Rubio. Let me turn to Senator Schumer.

STATEMENT OF HON. CHARLES E. SCHUMER, U.S. SENATOR FROM NEW YORK

Senator SCHUMER. Well, thank you.

First, on behalf of New York's fishermen, I really want to thank you, Mr. Chairman. I had asked you to hold this hearing, at least part of the hearing, on our problems in the Atlantic and you did, and we are all very appreciative. And I want to thank Senator Rubio, you move up fast in seniority, and he's already a Ranking Member of a very significant committee. I sincerely appreciate that in your first hearing in this Congress, you have both agreed to include our decade-long fight to bring fairness, flexibility, and accountability in the management of summer flounder, or fluke, as we call it in New York.

The three of us come from very diverse states with different fishing issues. I know, Mr. Chairman, that Alaska's dealing with some difficult challenges facing the salmon industry. I also know the same goes for you, Senator Rubio, with respect to red snapper.

But one thing we can all agree on is that the fisheries of America need to be governed by two core principles; fairness for our fishermen and an adherence to the best science and data we have available.

Unfortunately for New York today, neither of those two core principles prevail when it comes to our most prize summer fish, the fluke. You see, Mr. Chairman, the fluke is the crown jewel of New York's waters. One third of all New York recreational fishermen reported that they went fishing for fluke last year. I do it myself and enjoy it ever since my Uncle Al would take me out in Sheepshead Bay on the Amberjack to go fishing for fluke and blues. And every year, thousands of recreational and commercial fishermen from New York City to Montauk, young and old, anxiously await the news from regulators what the size and catch limits will be. But despite the fact that fluke is one of the most abundant and popular New York fish stocks, our anglers have been the victim of an outdated management system that gives us a disproportionately small share of the total allocation. New York anglers are getting short shrift, plain and simple.

The two New York witnesses you will hear from today, and I appreciate their coming, Emerson Hasbrouck of Cornell and Jim Gilmore of the New York State DEC, will go through the history of how we got here in more detail. I've worked with them on this issue for years and thank them for being here today.

Here's the bottom line, New Jersey receives nearly 40 percent of the total recreational fluke quota. New York receives only 17.6 percent, forcing our regulators to keep catch limits unnecessarily high. If you're a New York angler sitting on the Raritan Bay, that's the water between Staten Island and Union Beach, New Jersey, you have a higher size limit and lower bag limit than a New Jersey fisherman just a few yards away from you just because you took

off from the shores of different states. In 2009, for example, the difference was three whole inches. Even an average fluke fisherman will tell you that this can be the difference between catching a keeper to bring home and eat or going home empty-handed for the day. This creates a disincentive for anglers to patronize our fishing businesses and charter boats in New York costing us jobs and economic activity, and just like in Florida and in Alaska, it's a huge industry. In fact, the statistic I like, what are the three top states in ownership of pleasure boating craft? First, you'll be happy to know, Ranking Member Rubio, is Florida, second, I mean, people miss this, is Michigan, but third is New York. We're way up there in this regard.

So, what's happened is there's a disincentive for anglers to patronize our fishing boat businesses and charter boats, as I mentioned, and it costs us jobs and economic activity, and the situation is just as bad for a large and important New York commercial fishing industry. Back when the current management system was being developed in the late 1990s, New York commercial fishermen used a different method of calculating landings than other states. To be quite honest, we did a bad job of keeping records. This artificially made our catch seem lower despite the fact that New York ports famously brought in as much fluke as in any other state. The consequence of this inequity has been dire. Commercial fishing boats from other states now sit side by side with New York boats, catch double the amount of fluke, land them back in their own states, stealing valuable resources and economic activity from our ports. I believe you'll hear today that this is not a scientifically viable or economically fair way to manage the species in 2013.

So for a decade, I've made fixing this interstate allocation system for summer flounder one of my top priorities. I've written letters and convened meetings with high ranking NOAA officials to discuss the issue in New York. NOAA Administrator Lubchenco came up to New York and heard directly from our fishermen. We've talked with Acting Administrator Schwaab, as well. I even requested a GAO investigation in 2011, but unfortunately, these efforts have provided little relief, to date, so we find ourselves with only one remaining course of action, legislative changes.

So, thanks to you, Mr. Chairman, and you, Ranking Member Rubio, we're shining a national spotlight on one of the gravest problems facing New York's fishing industry, the inequitable treatment compared to our neighbors, and I'm glad that New York fishermen are finally getting the chance to discuss the problems they face today, and we're taking the first steps toward reform of a broken system that costs New York's fishing industry jobs.

I'd urge the Committee to consider the expert testimony here today from our New York witnesses as a summation of the pain felt by thousands of New York fishermen and businesses for a decade. I've heard it firsthand for years. Whenever I go to parades or fairs on Long Island, this is one of the most frequent issues brought up. And while it is for too long been unaddressed, it's fitting that Congress will soon be faced with the task of reauthorizing Magnuson-Stevens, and I am committed to assuring that this problem be fixed, either administratively or legislatively, so there's no better

time for New York to be heard during the Magnuson reauthorization process.

I'm going to watch the councils and commissions like a hawk to see if they live up to their requirements to manage fish stocks fairly and equitably, and if they can't, I hope the Congress will.

I really thank the Chairman, the Ranking Member, for this wonderful opportunity that we've been waiting for, for a long time.

Senator BEGICH. Thank you very much, Senator Schumer. Thank you, again, to the panel. I'm going to start with Mr. Beal, then we'll kind of move this way.

Mr. Beal is the Executive Director of the Atlantic States Marine Fisheries Commission. Thank you very much for being here.

You got—just go and push the—is it on?

Mr. BEAL. I think it's on now.

Senator BEGICH. There you go. You're on.

STATEMENT OF ROBERT BEAL, EXECUTIVE DIRECTOR, ATLANTIC STATES MARINE FISHERIES COMMISSION

Mr. BEAL. Great. Thank you.

Good morning, Mr. Chairman and members of the Subcommittee. I'm Bob Beal, the Executive Director of the Atlantic States Marine Fisheries Commission. The commission was formed in 1942 by the 15 Atlantic coastal states in recognition that the states working cooperatively can accomplish a lot more than they can and when acting individually.

It's a particular pleasure to appear before the Subcommittee today to highlight our successes, challenges, and opportunities. While the Commission was formed more than 70 years ago, the formal management at ASMFC really began in 1984 with the passage of the Atlantic Striped Bass Conservation Act followed by the Atlantic Coastal Fisheries Cooperative Management Act in 1993. These two laws provide the Commission the authority to require states to implement provisions of each fishery management plan.

The Commission has achieved many great successes. The restoration of Atlantic striped bass is recognized as one of the greatest fisheries success stories worldwide. The Commission collaborated with NOAA Fisheries, the U.S. Fish and Wildlife Service, and stakeholders to begin the recovery of the collapsed stock in the mid 1980s, and by 1995, the stock was fully recovered. This recovery is the result of the renewed recreational and commercial fishing opportunities as well as hundreds of millions of dollars in economic activity for coastal communities.

In addition to the restoration of striped bass, the Commission's member states have worked with their Federal partners, the three east coast regional fishery management councils, and stakeholders to rebuild many species, such as summer flounder, spiny dogfish, bluefish, scup, and Spanish mackerel. The Commission also maintains an active lobster management program which has generated over $400 million in espousal value in 2011.

The fiscal resources available to the Commission have been nearly static and diminished in a number of areas over the last decade; however, the demands of stakeholders, the necessary rigor of stock assessments, and the simple costs of administering and maintaining the Commission process has increased significantly.

The Commission process is extremely efficient and produces a high return on investment. With a budget of under $10 million annually, the Commission manages 25 species of fish that generate billions of dollars of economic activity from Maine through Florida.

Recent Federal budgets and budget proposals have significantly reduced funding for the Interjurisdictional Fisheries Act and the councils and commissions. These funding cuts would reduce the capacity of the Commission and its member states to develop, implement, and enforce FMPs. The resultant impact would decrease the quality, quantity, and timeliness of scientific advice and reduce the Commission's responsiveness to fishery management issues.

While I mentioned the state/federal partnerships as a cornerstone for many rebuilt fisheries, there is still opportunities for improvement. Our member states feel that communication and collaboration between NOAA Fisheries and the states is inadequate. The Atlantic states urge NOAA Fisheries to involve them as full partners throughout the management process. The states are confident that greater collaboration will lead to, will lead NOAA Fisheries to more informed decisions with greater public engagement and acceptance. The recent listing of Atlantic sturgeon under the Endangered Species Act is a highly visible example of missed opportunity for greater collaboration.

The states are also concerned with the limited opportunity for input and collaboration on decisions made by NOAA Fisheries' highly migratory species division.

Included in my invitation to testify today was a specific request for background and impacts of the current summer flounder management program. Summer flounder is one of the species, one of the four species jointly managed by the Atlantic States Commission and the Mid-Atlantic Fishery Management Council.

In the mid to late 1990s, the coast-wide management measures for the recreational fishery resulted in significant overages of the annual harvest target limit for summer flounder. Increasingly restrictive management measures, specifically size limits, began to impact the traditional fisheries of individual states, particularly those with smaller fish available.

In 2001, the Commission and Council worked together and amended the FMP to allow for state-specific recreational management measures based on the 1998 harvest estimates. While the state-specific approach provided greater flexibility, but it also has resulted in differing regulations up and down the coast. For example, the size limit in New York reached 21 inches in 2009, and in 2012, New York's minimum size limit was 19½ inches which was at least one inch greater than any other state along the coast.

In response to concerns about the unanticipated impacts of state-specific management measures and the availability of updated recreational landing data, the commission initiated change to the summer flounder management program for 2003. This change will allow New York and New Jersey to access fish that will remain unharvested by other states along the coast.

For 2014 and beyond, the Commission has formed a working group comprised of state representatives and staff in the Mid-Atlantic Council. This working group will develop the suite of options

for the future management of the summer flounder recreational fishery.

In conclusion, Mr. Chairman, I mentioned partnerships often throughout my testimony. They're the foundation of the success of the interjurisdictional fishery management. These partnerships must involve the states, commissions, Federal agencies, and Congress. Providing resources to support interstate management is an investment that will pay great dividends through increase economic activity and job growth.

Thank you, Mr. Chairman, and all the members of the Subcommittee. I'm happy to answer any questions you may have.

Senator BEGICH. Thank you very much.

[The prepared statement of Mr. Beal follows:]

PREPARED STATEMENT OF ROBERT BEAL, EXECUTIVE DIRECTOR, ATLANTIC STATES MARINE FISHERIES COMMISSION

Mr. Chairman and members of the Subcommittee,

I am Bob Beal, Executive Director of the Atlantic States Marine Fisheries Commission (Commission). The Commission is comprised of the fifteen Atlantic coastal states and carries out a diverse array of programs for its members with the goal of restoring and sustaining Atlantic coastal fisheries. The Commission provides a forum for interstate cooperation on fisheries that cross state borders and thus cannot be adequately managed by a single state. Recognizing these challenges and the importance of providing Federal support for the management of transboundary resources, Congress authorized the Commission in 1942, allowing for interstate cooperation and state-federal coordination in the management of Atlantic coast fisheries. It is a particular pleasure to appear before the Subcommittee today to review the tremendous success the states and their Federal partners have achieved in the restoration of many Atlantic coastal species and initiate the dialogue to address the emerging opportunities and ongoing challenges that exist for improved stewardship. As the Subcommittee undertakes the task of reauthorization of important fisheries laws and the review of various fisheries management policies, it can do so with the confidence that its leadership has given the states and the Federal agencies the tools and determination to maintain and to build on their fishery resource conservation successes.

Background

While the Commission was formed more than 70 years ago, its more formal management process began in 1984 with passage of the Atlantic Striped Bass Conservation Act, followed by the Atlantic Coastal Fisheries Cooperative Management Act in 1993. These two laws provide the Commission with unique management authorities and responsibilities relative to the other two interstate marine fisheries commissions in the Gulf of Mexico and Pacific regions. Prior to the approval of these two laws, compliance with interstate fishery management plans (FMP) had been voluntary. Congress recognized a need for action and gave the Commission the authority to require states to implement mandatory provisions of each FMP. If the Commission determines that a state is not fully implementing and enforcing the mandatory measures for an FMP, the law provides a mechanism whereby the Secretaries of Commerce and the Interior (for Striped Bass) could declare a complete moratorium on the fishing for that species in that state's waters. Through the Commission process, Atlantic coastal states have developed and fully implemented FMPs for 25 species or species groups.

The Commission is also supported through the provisions and resources provided by the Interjurisdictional Fisheries Act and the Anadromous Fish Conservation Act. Together, these four laws have provided the states the opportunity to form successful partnerships among themselves and with the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NOAA Fisheries) and the U.S Fish and Wildlife Service (USFWS) to carry out their public trust responsibility of sustainably managing shared marine fishery resources.

Successes

The Commission has achieved many great successes under the cooperative interjurisdictional management program. The restoration of Atlantic striped bass is rec-

ognized nationally and internationally as one of the greatest fishery success stories. The Commission facilitated state action to recover the collapsed striped bass stock in the 1980s and by 1995 the stock was declared fully restored. This recovery has resulted in renewed recreational and commercial fishing opportunities, as well as hundreds of millions of dollars in economic benefits to coastal communities throughout the range of the stock. The stock remains robust and healthy nearly 20 years after being rebuilt.

In addition to the restoration of striped bass, the Commission has worked with its Federal partners, the three East Coast regional fishery management councils and its stakeholders, to rebuild many species such as summer flounder, spiny dogfish, bluefish, scup, and Spanish mackerel. The Commission also maintains an active management program for American lobster, which generated over $400 million in ex-vessel value in 2011.[1] This figure is multiplied many fold when you take into account the indirect economic activity generated in coastal communities through fish dealers, restaurants, marinas, and shipping companies.

The Commission has also developed many successful programs to improve fisheries science, consider ecosystem services in management plans, provide the states with flexibility to meet the needs of fishermen, and restore critical habitat. A few examples are:

- An Atlantic Menhaden FMP that considers the forage demands of predatory fish.
- Black sea bass and spiny dogfish allocation programs that allow states to maximize economic return of available quota.
- Northeast Area Monitoring and Assessment Program (NEAMAP) that collects comprehensive nearshore fishery independent data from Maine to North Carolina.
- A horseshoe crab management program that balances the needs of bait harvesters, the biomedical industry, and migratory shorebirds.
- Multispecies stock assessment that models the interactions between many of the Atlantic coastal predator and prey species.

Fiscal Challenges

The fiscal resources available to the Commission have been nearly static, and diminished in some areas during the past decade. However, the demands of stakeholders, the necessary rigor of stock assessments, and the simple cost of administering and maintaining the transparency of the Commission process has increased. This contrast between funding and demands has required the Commission to prioritize activities at the expense of stock assessments and fishery management updates. This constraining of the Commission's budget is occurring at a time of unprecedented state budget cuts and threatens to limit the effectiveness of the Commission process and interstate management coastwide.

The Commission process is extremely efficient and produces a high return on investment. With a budget of under $10 million annually, the Commission manages 25 species that generate billions of dollars of economic activity from Maine through Florida. In fact, 35 percent of the total commercial landings value from Atlantic fisheries in 2011 was attributed to landings within 3 miles of shore. Over 90 percent of the Atlantic coast recreational catch is taken in state waters, with many of the most prominent species, like Atlantic striped bass, summer flounder, and red drum, moving through multiple state jurisdictions. This investment by Congress and the states in the Commission process likely represents one of the best return rates in all natural resource management. Continued investment in interjurisdictional management along the Atlantic coast will fund data collection and assessments to support better management decisions and restoration of stocks. Improved management will create more fishing opportunities and jobs and strengthen economic activity for Atlantic coastal communities.

The Interjurisdictional Fisheries (IJF) Act recognizes the role of states in ensuring fisheries management activities across the state/federal jurisdictions. Recently, the three interstate marine fisheries commissions representing coastal states in the Atlantic, Gulf of Mexico, and Pacific regions voiced our support for ensuring continued funding to the states through the IJF grants. These grants, though some may be small, have been successfully leveraged by the states to boost their survey, data collection, and monitoring abilities, including northern shrimp and American lobster sampling in New England; monitoring state quotas of black sea bass, summer floun-

[1] See Fisheries of the United States, 2011. NMFS, available at *http://www.st.nmfs.noaa.gov/commercial-fisheries/fus/fus11/index.*

der, and striped bass in the Mid-Atlantic; and surveying flounders, drum, shrimp and crabs in the South Atlantic. The program is a matching grant program, so the funds received by the states must be matched dollar to dollar. The Administration's FY13 budget request proposed terminating this important program. An authorization level of $5 million for the IJF grants will provide the opportunity for continued leveraging of these funds to support management of nearshore fisheries and provide data for stock assessments.

The Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act) requires the Atlantic states to develop FMPs through the Commission and to implement and enforce those plans under state law, under penalty of pre-emption of a state's fishery by the Secretary of Commerce. The continued reduction in "Regional Councils and Commissions" funding would reduce the capacity of the Commission as well as its member states to develop, implement, and enforce FMPs. "Regional Councils and Fisheries Commissions" funding goes to help provide valuable sources of data that allow fisheries managers to achieve sustainability for commercial and recreational fisheries, generating billions of dollars of economic activity. Further budget cuts to the program would force the Commission to eliminate one of four Commission meetings, cancel stock assessment training for state scientists, delay (one year) benchmark stock assessments for American lobster, Atlantic striped bass, and northern shrimp, eliminate a stock assessment scientist position, suspend outreach activities, and reduce FMP coordination capacity. The resultant impact would reduce the opportunity for public engagement in the management process; decrease the quantity, quality, and timeliness of scientific advice; and reduce the Commission's responsiveness to fisheries management issues. Greater scientific uncertainty could result in more precautionary management decisions, with consequent opportunity costs to commercial and recreational harvesters due to lower quotas and shorter seasons. Greater uncertainty also may decrease the justification for Commission actions, potentially resulting in legal vulnerability. Through the Commission process, states have reduced the number of overfished species by over 50 percent during the past decade; further progress towards rebuilding overfished species will be hampered by budget cuts and resulting lack of data and slowed response time.

Cutting Atlantic Coastal Act grants to the states would reduce the fisheries management and science activities needed to comply with the provisions of the Act. States use these funds to conduct nearshore fisheries surveys, assess stocks, monitor catches, and interact with stakeholders to implement and enforce the fisheries management measures approved by the Commission. For New England states, this would result in a loss of the ability to accurately track landings for quota management, prompting more precautionary management and potential triggering of accountability measures. Within the Mid-Atlantic region, lack of funding would lead to a direct loss of law enforcement presence. In addition, funding supports monitoring and management of important state and interstate fisheries, such as blue crab and horseshoe crab in Delaware, and red drum, Atlantic menhaden, and flounders in North Carolina. South Atlantic states use the funding to support both fishery monitoring and independent surveys, including Georgia's long-time trawl survey, which has been collecting data on shrimp, crabs, and finfish since the 1970s. In addition, funding supports data collection of bycatch, including protected species like sea turtles and Atlantic sturgeon, throughout the Mid-and South Atlantic.

On the Federal side, there are three East Coast fishery management councils. The Administration's proposed 22 percent funding reduction (from FY12 to FY13) for the "Regional Councils and Fisheries Commissions" funding line item would reduce their capacity to engage stakeholders in development of FMPs and annual harvest levels. These cuts would reduce the number of meetings of each Council by at least one meeting per year; it would impact meetings of their Statistical and Science Committees and stakeholder advisory panels. These cuts would reduce scientific staff capacity to support crucial management questions and reduce FMP coordination capacity. The resultant impacts, similar to those for the Commission, would restrict opportunities for public involvement in the management process and decrease scientific advice available to managers, resulting in negative impacts on the Councils' ability to fulfill the requirements under the Magnuson-Stevens Fishery Conservation and Management Act. Further, the Councils' response to stakeholder input and their ability to make the necessary updates to NOAA's improved recreational data collection program and annual catch limits will be delayed or diminished.

Partnership Opportunities

While I mentioned the state-federal partnerships formed under the various interstate and interjurisdictional fisheries laws have been the cornerstone for many successful fishery restoration stories, there are still opportunities for improvement. Our

member states feel the communication between NOAA Fisheries and the states is inadequate. The Atlantic states urge NOAA Fisheries to involve them as partners throughout the management process rather than a stakeholder group, with involvement limited to public comment periods. The states are confident that greater collaboration will lead NOAA Fisheries to more informed decisions that have greater public engagement and, consequently, acceptance. The states understand there are currently some legal constraints on pre-decisional discussions, however, the states can play a critical role in contributing fisheries science and data and providing stakeholder input for consideration as decisions are finalized. States have been conducting fishery-independent research consistently for decades and can serve as a valuable resource to enhance the available science.

The recent listing of Atlantic sturgeon as threatened/endangered under the Endangered Species Act is a highly visible example of a missed opportunity for greater collaboration. The states could have provided additional information and insight on the population status and biology of Atlantic sturgeon. While this collaboration may not have changed the listing decision, there would have been greater confidence among the stakeholders that NOAA Fisheries was fully informed during the process. The states also request greater transparency and collaboration, including data sharing during the development of response plans.

Another example of a missed opportunity is the management of coastal sharks. In response to a request from NOAA Fisheries, the Commission adopted an Interstate FMP for Atlantic Coastal Sharks to complement Federal management actions and increase protection of pregnant females and juveniles in inshore nursery areas. Following the approval of the Interstate FMP, NOAA Fisheries Highly Migratory Species (HMS) Division made a number of changes to the Federal management program with limited opportunity for state input and collaboration. The states are concerned about the limited opportunity for input and collaboration on these decisions. The states' primary input opportunity is through the HMS Advisory Panel process, where states are seated with other stakeholders. The HMS public comment opportunities frequently do not overlap with a Commission meeting to allow for a unified state position to be developed. The states would like for additional opportunities for input to be provided and required for HMS activities.

Summer Flounder Management

Included in my invitation to testify today was a specific request for background on the impacts of the current recreational summer flounder management program. That information, as well as the anticipated next steps, is included in the following paragraphs.

Summer flounder, *Paralichthys dentatus,* is one of the most sought after commercial and recreational fish along the Atlantic coast. It is one of four species jointly managed by the Commission and the Mid-Atlantic Fishery Management Council. The 2012 summer flounder stock assessment update indicated the stock is not overfished and overfishing is not occurring. The management program divides a total annual quota between the recreational fishery (40 percent) and the commercial fishery (60 percent). The commercial quota is divided into state-by-state quotas based on historical landings. Recreational bag/size limits and seasons are determined on a state-by-state basis using conservation equivalency.

In 1992, the states, operating through the Commission and the Mid-Atlantic Council, jointly adopted provisions in the FMP to establish a comprehensive program for the development of annual recreational fishing regulations for summer flounder on a coastwide basis. In the mid-to late 1990s, significant recreational overages began to occur and coastwide measures were adjusted (made more conservative) to address these overages of the coastwide target. Increasingly restrictive measures, specifically increasing size limits, began to impact the traditional fisheries of individual states, putting those with a small-fish fishery at a disadvantage. In 2001, the Commission and Council further amended the FMP to allow for state-specific measures through conservation equivalency. This allowed states to develop measures that met the needs of their fishery to reflect the timing and size of fish available in their state waters. To develop conservationally-equivalent measures, individual states needed annual harvest targets; therefore, state-specific harvest targets were made based on the state proportion of harvest in 1998 estimates from the Marine Recreational Fisheries Statistics Survey (MRFSS). States may still be subject to a noncompliance determination by the Commission under the Atlantic Coastal Act if they do not implement approved management measures.

Although the shift away from coastwide management to state conservation equivalency addressed the interests of some states (*e.g.,* North Carolina with its smaller fish and later season, Nov-Dec fishery), it has given rise to concerns on the part of other states. While conservation equivalency provided greater flexibility for

individual states to set their limits from year to year, individual state targets were based upon the state's proportion of the 1998 MRFSS harvest estimate. This resulted in ever increasing size limits, reduced bag limits, and shorter seasons for most of the states while the stock was at a low level and recovering. However, the impact of these ever-restrictive measures seemed to affect New York the most, where the size limit reached 21 inches by 2009, resulting in a very short season with a mid-season closure. In 2012, with a fully recovered stock, New York's minimum size (19.5 inches) was at least one inch higher than any other state, one and a half inches higher than Connecticut and two inches greater than New Jersey (Table 1).

New York has argued that reliance on the 1998 MRFSS estimate for management of summer flounder harvest has resulted in an unfairly low harvest target and chronic overages. The state points to the consistently higher minimum size it has been compelled to adopt as evidence of the problem. Recently, Marine Recreational Information Program (MRIP) estimates have become available which seem to further support this contention, with MRIP harvest estimates being higher than the previous MRFSS estimates for New York, while being lower for some other states, notably New Jersey.

In response to concerns about the unanticipated impacts of conservation equivalency and the availability of updated recreational landings data from the MRIP, the Commission initiated a change to the summer flounder management program for 2013 and beyond. For 2013, each of the states, except New York and New Jersey, are allowed to liberalize their regulations under the existing conservation equivalency provisions. However, many of the states have indicated they will not take full advantage of the opportunity to liberalize their regulations. The Commission has initiated a proposed change to the management program to allow New York and New Jersey to access the summer flounder that will remain un-harvested by the other states. If adopted, it is anticipated that this will allow New York and New Jersey to liberalize their regulations and provide additional recreational fishing opportunities. There is a public comment period open until 5:00 pm on April 12, 2013 on this proposed change; the document can be found on the Commission website, *www.asmfc.org,* under Breaking News

For 2014 and beyond, the Commission has formed a working group comprised of state representatives and staff from the Mid-Atlantic Council. This working group will develop a suite of options for management of the recreational fishery. Options that will be explored include:

- Coastwide management measures
- Regional management measures
- Modification of state shares
- Averaging multiple years of landings data to minimize annual fluctuations.
- Different options for establishing size limits (*e.g.,* allow retention of one smaller fish with all other above a larger minimum size
- Any other option deemed viable by the working group

The products from the working group will be presented to the Commission and the Council for consideration as the basis for management of the 2014 and beyond recreational fisheries.

With regard to the summer flounder commercial fishery, catch is controlled by state-by-state quotas derived from the states' share of commercial landing for the period of 1980–1989. When a state quota is reached, that state's fishery is closed. Overages of commercial harvest are subtracted from that state's following year's quota. The FMP also provides the opportunity for states to voluntarily transfer quota on an annual basis to accommodate changes in landings patterns, participation, etc.

Total U.S. commercial landings of summer flounder from Maine to North Carolina peaked in 1979 at nearly 39.561 million pounds. The reported landings in 2011 of 16.559 million pounds were about 94 percent of the final 2011 commercial quota. Since 1980, about 70 percent of the commercial landings of summer flounder have come from Federal waters. Large variability in summer flounder landings exist among the states over time and the percent of total summer flounder landings taken from state waters has varied widely among the states.

Based on VTR data for 2011, the bulk of the summer flounder landings were taken by bottom otter trawls (96 percent), with other gear types (*e.g.,* hand lines and beam trawls) each accounting for less than 1 percent of landings. Current commercial fishery regulations require a 14 inch total length minimum fish size and net mesh size requirements, although states implement additional measures such as trip limits and seasons to constrain the harvest to the state quota.

The Commission and Council selected the state by states allocation system to prevent a coastwide "race-to-fish" which would have resulted in a short fishing season and low economic return. The allocation system allows a state to craft seasons and possession limits to maximize the value of the available quota and accommodate the needs of their fishermen. Some states have allocated their quota individual to fishermen through ITQ systems.

Conclusion

Mr. Chairman, I have mentioned partnerships often throughout my testimony. They are the foundation of the success of interjurisdictional fisheries management. These partnerships must involve the states, commissions, Federal agencies and Congress. If any of these entities are not fully engaged and supportive of the process, we will not be able to build on our past successes. Providing resources to support interstate management is an investment that will pay great dividends through increased economic activity and job growth.

Our management process has proven results, showing it works for the states, for commercial and recreational fishermen, and for coastal communities. It provides an outstanding example of how much can be accomplished when the states and the Federal government, with the leadership of Congress, come together to work towards their mutual interest.

Thank you, Mr. Chairman and all the members of your Subcommittee for your continued support and leadership in fisheries management, and for this opportunity to discuss opportunities for greater collaboration and cooperation of fisheries management issues between state and Federal partners. I would be pleased to answer any questions the Subcommittee may have.

Table 1.—Recreational Summer Flounder Fishery

2012 recreational management measures for summer flounder by state.

State	Minimum Size (inches)	Possession Limit	Open Season
Massachusetts	16.5	5 fish	May 22–September 30
Rhode Island	18.5	8 fish	May 1–December 31
Connecticut*	18	5 fish	May 15–October 31
*At 44 designated shore sites	16		
New York	19.5	4 fish	May 1–September 30
New Jersey	17.5	5 fish	May 5–September 28
Delaware	18	4 fish	January 1–October 23
Maryland	17	3 fish	April 14–December 16
PRFC	16.5	4 fish	All year
Virginia	16.5	4 fish	All year
North Carolina	15	6 fish	All Year

Senator BEGICH. The next speaker is Randy Fisher, Executive Director of Pacific States Marine Fisheries, and again, we'll go through all four then we'll open for questions from members.

Mr. Fisher.

STATEMENT OF RANDY FISHER, EXECUTIVE DIRECTOR, PACIFIC STATES MARINE FISHERIES COMMISSION

Mr. FISHER. Good morning, Mr. Chairman, and members of the Committee. My name is Randy Fisher, and I'm the Executive Director of the Pacific States Marine Fisheries Commission. I'm pleased to present the commission's testimony today.

The Interjurisdictional Fishery Act represents an important collaboration between NOAA and the states in the conservation and management of the interjurisdictional fishery resources throughout

their range. This collaboration has worked well for us for over three decades.

On the west coast in Alaska, Federal and state funds were matched to engage in the following: management of the west coast Dungeness fishery, crab fishery, which is the most valuable fishery on the west coast; management of the west coast pink shrimp fishery—we conduct rockfish surveys and tagging projects on the west coast in Alaska; and management over the coastal pelagic fisheries. All these species straddle Federal and state management jurisdictions. They need to be jointly managed.

We are painfully aware of the downturn pressure on NOAA Fisheries' budget the coming years. The Congress and the administration should take advantage of matching programs that maximize the fiscal resources available to marine conservation and management.

The IJFA funds requires that the states match at least 25 percent of the non-Federal match for the funding activity, and many of the states on the west coast, projects are matched on the dollar-for-dollar basis.

Pacific States Marine Fishery Commission recommends that the IJFA be reauthorized at its formal level of $5 million annually. We believe that additional non-Federal funds could become available if NOAA increases the commitments under the IJFA matching funds program.

We are also concerned about the $4.5 million reduction in the President's budget for the regional councils and the commissions.

The Pacific Council enacted catch shares in 2011. Bycatch is down and revenues are up, but there's still work to be done.

We want electronic monitoring to be an option for the fishermen and will be—but that will require council action.

We are in the process of testing cameras and electronic log books with the goal of reducing costs to the fishermen while obtaining the needed data for our management activities.

We also believe in the future that commissions could be more involved in surveys and habitat work. The commissions are in a unique position to provide people and expertise in these areas.

My overhead rate is between 10 and 12 percent, if we hire and manage people. If we pass money directly through to the states, our rate is 1.7 percent. These rates are obviously very competitive.

I'd like to thank the Commission and the Committee for the opportunity to testify and be happy to answer any questions you may have.

Senator BEGICH. Thank you very much.

[The prepared statement of Mr. Fisher follows:]

PREPARED STATEMENT OF THE INTERSTATE MARINE FISHERIES COMMISSIONS

The Pacific States Marine Fisheries Commission, the Atlantic States Marine Fisheries Commission, and the Gulf States Marine Fisheries Commission strongly support the reauthorization of the Inter-Jurisdictional Fisheries Act.

The Commissions and the twenty seven coastal states they represent also strongly oppose the Administration's proposal to terminate IJFA funding and reduce the Councils/Commissions funding line item within the Commerce, Science, Justice Appropriations Act for Fiscal Year 2013.

Background

The President's Fiscal Year 2013 Budget Request proposes to terminate the Inter Jurisdictional Fisheries Act ("IJFA") Grants to States program. The IJFA was established by Congress to promote and encourage state activities in support of the management of inter-jurisdictional fishery resources throughout their range. Funding under the IJFA supports the monitoring and assessment programs of the States and Interstate Commissions, as well as funding for research that gauge the health of commercially and recreationally important fish stocks. The IJFA is a matching grant program. Funds received by the states must be matched on a dollar-for-dollar basis. This is a classic example of an effective and affordable federal/state partnership for the management of near shore fisheries with inter-jurisdictional boundaries. The Administration used its discretion to allocate "unspecified reductions" within the 2012 NOAA Spend Plan to eliminate the IJFA grants for 2012. The Congress is currently debating the Commerce-Justice-Science appropriations for Fiscal Year 2013, as part of the Continuing Resolution. The Conferees have restored the IJFA program to $2 million. The Interstate Marine Fisheries Commissions strongly support this action.

NOAA is currently going through a painful process of reducing its budget to conform to the Sequestration budget targets. *In an era of declining budgets, programs such as the IJFA that approach a dollar-for-dollar match should be fostered because they maximize the financial resources available for marine conservation and management. Authorizing and appropriating $2.5 million annually for the IJFA results in an equal financial commitment from the States.*

The President's Budget also calls for $27,349,000 for the Regional Councils and Commissions in Fiscal Year 2013, a reduction of roughly $4.5 million over the levels enacted in FY 2012. The Regional Councils are the workhorses of the Federal regulatory process for marine fisheries. Each Council is working to revise the fishery management plans under its jurisdiction to end overfishing and rebuild fish stocks. The ability of the Councils and Commissions to fulfill their statutory mandates will be severely hampered by the proposed cutbacks. As part of the Continuing Resolution, the Conferees have proposed an appropriation of $31,555,000 for the Councils/Commissions line item. The Interstate Marine Fisheries Commissions strongly support this level of funding.

Potential Impact

The proposed elimination of the IJFA Program and the proposed cuts in the "Councils and Commissions" line item would result in a severe curtailment and/or elimination of many fishery conservation and management activities currently being administered by the States and Interstate Marine Fisheries Commissions. The following is a brief synopsis of these activities by region.

Pacific Region

IJFA funds are used by the Pacific States Marine Fisheries Commission ("PSMFC") to coordinate the Tri-State Dungeness Crab Fishery. With a landings value in 2011 of over $185 million, Dungeness Crab is the most valuable crab fishery in the U.S. It is managed on an inter-jurisdictional basis with funding from the IJFA. This was a Federal fishery delegated to the States of Washington, Oregon, and California for management under the Magnuson-Stevens Act because it was deemed to be more efficient to use the States' landing laws as an enforcement mechanism to regulate fishing activity. If funding for this management regime ceases, NOAA will be forced to take the fishery back to the Pacific Fishery Management Council to develop a new fishery management plan at a time when the House and the President are also proposing to cut back Council funding. Any savings hoped to be achieved in eliminating the IJFA grants will be lost to the costs of this new program.

PSMFC and the West Coast states also use their IJFA matching grants to engage in a wide range of other activities, including the conduct of rockfish surveys and tagging projects on the West Coast; management of the Pink Shrimp Fishery; management of the coastal pelagic species fisheries (Pacific Sardines, Pacific Mackerel, and Jack Mackerel account for 86,000 tons of commercial catch in California); research on the abundance and migratory patterns of steelhead on the Snake River; spawning and catch sampling of Pink, Chum, and Coho in Southeast Alaska; and conservation of coastal cutthroat trout (an ESA listed species); technical support for the U.S.-Canada Groundfish Committee, which is tasked with inter-jurisdictional management cooperation for groundfish that border both nations; and the planning and prevention of such invasive species as Quagga and Zebra Mussels from entering the West Coast river systems. These management activities will either cease or be severely curtailed.

The proposed cuts in funding in the Councils/Commissions line item will reduce public participation in the North Pacific and Pacific Fishery Management Councils. Each Council currently meets five times per year. The proposed cuts would result in at least one of the meetings and possibly two being cancelled. The Councils will be required to reducing staffing by 25 percent. This will result in less public outreach and lower stakeholder input. With fewer meetings and less staff to analyze and present scientific information to Council Members, the Councils will be forced to err on the side of caution, resulting in smaller quotas and quicker fishery closures. This will result in lost jobs in the fishing and seafood processing industries, less sport fishing time, and a reduction in taxes to Federal, State, and Local Governments.

Specific initiatives will also suffer. The North Pacific Council will have to slow down its work in resolving halibut and salmon bycatch issues; the halibut catch sharing plan; and the implementation of new regulatory amendments to address safety issues in the factory longline fishing fleet. The Pacific Council will be hampered in its ability to regulate the Sacramento River fall Chinook fishery, which is currently experiencing a rebound from the fishery disasters of 2008 and 2009.

Gulf Region

In the Gulf of Mexico, the IJFA is the cornerstone of the fishery management programs for the states and has provided the support for long-term databases for commercial and non-commercial crustaceans and finfish in the Gulf of Mexico. The fishery-independent databases are becoming increasingly utilized in state and Federal stock assessments and will be critical to future regional management success. The five Gulf States' long-term monitoring programs are funded to a large extent by the IJFA and provide the States' the ability to gauge the health of commercially and recreationally important fish stocks in their waters. NOAA has established a Federal fisheries stock assessment process designated the SouthEast Data, Assessment, and Review (SEDAR) to develop reliable fishery stock assessments for the Gulf of Mexico and Atlantic regions. These assessments rely heavily upon the independent data provided by the states related to abundance indices of many species. As new stock assessment methodologies, such as ecosystem and food web approaches to management are explored and implemented, these state-derived data will be even more important. However, the ability to conduct stock assessments will hinge upon the quality and duration of these datasets which have been supported by the IJFA.

The loss of IJFA funds in Florida and Texas have drastically reduced the direct support for the monitoring of the shrimp and crab fisheries. The loss of IJFA has resulted in the elimination of other funding sources under the 1-for-1 match requirement, including contributions from limited state license revenues. Florida uses IJFA funds to manage inter-jurisdictional stocks over a 1,200 mile coastline. Texas has used their IJFA funding to determine the status of their shellfish populations for formulating shellfish management and harvest regulations in coastal waters. These data have been used to assess Texas' limited entry and license buy-back programs for the bay shrimp industry and the crab industry.

Louisiana has noted that successive reductions in the availability of IJFA funding have led to cuts in sampling programs resulting in a reduced ability to comprehensively monitor growth and distribution of the state's marine resources; reduced the accuracy of projections; and slowed the development of appropriate management recommendations. The loss of IJFA funds to Mississippi jeopardizes the continuation of an almost forty year time series of data on the abundance and distribution of species important to Mississippi and northern Gulf commercial and recreational species. The cuts have eliminated scientific staff and vessel services required for data collection. The reduction or elimination of monitoring and assessment funds has jeopardized the ability of Mississippi to conduct fisheries stock assessments at a time when more and better data are needed.

In Alabama, IJFA funds were used in direct support of fisheries enforcement activities in both Federal and states waters. The loss of this funding has resulted in less efficient enforcement related to Alabama and Gulf of Mexico fisheries and the interactions of fishing activities among protected species. This situation could eventually lead to unsustainable fishing practices.

In addition to the five States' fisheries monitoring, the IJFA also provides funding for the Gulf States Marine Fisheries Commission (GSMFC) to regionally coordinate inshore, state water fishery resources by the development of regional fishery management plans (FMP). The FMPs are used by the states to enact appropriate management strategies with conservation standards intended to maintain sustainable stocks into the future and provide coordinated support to get these management measures passed through their respective state commissions and/or legislative bodies. The GSMFC uses its limited IJFA funds to support the completion of regional

stock assessments that are currently excluded from the Federal SEDAR program but required in regional FMPs. Finally, the funds from the IJFA also provide coordination for marine law enforcement in the five Gulf States which is critical to the enforceability of the regulations enacted by the states in accordance with the regional FMPs.

If the budget cuts become reality, the Gulf Council will remain short of staff. This will result in a reduction in the Gulf Council's ability to address Fishery Management Plans for red drum, among other species, because of insufficient staffing. Reductions in staff will slow progress on efforts to implement ecosystem-based management. Such issues as barotrauma and the status of goliath grouper will be protracted for several years. The cuts result in a reduction in direct contact between the Council and the public. The Gulf Council also expects to reduce the number of the Scientific and Statistical Committee meetings, jeopardizing the public credibility of the Gulf's management measures. This will ultimately result in a slowdown of Fishery Management Plan development for all species.

Atlantic Region

The fiscal resources available to the Atlantic States Marine Fisheries Commission (ASMFC) have been nearly static, and diminished in some areas during the past decade. However, the demands of stakeholders, the necessary rigor of stock assessments, and the simple cost of administering and maintaining the transparency of the ASMFC process has increased. This contrast between funding and demands has required the ASMFC to prioritize activities at the expense of stock assessments and fishery management updates. This constraining of the ASMFC's budget is occurring at a time of unprecedented state budget cuts and threatens to limit the effectiveness of the ASMFC process and interstate management along the Atlantic coast.

The ASMFC process is extremely efficient and produces a high return on investment. With a budget of under $10 million annually, the ASMFC manages 25 species that generate billions of dollars of economic activity from Maine through Florida. In fact, 35 percent of the total commercial landings value from Atlantic fisheries in 2011 was attributed to landings within 3 miles of shore. Over 90 percent of the Atlantic coast recreational catch is taken in state waters, with many of the most prominent species, like Atlantic striped bass and summer flounder, moving through multiple state jurisdictions. This investment by Congress and the states in the ASMFC process likely represents one of the best return rates in all natural resource management. Continued investment in interjurisdictional management along the Atlantic coast will fund data collection and assessments to support better management decisions and restoration of stocks. Improved management will create more fishing opportunities and jobs and strengthen economic activity for Atlantic coastal communities.

The Interjurisdictional Fisheries Act (IJFA) recognizes the role of states in ensuring fisheries management activities across the state/federal jurisdictions. Recently, the three interstate marine fisheries commissions representing coastal states in the Atlantic, Gulf of Mexico, and Pacific regions voiced our support for ensuring continued funding to the states through the IJFA grants. These grants, though some may be small, have been successfully leveraged by the states to boost their survey, data collection, and monitoring abilities, including northern shrimp and American lobster sampling in New England; monitoring state quotas of black sea bass, summer flounder, and striped bass in the Mid-Atlantic; and surveying flounders, drum, shrimp and crabs in the South Atlantic. The program is a matching grant program, so the funds received by the states must be matched dollar to dollar. The Administration's FY13 budget request proposed terminating this important program. An authorization level of $5 million for the IJFA grants will provide the opportunity for continued leveraging of these funds to support management of nearshore fisheries and provide data for stock assessments.

The Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act) requires the Atlantic states to develop FMPs through the ASMFC and to implement and enforce those plans under state law, under penalty of pre-emption of a state's fishery by the Secretary of Commerce. The continued reduction in "Regional Councils and Commissions" funding would reduce the capacity of the ASMFC as well as its member states to develop, implement, and enforce FMPs. "Regional Councils and Fisheries Commissions" funding goes to help provide valuable sources of data that allow fisheries managers to achieve sustainability for commercial and recreational fisheries, generating billions of dollars of economic activity. Further budget cuts to the program would force the ASMFC to eliminate one of four ASMFC meetings, cancel stock assessment training for state scientists, delay (one year) benchmark stock assessments for American lobster, Atlantic striped bass, and northern shrimp, eliminate a stock assessment scientist position, suspend outreach

activities, and reduce FMP coordination capacity. The resultant impact would reduce the opportunity for public engagement in the management process; decrease the quantity, quality, and timeliness of scientific advice; and reduce the ASMFC's responsiveness to fisheries management issues. Greater scientific uncertainty could result in more precautionary management decisions, with consequent opportunity costs to commercial and recreational harvesters due to lower quotas and shorter seasons. Greater uncertainty also may decrease the justification for ASMFC actions, potentially resulting in legal vulnerability. Through the ASMFC process, states have reduced the number of overfished species by over 50 percent during the past decade; further progress towards rebuilding overfished species will be hampered by budget cuts and resulting lack of data and slowed response time.

Cutting Atlantic Coastal Act grants to the states would reduce the fisheries management and science activities needed to comply with the provisions of the Act. States use these funds to conduct nearshore fisheries surveys, assess stocks, monitor catches, and interact with stakeholders to implement and enforce the fisheries management measures approved by the ASMFC. For New England states, this would result in a loss of the ability to accurately track landings for quota management, prompting more precautionary management and potential triggering of accountability measures. Within the Mid-Atlantic region, lack of funding would lead to a direct loss of law enforcement presence. In addition, funding supports monitoring and management of important state and interstate fisheries, such as blue crab and horseshoe crab in Delaware, and red drum, Atlantic menhaden, and flounders in North Carolina. South Atlantic states use the funding to support both fishery monitoring and independent surveys, including Georgia's long-time trawl survey, which has been collecting data on shrimp, crabs, and finfish since the 1970s. In addition, funding supports data collection of bycatch, including protected species like sea turtles and Atlantic sturgeon, throughout the Mid-and South Atlantic.

On the Federal side, there are three East Coast fishery management councils. The Administration's proposed 22 percent funding reduction (from FY12 to FY13) for the "Regional Councils and Fisheries Commissions" funding line item would reduce their capacity to engage stakeholders in development of FMPs and annual harvest levels. These cuts would reduce the number of meetings of each Council by at least one meeting per year; it would impact meetings of their Statistical and Science Committees and stakeholder advisory panels. These cuts would reduce scientific staff capacity to support crucial management questions and reduce FMP coordination capacity. The resultant impacts, similar to those for the ASMFC, would restrict opportunities for public involvement in the management process and decrease scientific advice available to managers, resulting in negative impacts on the Councils' ability to fulfill the requirements under the Magnuson-Stevens Fishery Conservation and Management Act. Further, the Councils' response to stakeholder input and their ability to make the necessary updates to NOAA's improved recreational data collection program and annual catch limits will be delayed or diminished.

Senator BEGICH. Let me go now to Dave Donaldson, Assistant Director, Gulf States Marine Fisheries Commission.

STATEMENT OF DAVE DONALDSON, ASSISTANT DIRECTOR, GULF STATES MARINE FISHERIES COMMISSION

Mr. DONALDSON. Thank you, Mr. Chairman and Subcommittee members, and I appreciate the opportunity to provide testimony about the Gulf Commission's role in coordinating state and Federal activities.

My name is Dave Donaldson. I am the Assistant Director of the Gulf States Marine Fisheries Commission. It was established by Congress in 1949 and is, essentially, an organization of the five Gulf States. Its main objective is the conservation, development, and full utilization of fishery's resources in the Gulf of Mexico.

One of its most important functions is to serve as a forum for discussion of various issues and challenges regarding marine resource management, industry, and research. It provides a coordinated approach among its state and Federal partners to address these issues for the betterment of the resource. The Commission administers a variety of state-Federal cooperative programs that allows

for the conservation and management of these shared resources in the Gulf of Mexico.

One such program is the interjurisdictional fisheries management program, which has been coordinated since 1985 by the Commission. The main purpose of the program is to develop fishery management plans that enact appropriate management strategies. In the Gulf of Mexico, nearshore species, such as blue crab and oysters, comprise about 80 percent of the commercial and about 90 percent of the recreational harvest resulting in significant social and economic benefits to, not only the Gulf States, but the nation. Fishery independent databases are becoming more and more essential in both state and Federal stock assessments and rely heavily upon the data provided through the IJF program.

In 2012, IJF funds were eliminated in the gulf region, which resulted in a large reduction of long-term monitoring of shrimp, crab, and finfish and in both the state and Federal waters, as well as the elimination of other funding sources under the one-to-one match requirement.

Another long-term data program coordinated by the Commission is the Fisheries Information Network, or GulfFIN, which has been around since 1995. This program is a fishery-dependent state/federal cooperative program to collect, manage, and disseminate statistical data on commercial and recreational fisheries in the southeast.

GulfFIN, through the Gulf States, the Commission, and NOAA Fisheries, have coordinated such activities as the collection and management dissemination of marine recreational fisheries data, the collection of commercial landings via the state-commercial trip ticket programs, sampling and analysis of biological data which is used in stock assessments. These activities have led to significant improvements on the commercial and recreational data in the Gulf of Mexico.

One of the newer programs the Commission has taken on came about in the wake of the *Deepwater Horizon* and it's the Gulf Trace Program. This is a regional electronic traceability program which was launched in March 2012. It's a voluntary tool that traces seafood product from the waters where they're caught to the plate where they're served. The program aims to drive demand for gulf seafood products, communicating its gulf source; thus, differentiating it from imports, and it tells a unique story about that product.

It has three components, the actual traceability platform that utilizes the existing trip ticket, the electronic trip ticket program that provides businesses with access to reliable information about the product throughout the supply chain, a data quality and conformation component, as well as a marketing module. This program is currently offered at no cost to qualified gulf seafood businesses through the end of 2014. To date, 56 businesses have enrolled and they represent about 25 percent of the gulf seafood processors.

For all of these programs, adequate fiscal resources are needed for these current, as well as future, activities. This will ensure that the best data are available for critical management choices, and

better data allows managers to make more informed decisions leading to improved management of the resources.

Again, thank you for the opportunity to discuss these important issues, and I'll answer any questions.

Senator BEGICH. Thank you very much.

[The prepared statement of Mr. Donaldson follows:]

PREPARED STATEMENT OF DAVE DONALDSON, ASSISTANT DIRECTOR, GULF STATES MARINE FISHERIES COMMISSION

Established by both state and Federal statutes in July 1949, the Gulf States Marine Fisheries Commission (Gulf Commission) is an organization of the five states (Texas, Louisiana, Mississippi, Alabama, and Florida) whose coastal waters are the Gulf of Mexico. It has as its principal objective the conservation, development, and full utilization of the fishery resources of the Gulf of Mexico to provide food, employment, income, and recreation to the people of the United States.

One of the most important functions of the Gulf Commission is to serve as a forum for the discussion of various challenges and programs of marine resources management, industry, research, etc. and to develop a coordinated approach among state and Federal partners to address those issues for the betterment of the resource for all who are concerned.

Interjurisdictional Fisheries Management Program

As you are already aware, the Interjurisdictional Fisheries Act (IJFA) of 1986, as amended (Title III, P.L. 99–659), was established by Congress to: (1) promote and encourage state activities in support of the management of interjurisdictional fishery resources and (2) promote and encourage management of interjurisdictional fishery resources throughout their range. In essence, the IJFA is to the states what the Magnuson Act is to the Nation and the benefits of sound fisheries management under these acts do not accrue separately. The IJFA is probably the single most important Congressional act to professionalize the states' scientific staff within the marine resource agencies.

In addition to supporting resource management, the IJFA also allows Congress to provide assistance to the states in the event of a Fisheries Disaster under SEC. 113 in the form of funds and other economic assistance and does not require state match for financial relief. Following hurricanes Katrina and Rita, Congress passed an emergency disaster relief funding package that included $128 million for fisheries restoration. The package included funding to support restoration of oyster grounds, restoration of shrimp and other fisheries grounds, and cooperative research to restore fisheries. A second program was funded in 2007 in the amount of $85 million to provide assistance for individual commercial fishermen and fishery-related business and industry that continue to recover from the post disaster impacts.

In the Gulf of Mexico, nearshore species such as Spanish mackerel, striped mullet, blue crab, and oyster comprise the majority of the commercial and recreational harvest, resulting in significant social and economic benefits to the states and the Nation. In the last decade, nearly 80 percent of the Gulf's commercial landings and 90 percent of the recreational landings have come from state waters. In 2009, prior to the Deep Water Horizon disaster, 82 percent of the Gulf's total commercial fishery value was derived from state waters. The IJFA provides funding under Section 308(c) for the three interstate marine fisheries commissions to develop and revise interjurisdictional fishery management plans (FMPs) that are used by the states to enact appropriate management strategies with conservation standards intended to maintain sustainable stocks into the future. IJFA funding supports the states' monitoring and assessment programs and other research efforts that gauge the health of various commercially and recreationally important fish stocks.

In the Gulf of Mexico, the IJFA is the cornerstone of the fishery management programs for the states and has provided the support for long-term databases for commercial and non-commercial crustaceans and finfish in the Gulf of Mexico. The fishery-independent databases are becoming more and more essential in state and Federal stock assessments and will be critical to future regional management success. The five Gulf States' long-term monitoring programs are funded to a large extent by the IJFA and provide the States the ability to gauge the health of commercially and recreationally important fish stocks in their waters. NOAA has established a Federal fisheries stock assessment process designated the SouthEast Data, Assessment, and Review (SEDAR) to develop reliable fishery stock assessments for the Gulf of Mexico and Atlantic regions. These assessments rely heavily upon the inde-

pendent data provided by the states related to abundance indices of many species. As new stock assessment methodologies, such as ecosystem and food web approaches to management are explored and implemented, these state-derived data will be even more important. However, the ability to conduct stock assessments will hinge upon the quality and duration of these datasets which have been supported by the IJFA.

Under the IJFA language, the appropriations provided to the states to support their respective fisheries monitoring programs are determined by a formula based on a state's total marine fisheries landings. Based on the 2011 appropriations, the maximum allocation that any state could receive was approximately $100,000 and the minimum was approximately $8,000. The Gulf of Mexico had three 'maximum' states by volume and value.

The loss of IJFA funds in the Gulf region has resulted in drastically reduced support for the monitoring of our shrimp, crab, and finfish fisheries. The loss of IJFA has resulted in the elimination of other funding sources under the 1-for-1 match requirement, including contributions from limited state license revenues. Florida has lost three positions from their blue crab, shrimp, and horseshoe crab program which represents 40 percent of their crustacean research staff. Texas has reprioritized other funding to determine the status of their shellfish populations for formulating shellfish management and harvest regulations in coastal waters. Louisiana will be reprioritizing their sampling programs which may slow the development of appropriate management recommendations. Mississippi has been forced to reduce efforts in other state fishery programs to make up the difference to continue collecting long-term fishery-independent data. Alabama reports that the loss of IJFA funding has resulted in less efficient enforcement related to Alabama and Gulf of Mexico fisheries and the interactions of fishing activities among protected species.

In addition to the five States' fisheries monitoring, the IJFA also provides funding for the Gulf Commission to regionally coordinate inshore, state water fishery resources by the development of regional fishery management plans (FMP). The FMPs are used by the states to enact appropriate management strategies with conservation standards intended to maintain sustainable stocks into the future and provide coordinated support to get these management measures passed through their respective state commissions and/or legislative bodies. The Gulf Commission uses its limited IJFA funds to support the completion of regional stock assessments that are currently excluded from the Federal SEDAR program but required in regional FMPs. Finally, the funds from the IJFA also provide coordination for marine law enforcement in the five Gulf States which is critical to the enforceability of the regulations enacted by the states in accordance with the regional FMPs. However, the costs related to the Gulf Commission's IJFA activities have increased substantially in recent years, while the program has remained level-funded since 1998. The Gulf Commission currently has 16 species under management plans or profiles with 10 additional species identified for future plan development. Unlike Federal fisheries management council plan development, the states provide agency staff to participate on the plan's technical task force and draft the regional inshore plans. Meeting and travel costs have more than doubled over the last decade forcing IJFA staff to streamline its program using electronic formats and Internet access to supplement its activities. In future reauthorizations of the IJFA, considerations should be taken to fund the IFJA at levels appropriate to the cost of fisheries management for today and beyond.

SouthEast Area Monitoring and Assessment Program (SEAMAP)

The SEAMAP program is a State/Federal/University program for collection, management, and dissemination of fishery-independent data and information in the southeastern United States. SEAMAP is a cooperative program whereby Texas, Louisiana, Mississippi, Alabama, Florida, South Carolina, North Carolina, Georgia, Puerto Rico, the U.S. Virgin Islands, the United States Fish and Wildlife Service, and the National Marine Fisheries Service jointly plan and conduct surveys of economically significant fish and shellfish and the critical habitats that support them. The main goal of SEAMAP is to collect long-term, standardized, fishery-independent data on the condition of regional living marine resources and their environment.

The program consists of three operational components; SEAMAP-Gulf of Mexico, which began in 1981; SEAMAP-South Atlantic, implemented in 1983; and SEAMAP-Caribbean, formed in 1988. Each SEAMAP component operates independently under annual joint coordination, planning and conducting surveys and information dissemination.

SEAMAP has sponsored long-term (1982 to present) and standardized research vessel surveys that have become the very backbone of fisheries and habitat management in the region. The long-term dataset obtained through SEAMAP surveys pro-

vides the ONLY region-wide mechanism for monitoring the status of populations and habitats. Through its cooperative nature, SEAMAP has the ability to sample the entire coastline from North Carolina through Texas during the same time period and describe the distribution and abundance of fish populations throughout their range in order to better evaluate the status of recreational and commercially utilized fish stocks.

Current SEAMAP surveys include coastal shrimp and finfish trawl surveys (Gulf and South Atlantic), reef fish trap, hook and line, and video surveys (Caribbean and Gulf), inshore bottom longline (Gulf), bottom mapping/essential fish habitat data compilation (South Atlantic), spiny lobster, queen conch, and whelk surveys (Caribbean), annual plankton surveys (Gulf), and a striped bass winter tagging project (South Atlantic).

SEAMAP data has been used to assess long-term trends in coastal marine species, linking population trends with changes in environmental conditions such as global warming, nutrient enrichment, and overfishing. The data is used to document and define Essential Fish Habitat in the fishery management plans for the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils. SEAMAP provides long-term monitoring of juvenile red snapper abundances for the red snapper stock assessments.

SEAMAP data has been used to identify and verify the recovery of Gulf and South Atlantic king mackerel stocks, leading to increased fishing quotas, prove the need to eliminate Japanese longline fishing for Atlantic bluefin tuna in the Gulf of Mexico, and determine population size structures, abundances, and necessary information for stock assessments of Atlantic croaker, queen conch, spiny lobster, Spanish mackerel, whelk and weakfish.

SEAMAP data has been used to evaluate the abundance and size distribution of penaeid shrimp in Federal and state waters to assist in determining opening and closing dates for commercial fisheries, assess the impact of the Deepwater Horizon disaster on marine species in the Gulf of Mexico through the Natural Resource Damage Assessment (NRDA) program, and conduct surveillance of hypoxia (Dead Zone) in the Gulf of Mexico that continues to threaten the marine resources of Louisiana and adjacent states. Finally, data collected through SEAMAP programs have been used by Federal and state fishery managers, Universities, research agencies, and others, to expand the knowledge on species life histories, define essential fish habitat, develop fishery management plans, and determine the impact of fishery regulations.

In order to continue these important fishery-independent sampling efforts, expand current surveys, and begin new surveys to provide fishery-independent data on red snapper, shrimp, grouper, king mackerel, blue crabs, sharks, striped bass, weakfish, spiny lobster, queen conch, and other species that support the economies of the Southeast region, adequate resources need to be allocated towards these efforts. Without continued funding to support SEAMAP, the Southeast region will lose its only region-wide mechanism for monitoring the status of marine populations and habitats.

Fisheries Information Network (GulfFIN)

The GulfFIN program is a State/Federal cooperative program to collect, manage, and disseminate statistical data and information on the marine commercial and recreational fisheries of the Southeast region. It consists of two components: the Commercial Fisheries Information Network (ComFIN) and the Recreational Fisheries Information Network (RecFIN).

The need for a comprehensive and cooperative data collection program has never been greater because of the magnitude of the commercial and recreational fisheries and the differing roles and responsibilities of the agencies involved. GulfFIN, through the Texas, Louisiana, Mississippi, Alabama, and Florida marine agencies, the Gulf Commission, and NOAA Fisheries, has coordinated activities such as collection, management, and dissemination of marine recreational fisheries data; collection of catch and effort for head boats; collection of menhaden catch/effort data; operation of the GulfFIN Data Management System; implementation and operations of state commercial trip ticket programs; and sampling and analysis of biological data for commercial and recreational catches. These data collection activities have led to significant improvements of commercial and recreational data that has allowed managers to address some of the necessary management needs.

However, adequate fiscal resources need to be allocated for the current activities as well as expansion of current efforts and implementation of new data collection endeavors, ensuring that the best data is available for critical management decisions. Better data allows managers to make more informed decisions leading to better management of these essential natural resources.

Gulf Seafood Trace Program

In the wake of the Deepwater Horizon disaster, the Gulf Commission, with funding and assistance from NOAA Fisheries, developed Gulf Seafood Trace, a regional electronic traceability program. Launched in March 2012, the Gulf Seafood Trace is a groundbreaking tool for promoting seafood from the U.S. Gulf of Mexico. The electronic, internet-based program aims to drive demand for Gulf seafood products from both seafood buyers and consumers by communicating its Gulf source (thus differentiating from imports), telling its unique story, and sharing key information from vessel to plate or shelf.

The program is comprised of three parts: an Electronic Traceability Platform, a Data Quality and Confirmation Component, and a Marketing Module. The use of an Electronic Traceability Platform builds off of the current electronic trip ticket seafood landing system and empowers the seafood market with the ability to access reliable trace data that has been approved and shared by each business in the supply chain. The implementation and utilization of a Data Quality and Confirmation Component helps to ensure the quality and reliability of the shared data. The Marketing Module allows seafood businesses to tell the compelling and unique story about their Gulf seafood to consumers. The components of the program are powered by Trace Register™, an electronic seafood traceability company.

Participation in the Gulf Seafood Trace program is voluntary, and is currently offered at no cost to qualified, Gulf seafood businesses through the end of 2014. To date, 56 businesses have enrolled in the regional program, representing approximately 25 percent of the Gulf seafood processors.

Senator BEGICH. And our last speaker on this panel, Eric Schwaab, Assistant Secretary for Conservation and Management.

STATEMENT OF HON. ERIC C. SCHWAAB, ASSISTANT ADMINISTRATOR FOR THE NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Mr. SCHWAAB. Good morning, Mr. Chairman, Ranking Member Rubio, Senator Cantwell. Thank you for the opportunity to speak with you today about interjurisdictional fisheries management. I am Eric Schwaab. I am the Assistant Administrator for Fisheries currently performing the functions of the Assistant Secretary for Conservation and Management within the Department of Commerce's National Oceanic and Atmospheric Administration.

NOAA's National Marine Fishery Service is dedicated to the stewardship of living marine resources through science-based conservation and management. Much of this work occurs under the Magnuson-Stevens Fisheries Conservation and Management Act. However, Federal authorities are only one aspect of effective marine fisheries management. NMFS has a long history of working cooperatively with the states and the interstate marine fisheries commissions in many aspects of fisheries, science, and management.

In addition to the regional fishery management councils, we count these gentlemen here at the table with me and the states they represent among our most important management partners. The Interjurisdictional Fisheries Act, the Atlantic Coastal Fisheries Cooperative Management Act, and the Endangered Species Act provide mechanisms for NMFS to work closely with and provide Federal funds to states and the commissions in support of our shared goals. Our joint enforcement agreements with states, which also include funding, support another set of important partnerships.

Let me say just a few words about management coordination. States and the Federal Government do have a long history of close coordination. I will note, Mr. Chairman, that personally, prior to coming to NOAA, I worked on two occasions at the Maryland De-

partment of Natural Resources, including a 4-year stint as the fisheries director there during which time I served on the Atlantic States Marine Fisheries Commission.

The fishery management councils principally manage Federal waters. Under the Magnuson-Stevens Act, the states play a vital role and are well represented on the eight regional fishery management councils. Council members include principal state marine fishery officials and members with expertise on regional fisheries appointed by the Commerce Secretary upon nomination from the Governors. The executive directors of the appropriate marine fisheries commission is also a non-voting member on the councils.

In state waters, states are the principal management authority. In some cases, states directly lead management that overlaps with Federal jurisdiction. An example is in the Alaskan salmon fishery where NMFS in the North Pacific Fishery Management Council worked with the State of Alaska to comprehensively revise the salmon fishery management plan, which is executed primarily under the auspices of the state.

On the Atlantic coast, as Mr. Beal indicated, the Atlantic States Marine Fisheries Commission demonstrates how states work together to accomplish in-shore management objectives with the Federal Government playing a supporting role.

In 1981, to address declines in the striped bass stock, the Atlantic States Marine Fisheries Commission prepared a coast-wide plan. The Congress then passed the Striped Bass Conservation Act providing Federal authority to impose sanctions on striped bass fishing in states which failed to comply with the interstate plan. That authority was subsequently amended to expand to other Atlantic coastal stocks.

It is important to note that under the ASMFC, state managers play a role similar to fishery management councils in both coast-wide conservation and allocation decisions, including allocation of summer flounder quotas among states and fishing sectors. It is also worthy of note that in many states, in many cases, the states and the councils work closely to enact and operate under joint management plans.

On the science front, Federal, state, and state partnerships are also improving the science that informs fishery management. State, Federal, and academic scientists work together through multiple venues to collect data, assess stocks, and monitor fisheries. I would note one example, the SouthEast Data, Assessment, and Review program (SEDAR) which brings together NMFS, the councils, the interstate commissions, and the states to improve the quality of fishery stock assessments in the south Atlantic, the Gulf of Mexico, and the U.S. Caribbean. SEDAR emphasizes state quota participation as well as independent science review of stock assessments.

There are many other examples some of which you've already heard here from my fellow members of the panel.

In conclusion, Mr. Chairman, recognizing our collective accomplishments, there is always room for improvement. We are continuing to look for ways to improve efficiency in particular with respect to data collection programs and ways in which we can improve communication and coordination among our regional offices, our science centers, state partners, and the interstate commissions.

We are particularly working to support and strengthen these Federal-state partnerships to meet these emerging challenges.

I will note, as you have already heard, that as budgets tighten, however, the fisheries service and our partners are faced with difficult decisions about where to focus our efforts, as our collective needs far exceed available funding. This is a significant and ongoing challenge, and in many respects, you might say, deepening challenge.

Thank you, again, for inviting me to testify before the Committee today and I will be happy to answer any questions you might have.

[The prepared statement of Mr. Schwaab follows:]

PREPARED STATEMENT OF HON. ERIC C. SCHWAAB, ASSISTANT ADMINISTRATOR FOR THE NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Introduction

Good morning, Mr. Chairman and Members of the Subcommittee. I appreciate the opportunity to speak with you today about interjurisdictional fisheries management. My name is Eric Schwaab and I am the Assistant Administrator for Fisheries, within the Department of Commerce's (DOC) National Oceanic and Atmospheric Administration (NOAA). The National Marine Fisheries Service (NMFS) is dedicated to the stewardship of living marine resources through science-based conservation and management. Much of this work occurs under the Magnuson-Stevens Fishery Conservation and Management Act (*Magnuson-Stevens Act*), which sets forth standards for conservation, management and sustainable use of our Nation's fisheries resources. However, Federal authorities are only one aspect of effective marine fisheries management.

NMFS has a long history of working cooperatively and effectively with the States and Interstate Marine Fisheries Commissions on a variety of fishery management issues to ensure fishery resources are managed sustainably and for the benefit of the Nation. Statutes such as the Interjurisdictional Fisheries Act provided a way for the states and the Federal Government to partner on a wide range of shared issues, while the Anadromous Fish Conservation Act and the Striped Bass Conservation Act focused on federal-state coordination to address particular fisheries issues. In many areas, states lead on management of marine fishery resources, with the Federal Government providing important support functions for management and scientific research.

Federal funding is a critical component of our support for partnerships with the states and Interstate Marine Fisheries Commissions. A variety of authorities, such as the Interjurisdictional Fisheries Act, Atlantic Coastal Fisheries Cooperative Management Act, and Endangered Species Act, provide a mechanism for NMFS to provide funding to states and the Commissions in support of our shared goal of sustainable fisheries management. Our Joint Enforcement Agreements with states, which also include funding support, are an additional facet to our complex and important partnership. We have worked diligently to be able to support these important efforts, but it is a challenging struggle. As budgets continue to tighten, NMFS and our partners will be faced with more and more difficult decisions about where to focus our efforts.

Marine fish and fisheries, such as salmon in the Pacific Northwest and Alaska, cod in New England, summer flounder in the Mid-Atlantic, red snapper in the South Atlantic and Gulf, tuna in the Western Pacific, and lobster in the Caribbean have been vital to the prosperity and cultural identity of coastal communities in the United States (U.S.). U.S. fisheries play an enormous role in the U.S. economy. Commercial fishing supports fishermen and fishing communities, and provides Americans with sustainable, healthy food sources. Recreational fishing is an important social activity for individuals, families, and communities, and it is a critical economic driver of and contributor to local and regional economies, as well as the national economy. Subsistence fishing provides an essential food source and is culturally significant for many people. What I want to point out about all of these issues is that they have national, regional, and local significance.

Today, I want to talk about the continuum of coordination between the Federal Government and the states on marine fisheries management, highlighting areas of success and areas where we believe additional coordination can benefit our natural resources and coastal economies. We cannot successfully achieve our objective of

sustainable management of marine fishery resources without state partnerships. Maintaining these important partnerships is critical to effective stewardship of our Nation's living marine resources.

Federal-State Science Partnerships

There are a number of examples where coordination among the Federal Government, Interstate Fishery Commissions, and state governments has improved the science underpinning management of marine fisheries, and provided flexibility to address emerging issues and needs for fisheries management. I would like to highlight a few examples to illustrate the importance of these partnerships, and the value added that is achieved by this coordination.

The SouthEast Data, Assessment, and Review (SEDAR) program is one excellent example of effective partnerships among NMFS, the Councils, the interstate Commissions, and the states. This program, begun in 2002, improves the quality of fishery stock assessments in the South Atlantic, Gulf of Mexico, and U.S. Caribbean. SEDAR seeks improvements in the scientific quality of stock assessments and greater relevance of available information to address current and new fishery management issues. The program emphasizes constituent and stakeholder participation in the assessment process, and a rigorous and independent scientific review of completed stock assessments.

New issues in fisheries management are constantly emerging. Our engagement with the Interstate Commissions has allowed us to address many of these challenges. For example, the Pacific States Marine Fisheries Commission has been a critical partner in the implementation of the Pacific Trawl Rationalization program. In response to feedback from fishermen participating in that fishery, an effort is underway to evaluate the utility and feasibility of electronic monitoring—the use of onboard cameras to monitor catch. The Pacific States Commission, in collaboration with NMFS and the Pacific Council, has been spearheading the testing of video cameras and analysis of the video to inform potential future management action. In addition, the Pacific States Commission was crucial in developing the electronic fish tickets and subsequent link to our database that is vital to our accounting for quota caught by fishermen in the catch share system.

In the Gulf, in the wake of the *Deepwater Horizon* oil spill disaster, the Gulf States Marine Fisheries Commission, with funding and assistance from NMFS, developed a regional electronic traceability program called "Gulf Seafood Trace" which was launched in March 2012. The program aims to drive demand for Gulf seafood products from both seafood buyers and consumers by communicating its Gulf source, telling its unique story, and sharing key information from vessel to plate or shelf. To date, 56 businesses have enrolled in the regional program, representing approximately 25 percent of the Gulf seafood processors.

The Atlantic States Marine Fisheries Commission has recently begun work to ascertain whether climate change and warming coastal waters are causing shifts in the geographic distributions of fish stocks. We recognize the important role climate change will play in fisheries management and are encouraged by the Commission's proactive effort to examine these shifts. We will be working with the Commission in this effort, which will help inform our management of important commercial and recreational fisheries for the states.

One example of partnership under the *Magnuson-Stevens Act* is the requirement for the Secretary of Commerce to establish and implement a regionally based registry program for recreational fishermen. The Marine Recreational Information Program (MRIP) has from its inception fully consulted and partnered with the states. MRIP is the new way that NMFS is collecting and reporting recreational fishing catch and effort data to ensure that estimates of recreational fishing activity are both accurate and trusted. To ensure that the states' needs and priorities are reflected in MRIP's key policy and priority decision-making, the MRIP Executive Steering Committee includes representatives from the three Interstate Marine Fisheries Commissions. Much of MRIP's work to develop and pilot test new survey design, data collection and information management projects is undertaken by the MRIP Operations, Registry and Information Management Teams. These teams include numerous state agency program managers and technical staff. Many of the 59 research projects that MRIP has conducted to develop improved survey methods have been undertaken or led by state partners.

In addition, the states are active partners with NMFS in conducting the MRIP data collection efforts. With MRIP funding through the Gulf States Marine Fisheries Commission, the states of Louisiana, Mississippi, Alabama, and Florida conduct the field work to perform dockside interviews of anglers to collect catch data, and also do telephone surveys of charter boat operators to collect trip, or effort, data. State agency personnel in Hawaii, Puerto Rico, Maine, New Hampshire, Massachusetts,

North Carolina, South Carolina, and Georgia are also funded by MRIP to conduct the dockside interviews, and we are working with the remaining states to find ways to include them in this data collection effort. Some of these states are also collecting MRIP data from for-hire fishing vessels. MRIP provides funding to California, Oregon and Washington to conduct the group of surveys collectively managed as Pacific RecFIN through the Pacific States Marine Fisheries Commission. MRIP has also provided funds to RecFIN states to conduct expert reviews of the survey designs and to develop and pilot test recommended improvements to increase the accuracy of the survey results.

In addition, in 2011 NOAA supported a Blue Crab Stock Assessment in the Chesapeake Bay. This was the first comprehensive assessment on the population since 2005 and confirmed that Chesapeake Bay blue crabs are becoming more abundant, based in large part on the management efforts put in place in recent years by Maryland and Virginia. The assessment also provided important new data for state officials to consider as they continue to fully rebuild the regional stock of this iconic Bay species.

Good information is the fundamental underpinning to effective management and yet the complexities of connecting various data streams is extremely challenging. The states are important partners to many of our data collection programs, such as the Fisheries Information Network (FIN) programs, and we plan to continue engaging with the states and Commissions to discuss ways we can improve the effectiveness and efficiency of these programs.

Federal-State Management

Laws and practice have established a range of federal-state partnerships in marine fisheries management, where different approaches and processes are employed depending on the fishery. This allows for regional variation, depending on regional need, in how the Federal Government and States coordinate to achieve shared objectives for sustainable management.

State-led Management

One end of the Federal-State management continuum is State-led fisheries management. For example, NMFS, the State of Alaska, and the North Pacific Fishery Management Council successfully and cooperatively manage fisheries in the exclusive economic zone (EEZ) off Alaska. Three Federal fishery management plans delegate much of the day-to-day fisheries management to the State of Alaska including crab in the Bering Sea and Aleutian Islands, scallops in the EEZ off Alaska, and salmon in the EEZ off Alaska.

An example I would like to highlight is salmon fishery management. Along with meeting the annual catch limit requirement for salmon, NMFS and the Council worked with the State of Alaska to comprehensively revise the Salmon Fishery Management Plan (FMP). The Salmon FMP's unique functions—closing the vast majority of the EEZ to salmon fishing and facilitating State management of the few salmon fisheries in the EEZ—reflect the salmon life cycle. The FMP's unique functions also recognize that the State is the appropriate authority for managing Alaska salmon fisheries given the State's existing infrastructure and expertise. The State manages Alaska salmon stocks throughout their range using a management approach designed to specifically address the life cycle of salmon, the nonselective nature of fishing in a mixed stock fishery, and the fact that a given salmon stock is subject to multiple fisheries through its migration from marine to fresh waters.

Joint Management with the Interstate Fisheries Commissions

Shared state and Federal management and science through the Interstate Fisheries Commissions is the next step along the continuum of successful interjurisdictional management.

The Atlantic Coastal Fisheries Cooperative Management Act of 1993 presented a new and innovative approach to coordinated management of coastal migratory fisheries along the Atlantic coast. The law established a cooperative management process that includes the Atlantic States Marine Fisheries Commission, NMFS, and the U.S. Fish and Wildlife Service. This Act provides a mechanism to ensure conservation of Atlantic coastal state fisheries while promoting compliance with Commission-approved fishery management plans. Examples of joint Federal-State management include striped bass, American lobster, summer flounder, black sea bass, and scup among other species. Our partnership with the Atlantic States Commission has continued to advance efforts to improve sustainability, both in fisheries within state waters and fisheries that span state and Federal jurisdiction.

Striped bass management through the Atlantic States Marine Fisheries Commission is an example where states lead, but where the Federal Government plays an important role in sustainable management. In 1981, to address declines in this

stock, the Atlantic States Marine Fisheries Commission prepared a coastwide management plan for striped bass. The Striped Bass Conservation Act of 1984 (SBCA) was passed in response to declines in commercial and recreational striped bass harvest and lower production of juvenile striped bass. It authorizes the Secretaries of Commerce and the Interior to use a moratorium on striped bass fishing in states which fail to comply with a necessary conservation measure in the Commission's fishery management plan.

The SBCA also allows the Secretary of Commerce (Secretary) to implement regulations regarding striped bass fishing in the Exclusive Economic Zone (EEZ). Due in large part to the successful implementation of the Act, the Atlantic striped bass stock was considered recovered in 1995. To give a sense of the scale of the recovery, the striped bass population had declined to less than 5 million in 1982, but by 2007 there were nearly 56 million fish. In 2010, recreational anglers and commercial fishermen caught 2.9 million fish and these fishing businesses are a significant economic driver in coastal communities along the Atlantic coast. The most recent 2011 stock assessment concluded that the stock was not undergoing overfishing and was not overfished.

Other statutes, such as the Interjurisdictional Fisheries Act of 1986 (IFA), provide additional authority and mechanisms for the Federal Government and states to partner. The IFA has three overall purposes: (1) to promote and encourage state activities in support of the management of interjurisdictional resources, (2) to promote the management of interjurisdictional fisheries resources throughout their range, and (3) to promote and encourage research in preparation for the implementation of the use of ecosystems and interspecies approaches to the conservation and management of interjurisdictional fishery resources throughout their range.

A variety of important fishery programs have been supported under the IFA around the country, including a surf clam survey in New Jersey, a commercial fisheries statistics information system in Virginia, the interjurisdictional fisheries assessment and management program for Louisiana's coastal fisheries, and monitoring and management of California's coastal pelagic species. These and other activities supported by the IFA supported partnerships with the states and helped to improve our understanding of valuable marine resources which support thriving fishing businesses and coastal communities.

Collaboration under the Magnuson-Stevens Act

Concluding our progression on the continuum of Federal-State coordination for fisheries management is management under the regional fishery management process. Federal fisheries are managed under the *Magnuson-Stevens Act.* Since its initial passage in 1976, the *Magnuson-Stevens Act* has charted a groundbreaking course for sustainable fisheries, which included establishing eight regional Councils. While the Councils have management authority in Federal waters, they are also explicitly linked to the States by design based on who has voting rights on each Council. The voting members of each Council include the principal State officials with marine fishery management responsibility and expertise, the regional director of NMFS, and members appointed by the Secretary, but nominated by state Governors. Each brings local or regional experience, expertise, and knowledge regarding the conservation and management, and commercial or recreational harvest, of the fishery resources of that geographic area. Each executive director of the appropriate Marine Fisheries Commission is a non-voting member on the Councils as well.

When reauthorized in 2007, the *Magnuson-Stevens Act* gave the eight regional fishery management councils and NMFS a very clear charge and some new tools to support improved science and management. It mandated the use of science-based annual catch limits and accountability measures to prevent and end overfishing, provided for market-based fishery management through Limited Access Privilege Programs (or catch shares), focused on collaborative research with the fishing industry and bycatch reduction, addressed the need to improve the science used to inform fisheries management, and sought to end illegal fishing and bycatch problems around the globe so that foreign fishing fleets are held to the same standards as, and do not economically disadvantage, U.S. fleets.

With the partnerships and tools inherent in the *Magnuson-Stevens Act,* the Federal fishery management system is effectively rebuilding fisheries and we continue to make progress towards long-term biological and economic sustainability and stability.

In general, our joint efforts have allowed us to tackle the nation's pressing fishery management issues. However, challenges still exist. Inconsistency between Federal and state management requirements is one example. Communicating those differences and the rationale for them to fishermen is even more difficult. Improving

connections through enhanced communication and coordination between all the partners will be an important effort for us all to make.

Conclusion

We recognize that we have had many successes in our partnerships with the states and Interstate Commissions, a few of which we have highlighted here. In addition, we collaborate on Endangered Species Act designations, habitat conservation activities, and enforcement activities that are fundamental components to ensuring overall ecosystem sustainability. We have strong relationships that help us tackle challenges and emerging issues in ways that meets State and Federal needs.

Recognizing these positive steps, there is always room for improvement. We will continue to look for ways to improve efficiency, in particular with respect to data collection programs; strengthen our ability to move from pilot tests to action where appropriate; and enhance communication and coordination among our Regional Offices, Science Centers, State partners and the Interstate Commissions.

Thank you for the opportunity to speak with you today and I would be happy to answer any questions.

Senator BEGICH. Very good. Thank you, again, to the panel for being here. We'll start the questioning off with the ranking member, Senator Rubio. We'll try to limit these to 5-minute rounds, and if there are additional questions members have, they can always submit them for the record.

Senator Rubio.

Senator RUBIO. Thank you, Mr. Chairman.

Let me begin, Secretary Schwaab, you know, last year, Senators Kerry, Snowe, and others introduced the bipartisan Fishery Investment and Regulatory Relief Act. It was designed to restore the Saltonstall-Kennedy Act funding to its intended purpose, which is to support regionally driven fishery research and management programs that address the local and regional fishery issues.

How much of the funding from Saltonstall-Kennedy, that Commerce receives each year from the Secretary of Agriculture, has gone to the Promote and Develop Fisheries' national grant program over the last 4 years?

Mr. SCHWAAB. Thank you, Senator Rubio.

I do not have the exact data for the last 4 years. We can certainly provide that for you. I think it is worthy of note that dating back many years now, first initiated by Congress, subsequently included in a whole series of Presidents' budgets and acted on in appropriation bills. The funding has been used to offset key, primarily, agency science programs for a number of years, and in 2012, 95 percent of the stock assessments and 100 percent of cooperative research, nationwide, were funded through those appropriations.

I would note that the current use of the funds include fisheries, research, and management, expanding annual stock assessments, survey and monitoring projects, and cooperative research.

As to your specific numbers, I'm happy to provide them to you.

Senator RUBIO. We can get those, but it's safe to say, and we know this and your testimony, I think, confirms it, that some of that money that was designed efficiently, the intended purpose to support these regionally driven fisheries, research, and management programs, some of that money has been diverted toward operational uses, correct?

Mr. SCHWAAB. Yes, sir, through appropriation bills over many years.

Senator RUBIO. Right. OK, so let me—do you have a position, or does the agency have a position on legislation that would permanently direct these funds towards the regional programs that would promote the data collection?

Mr. SCHWAAB. We don't have an explicit position. I mean, we certainly appreciate the bill's intent to both involve the industry more in fisheries management process and to provide some of these additional marketing resources that would be very important to fisheries around the country.

Senator RUBIO. Let me expand to the whole panel and just say, well, I think I know the answer to, but I'd like you to elaborate on it. It's something, as I said in my opening statement, that's at the center of my thinking with regards to fisheries, and that's, do you all agree that we need to maintain or increase the funding for the data collection? The data collection is at the heart of all of these standards that are set. The numbers that are set are supposed to be driven by the data. I mean, do you all agree that this is a pressing need to both protect and potentially, even, increase the funding that goes toward the data collection? In any order, I mean, I guess left to right is fine.

Mr. DONALDSON. Senator Rubio, yes, I whole heartedly support that. I think without critical data, we can't make informed decisions and the more money we can associate towards increasing data collection and improving the data is what we need to focus on.

Mr. FISHER. Yes, I agree 100 percent. The only thing is the situations that we've been faced with over a number of years is the data collection line items have been basically held the same, so as costs increase with healthcare and other things like that, what the net effect has been is a reduction in our ability to provide critical data.

Mr. BEAL. I agree with the previous speakers. The data to support the management and the science to support the management is the key underpinnings of all these management programs along, on all three coasts. I think, you know, access to the data and new creative ways to collect the data and a more cost-effective way are part of this, part of the picture as well.

Senator RUBIO. Let me just follow up with you, Mr. Beal, and then we can just go down the line the other way.

Are your organizations, are they prepared to handle the increased, if increased funding came, I mean, I know this sounds like a funny question——

Mr. BEAL. Right.

Mr. RUBIO. —but are they prepared to handle the increased workload that would come with that?

Mr. BEAL. Yes, we have the capacity to expand to address the workload issues, and we partner with the states, and the states have also had the capacity to conduct more science and, you know, generate the data needed to support the management.

Mr. FISHER. Yes. On the West Coast, as you know, we manage all of the commercial and recreational data for the West Coast and Alaska, so we are the data gatherers, basically, and as Bob indicated, the states are in a position with their budget problems that this would be very helpful.

Mr. DONALDSON. Absolutely. In the Gulf of Mexico, we, too, coordinate the collection of recreational and commercial data and work with the states closely and are ready to step up to the plate.

Senator RUBIO. And my final question is, do any of you have any specific recommendations as to how we can improve the collection of data related to the recreational industry in particular?

Mr. FISHER. Well, on the West Coast, the recreational data is actually—we've had licenses for a number of years. Recreational data is actually fairly competent on the West Coast.

What we are missing now with cuts, we don't, we're not providing data anymore for beach access-type fishing. Marine activities, we're all covered, but onshore and beach stuff, we've had to eliminate that from our databases.

Mr. DONALDSON. In the Gulf of Mexico, the need for more timely recreational data is becoming more and more important with the management regimes that are in place and that becomes problematic with the recreational fisheries just because of the large number of people that you're dealing with, and it, while it seems like an easy fix to give everyone iPhones and report their information, there needs to be some discussion, some exploration of how to effectively do that to ensure that we're getting the data in a more timely manner, but it's also accurate. So it's, unfortunately, it's a harder thing to accomplish than you would think, but I think that it's something that we need to focus on.

Senator BEGICH. Mr. Beal, do you have anything to add before I move to——

Mr. BEAL. Yes, I think along the east coast, the resolution of the recreational data is important and it's, you know, as we get into the dialogue on summer flounder, one of the key issues is the resolution of the data and how, finally, you can subdivide that data to the state level or even as smaller gear-type levels or whatever it might be.

But the conversion that National Marine Fisheries Services is currently going through from the old MRFSS system to the new MRIP, Marine Recreational Information Program, I think that's an important transition that would, it's underway right now. I think the funding for that transition is important. I think the thing along the east coast that really would generate the best data is just increased number of intercepts, which is, you know, talking to folks at the dock, asking them what they caught, measuring their catch, and then the follow up surveys and interviews that characterize the effort that is taking place along the east coast, in particular. So, I think just the increased interaction with the fishermen and sampling their catches is one of the critical needs on the east coast.

Senator BEGICH. Thank you, all, very much.

Senator Cantwell.

STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR FROM WASHINGTON

Senator CANTWELL. Thank you, Mr. Chairman, and thank you and Senator Rubio for having this hearing, and it gives me a great deal of confidence that fish issues are going to get a great deal of attention knowing your two states. And I'm reminded of what the late Commerce Secretary Ron Brown, once said, that he was the

Secretary of Commerce, but he guaranteed if a Member of Congress was calling him, it was about fish, and so I'm very glad that we're having this hearing and I'm glad to see all of you.

And sometimes, you know, we're up here thinking, OK, who's underneath these polices, so take no offense to my next comment, but I am concerned with the start of discussions of Magnuson-Stevens that we don't have a Commerce Secretary that's confirmed. Jane Lubchenco is gone and Mr. Schwaab, you're here for a position that isn't filled, so you're the fourth one down in an agency where we need to have some leadership as it relates to how do we resolve these fishing issues.

So, a couple questions I have for you, Mr. Schwaab. One, the U.S.-Canadian Albacore Treaty, are we getting better data so that the U.S. fishermen can get a better shake on tuna and that are we doing a good job? I know the State Department handles part of this, but your data can be critical.

And I'm interested on the groundfish fishery, are we with all the discussion that's happening with funding and cuts, are we going to have an adequate observer program to make sure that this fishery is run well and what do we need to do to make sure that that happens?

And then I'd like to see if we could also get an answer from Mr. Fisher about my colleague from Arizona who, I'm sure, doesn't see a lot of salmon, but what his amendment would do to impact salmon recovery, Senator McCain's amendment that he's been considering on the floor to zero out "Pac surf. [Edito's note: PCSRF, the Pacific Coastal Salmon Recovery Fund.]"

So, if I could get comments on all that, I would greatly appreciate it.

Mr. SCHWAAB. Thank you, Senator Cantwell.

Regarding data to support discussions around the U.S. Albacore, U.S.-Canada Albacore Treaty, I think we have a pretty good handle on where the fish are being caught and where the fish are being landed over a long period of time, and more recently. I think that's part of, sort of the crux of the challenge in that these fish do, as you know, move historically up and down the coast, or are available, historically, up and down the coast in-between U.S. and Canada waters, and more recently, they have predominantly been present in U.S. waters. So, which has, you know, which has led to some of the positions that have been taken more recently and—but some of those longer-term considerations, as well as the interest of the processors who receive those fish up and down the coast, are part of what the U.S. is factoring in, in our discussions regarding the future of that treaty.

Senator CANTWELL. And on the groundfish?

Mr. SCHWAAB. And on the observer program, as I think you know, the council, in putting the new plan in place, required 100 percent observer coverage. We supported substantially in year one and the costs of those observers, we actually in year two, changed the schedule to supplement more heavily the observer costs that the fishermen are experiencing. Our expectation is that as the fisheries become more profitable, the fishermen will be in a position to assume greater share of those costs over time. We're monitoring that situation very closely, as we are in other parts of the country.

I think the other part of that equation, however, is bringing those costs down and a big part of that is looking at some of the alternative technologies that might be out there, and Mr. Fisher mentioned the work that the Pacific States Commission is doing very closely with us in support of some of the experimentation of some alternative monitoring technologies.

Senator CANTWELL. Thank you.

I think every time the agency is before this committee, though, what I'm interested in is the commitment to the groundfish observer program as a key component and so we never want to see NOAA backing away from it. So you're not backing away from it, you're saying you're going to get it done, you're just, you're going to weather the storm, whatever way you can?

Mr. SCHWAAB. We are doing the best we can to help the fishermen undergo this transition and supporting that to the extent that is necessary and that we can financially, and obviously, budget challenges are very real for us, of course.

Senator CANTWELL. But you're not going to back away from groundfish observing?

Mr. SCHWAAB. Absolutely not.

Senator CANTWELL. OK, thank you.

Mr. Fisher, I'll come back to you with a follow-up on that. I just want to—you know, the Canadian fleet is so much larger than ours on the tuna so, but I'll get back to you in a written question on that.

But Mr. Fisher, I wanted to get your comments on the salmon issue, because we're making some progress in salmon recovery. What would the impact be if we cut the salmon recovery program?

Mr. FISHER. Yes, Senator Cantwell, we are making a lot of improvements in terms of salmon habitat. Those funds basically go directly to the states. They're not used for operational things. Many of those funds have been used for habitat work. Senator Murray and your office have been very, very supportive of this over time. So if we cut this out, we're going to instantly probably have a problem in terms of some of the habitat work that's being done by the states and through a lot of the local watershed districts where those funds are actually being spent. So, we don't want to throw the baby out with the bathwater right now. I don't think it would be timely at all.

Senator CANTWELL. Thank you. Thank you, Mr. Chairman.

Senator BEGICH. Thank you very much.

Senator Cowan.

STATEMENT OF HON. WILLIAM COWAN,
U.S. SENATOR FROM MASSACHUSETTS

Senator COWAN. Thank you, Mr. Chairman and thank you and Senator Rubio for calling this hearing. Gentlemen, thank you for your testimony and the conversation today.

I, actually, am going to pick up, Mr. Schwaab, where Senator Rubio started around the issue of the funds generated by the Saltonstall-Kennedy Act. I know you indicated you will provide us more information when you have the time, but just for our own edification to the discussion, you know, doing a little math myself, it seems that in 2010, the portion that should have gone to the grant

program, about 30 percent, equaled about $113 million, and I know you'll check my math on that, and that would have meant, of that $113 million, about $105 million actually went to NOAA operations. That's about 93 percent. That leaves about $8 million for the fishing industry, the fishermen.

In Massachusetts, $8 million is nothing to sneeze at, but $113 million is real money, money that we need for a 300-year-old industry that is dying in large part because of its relationship and the actions of NOAA, including the failure to distribute this kind of money to our fishing industry. Are you satisfied that these dollars are being used in the most efficient way and consistent with the legislation?

Mr. SCHWAAB. Thank you, Senator. I would make two points. First, the moneies, while not being used specifically for promotion and development, as envisioned in the original purpose, are being used very much to the benefit of fishermen and fishing communities around the country and certainly in New England and I would note, again, that those funds support things like cooperative research, support things like expanding stock assessment to deal with some of the very real challenges that we've already heard about here this morning, and to support survey and monitoring. I——

Senator COWAN. Mr. Schwaab, I'm sorry——

Mr. SCHWAAB. Yes.

Senator COWAN.—let me interrupt for a second. I apologize, because I don't have a whole lot of time here, but I do appreciate your testimony.

One of things I noticed was absent from your testimony and Mr. Beal's was much discussion about New England fisheries, particularly, the challenges of the Gulf of Maine cod. So when you say that these dollars are being expended in a way that's specific to the need and industry of Massachusetts, could you specify, in this conversation, how that money is helping the people of Massachusetts?

Mr. SCHWAAB. So, one of the fundamental challenges that we have already heard referenced here is the ability to provide timely, accurate, and precise assessments of fish stocks and that includes surveying out on the water independent of the fisheries, that includes providing input from the fishermen through monitoring of both on the water and shore-side catches, and then incorporating those data into stock assessments to provide more timely information about what's happening out on the water and to provide more precise assessments so that we can, not only maximize allocation of quota, or establishment of quotas on a sustainable basis, but that we can pick up signals that might suggest something's happening on the water differently than what we had anticipated a year or two, three years' prior. So in that sense, those funds, in addition to providing funds directly for cooperative research that involve fishermen in work, both in support of stock assessment as well as in the development, for example, of alternative gears to minimize bycatch, to reduce capture costs through fuel efficiencies and the like, are all very much benefiting fishermen of New England.

Senator COWAN. Yet we are seeing a significant drop in the number of fishing vessels that are coming out of the New England

ports, substantial material numbers, and the economics are going horribly in the wrong direction. Would you agree with me, Mr. Schwaab, that if these dollars were directly going to the fishing industry, it would be a better use and better resource for the industry itself?

You want to think about that one?

Mr. SCHWAAB. I want to think about how to say this. I think that, fundamentally, fishermen need fish first and then we need to try to make sure that we find ways to maximize their market opportunities associated with the fish that they do catch so that it's difficult to answer it as an either/or question. You know, we need to have and we need to support fisheries through the most accurate assessment information possible. Now, what's happened more recently in New England suggests a change in our understanding of the status of the stocks in a relatively short period of time. Had we more monitoring or more survey on the water, we might have picked that up sooner. That would not necessarily have meant today we have more fish, so it's a bit of a challenging question in that regard.

Senator COWAN. Mr. Chairman, I see I'm out of time. With your indulgence, perhaps one quick follow-up question?

Senator BEGICH. Yes.

Senator COWAN. Mr. Schwaab, you sort of alluded to both, in your spoken testimony, your written testimony, that the data collection, or perhaps another way to say it, the science isn't as precise or as correct as, perhaps, we'd like it to be. Would you agree with me if the science itself is faulty or inadequate, any regulations or decisions by NOAA, based on that faulty or inadequate science, should be called into question?

Mr. SCHWAAB. Senator, I would say that we can always have more accurate, or more precise, or more timely data.

Senator COWAN. I agree with you, but——

Mr. SCHWAAB. That does not——

Senator COWAN. Mr. Schwaab, specific to my question, if the data itself is faulty, does it call into question the regulations, based on that data?

Mr. SCHWAAB. I guess what I would say is that's not an all or nothing proposition. The fact that we lack——

Senator COWAN. It is for the fishermen in my state.

Mr. SCHWAAB. So I would say that we have a reasonable understanding of the status of stocks that are out there, and some regulation that is cognizant of and built upon a reasonable understanding of the status of those stocks is appropriate and legitimate even if we don't have the most precise, the most timely, the most accurate information available.

Senator COWAN. Mr. Chairman, I yield and I will follow up in writing. Thank you.

Senator BEGICH. Very good. Thank you.

Let me follow up on that if I can, Mr. Schwaab. Let me ask you this—that question, kind of in a different way.

If you feel your information may not have, or is not fully complete but enough, isn't it usually the role of the Federal agencies to always get the numbers of the catch, or the quota, they lower it, because they want to take a more conservative view of what's

happening, is that one of the kind of, you know, if you have data, but it's not maybe 100 percent, isn't the likelihood then you'll take a much more conservative position in how much of that fish stock, whatever that fish stock is, can be caught or dealt with; is that a fair statement?

Mr. SCHWAAB. Yes, sir. Increased uncertainty leads——

Senator BEGICH. Right.

Mr. SCHWAAB.—generally, to scientific advice in a more, to a more precautionary management approach.

Senator BEGICH. Which by its own method, even if they had 100 percent, they're already cautious because they're worried about sustainability. So now, you're kind of creating another layer which is—my visit up to the seafood show. I'm talking with fishermen up in Massachusetts, is that, is their, one of their biggest concerns, it always gets to the second layer, deeper down, when they see the amount of fish that are actually occurring, but yet the data isn't as accurate as they think it should be and the agencies take a much lower positioning in regards to the stock. I mean, it only feeds on itself and it seems like, how do you get out of this other than trying to get a much more or 100 percent accuracy with more stakeholder involvement.

Mr. SCHWAAB. Thank you, Senator. So I would just make an observation that there are arguably very different circumstances that exist now in with some of the New England ground stocks versus the circumstances that exist, for example, in the case of red snapper in the gulf. We're—there's clear agreement that we have a healthy and growing stock, and the question then becomes how close to sort of the line can you manage on an annual basis so that you capture as much of the buffer, if you will, as possible? That's a little bit different than the situation we face with some of the groundfish stocks right now where there's a lot less confidence about the current trajectory of the stocks of concern.

Senator BEGICH. Very good.

Let me, if I can, turn to the other three on the panel, Mr. Schwaab, we'll give you a break here for a second, and that is obviously, the Interjurisdictional Fisheries Act, and other activities of this nature, are important. You all mentioned a little bit about the funding components. As we get ready to reauthorize maybe that Act as well as the Magnuson-Stevens Act, are your organizations, your commissions, preparing or will prepare ideas and thoughts of how to improve the Act? Putting funding aside, recognizing, I think we would all agree that the funding issue has to be addressed so you have consistent research, consistent flow, and dollars available for long-term sustainability of the many fisheries, are you prepared and will you be able to do that in a way that's not just, to be very frank with you, kind of the gobbledygook that's out there, but really say, hey, here's the five things that we need improved and fix the acts?

Who wants to take a shot at that?

Mr. Beal?

Mr. BEAL. I'll go first, give it a shot.

Senator BEGICH. Sure.

Mr. BEAL. The Atlantic States Commission does not have a position yet on the Atlantic Coastal Act, which is the underpinning——

Senator BEGICH. Right.

Mr. BEAL.—of our operation, but we absolutely can develop the five key things and I think they would—two of the key points would be improve science and improve partnerships.

Senator BEGICH. And will, I guess, here's my kind of underlying question because I know sometimes commissions say, well, let's just get some general thought and not get engaged——

Mr. BEAL. Yes.

Senator BEGICH.—in the full and this is the real question, are you, each one of your commissions, willing to say here's, specifically, saying science is one thing, but I know you guys, and I've had a battle with NOAA and others on technology use. I think they underuse it. I harass them, I'll get into that in a second, on observers. I think there's a huge opportunity to be developed on the ground.

Will you be specific, and that's what I want to know, and will the commissions take the bold political step and say, yes, we need to help craft in the future?

Mr. BEAL. Absolutely. I think, you know, there are specific, two specific issues that come to mind are climate change, water temperature change——

Senator BEGICH. Acidification.

Mr. BEAL.—and that's changing the distribution of fish and changing the range of the animals that we manage. And the other is—I'm drawing a blank, what was it—the allocation of fish.

Senator BEGICH. Right.

Mr. BEAL. We've got a number of—and summer flounder is a great example. We've got a number of state-by-state quotas within the Atlantic coast and, you know, some of those are based on data from the 1970s. Summer flounder is 1980s, 1990s, and I think the reallocation, or considering the reallocation of those species——

Senator BEGICH. Will be important because as the waters warm, some of that is moving north and that's one of the arguments New York has.

Mr. BEAL. Yes.

Senator BEGICH. Is that a fair statement——

Mr. BEAL. Absolutely.

Senator BEGICH.—that they're seeing more and there is a scientific argument that, we see it in Alaska with changing water temperatures. Acidification is another element. It's moved, the fish are moving in different ways than maybe were 15 years ago, 20 years ago, so those are things that you look at?

Mr. BEAL. Absolutely. And I think, you know, the question will be, is that a short-term change or a long-term change that we need to——

Senator BEGICH. Right.

Mr. BEAL.—you know, look at in the management system.

Senator BEGICH. Mr. Fisher.

Mr. FISHER. In the case of the Pacific Commission, I was a director of fish and wildlife for a number of years in Oregon, and as a result of that, I never wanted to go back and do over regulations again, so we won't do that as long as I'm director, so we're a little bit different than the other commissions, in terms of what we manage.

But what we do is we have the capability of lobbying and when the states agree on something, in terms of issues related to any legislation, we get involved, but the states have to agree and——

Senator BEGICH. Understood.

Mr. FISHER.—we will be working on that.

Senator BEGICH. Mr. Donaldson.

Mr. DONALDSON. And we're—the Gulf Commission is similar to the Pacific in that we don't have regulatory authority like the Atlantic Commission does, but if our states are supportive of this, we will work towards that direction with their guidance and be willing to do that.

Senator BEGICH. Let me—you just made the point, Mr. Fisher, Mr. Donaldson, would either one of your commissions want the same authority as the Atlantic?

Mr. DONALDSON. When the Atlantic Commission got the regulatory authority, our state constituents expressed concern to not do that.

Senator BEGICH. OK.

Mr. DONALDSON. And as far as I know that's still their decision.

Senator BEGICH. Still stay the same?

Mr. DONALDSON. Yes.

Mr. FISHER. Same here with our commission, we're pretty happy doing what we're doing right now.

Senator BEGICH. OK.

Mr. FISHER. And that's basically managing all the data on the West Coast and Alaska.

Senator BEGICH. Very good.

Let me ask just a couple quick ones then I'll stop and I'll, we'll bring the next panel up.

But specifically, Mr. Beal, and I want to follow up on the flounder issue. I know that that's one of the reasons why Senator Schumer is here, but you had mentioned that you're going to have a, kind of a working group for long-term, you have a short-term kind of reallocation, I don't know if that's the right phrase I should use, but the review of that, but you have a long-term review, how—what is your timetable for that working group to review the short-term issue on the flounder and how to deal with that?

Mr. BEAL. The short-term issues will have changes in place for 2013.

Senator BEGICH. So this year?

Mr. BEAL. This calendar year, yes.

Senator BEGICH. OK.

Mr. BEAL. And most of the summer flounder's fishing seasons in the mid-Atlantic and northern states start as the weather warms, so in the April and May timeframe, so those will be in place then and should offer some relief to New York and New Jersey.

Senator BEGICH. OK.

Mr. BEAL. For the longer-term working group, the intent, anyway, is to have that work done and in place for the 2014 fishing season. They'll look at changing, you know, at tweaking the current system. All we have are state-by-state shares. They'll look at regional approaches, coast-wide approaches, and it's really opening up the book and everything is on the table for that longer-term discussion.

Senator BEGICH. Very good. And I'm assuming you're in contact with all the right delegations to make sure they get input on how that—or at least when you make that working group selection of those names and so forth, you'll be sharing that with the members?

Mr. BEAL. Yes, absolutely. We've got a subset of, I think, five or six states, the Mid-Atlantic Fishery Management Council. We also have advisory panels which are made up of industry members that will, obviously, participate in the dialogue as we move forward to look at ideas for 2014.

Senator BEGICH. Very good.

Let me stop there and just say to the two other members on the panel here, to the two senators, if you have any last minute questions you want to ask of this panel, I'll move Mr.——

Senator Rubio.

Senator RUBIO. No.

Senator BEGICH. OK.

Let me—you have one more? OK. Let me say thank you—well, I have a list I'll submit for the record.

And Mr. Schwaab, you've been lucky, I didn't get on to you about observers. You know I want technology. We're in the 21st century. I can tell you and show you, Canada's doing it, other communities are doing it, we have opportunity. Expedite, speed it up. We don't need a whole bunch of more observers, we need technology to replace some of things we're doing. I'll leave it at that as more of a statement. You know where I'm at and I'll save you from that moment.

Thank you all very much. Thank you for being here. We'll submit additional questions for the record, if you wouldn't mind responding to. Thank you.

Let me ask the next panel to come up next, and that's Mr. Jim Gilmore, Emerson Hasbrouck, and Tom, is it Fote or Foote?

Mr. FOTE. Fote.

Senator BEGICH. Fote? OK. Thank you, Tom.

We'll give a second here for the changeover.

Thank you all very much for being here and appreciate your patience while we're working through some of the questions there. We'll start, I'm going to go, again, from this side over. You each have 5 minutes. If you can keep within that, we greatly appreciate it so we can get to the questions, if possible.

First one I have is Jim Gilmore. He's the Director of the Bureau of Marine Resources, New York State Department of Environmental Conservation.

Please.

STATEMENT OF JAMES J. GILMORE, DIRECTOR, BUREAU OF MARINE FISHERIES, NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Mr. GILMORE. Thank you, Mr. Chairman. My name is Jim Gilmore and I wish to extend the appreciation of Governor Cuomo and DEC Commissioner Joe Martens and myself to Senators Begich and Rubio and the rest of the Committee members for the opportunity to testify on a long-term inequity for the summer flounder or fluke fishery.

The fluke fishery in New York is vitally important for both economic and recreational reasons. Hundreds of thousands of recreational anglers rely on this important natural resource for their sport and businesses. In 2012, New York anglers made 1.35 million trips targeting fluke which accounted for over 36 percent of saltwater trips for New York, so you can see its importance.

New York has experienced problems with the allocation of fluke since the development of the fishery management plan in 1996. I'll focus my remarks on the recreational aspects since others will testify on the commercial fishery.

However, it is important to note that New York has several hundred party and charter boats and supporting businesses such as bait, tackle shops and marinas and other businesses that rely on this fishery for their economic viability. Some of them have lost these businesses because of this fishery.

Up until the mid 1990s, fluke size limits along the east coast were relatively constant with a 14-inch size limit. However, the fluke population was in decline at the same time the Magnuson-Stevens Act was reauthorized in 1996, which instituted deadlines for rebuilding fisheries. This caused managers to look at other ways to rebuild fluke. Fluke are jointly managed by ASMFC and the Mid-Atlantic Council.

Complicating management further, fluke are smaller in the south and large in the north. As the rebuilding plan progressed, size limits were increased to change the management plan and allow for state-by-state conservation equivalency replacing the consisting cost-wide measures. It was decided that each state's limits would be based upon landings in 1998, the last year we had consistent measures along the coast, and this resulted in the inequities we see today. All states agreed to try this in 2001, but New York raised a caveat that we could change this if it did not work. It did not and it does not work.

The Marine Recreational Fisheries Statistics Survey, or MRFSS, was the primary data used, but was documented in 2006 to have significant flaws. The plan does not provide for regional changes in the location of the fluke stock or angler effort over time. We have been locked in this approach through many factors no longer, or no longer valid. I believe New York currently has a much higher level of effort now, but is stuck at 17 percent with no way of determining the actual effort. This violates basic rules of fisheries management, not providing for adaptive management, nor using the most accurate data.

Fluke over 17 inches are mostly females so incredibly, we've been harvesting the egg producers, which is really a bad way to be managing a fishery, but unfortunately, a well-intended law through Magnuson has led to some bad, very bad fishery practices.

We believe the population of fluke and angler effort for New York has increased, which is why we have exceeded our quota for most of the last decade as much as 112 percent, if you believe MRFSS. New York has been forced to annually adjust its limits to adjust for the overages, and it went up to as high as 21 inches and only two fish while our neighboring state, New Jersey, had an 18-inch limit with six inches, six fish bag limit.

The situation was so frustrating that New York attorney general brought a lawsuit in 2008 against NMFS to attempt NMFS to attempt a correction. The suit was not successful, and as Senator Schumer had mentioned, he has been tireless in trying to find a solution to this problem, and both the state and its anglers thank him for his continued efforts. The last 2 years have been seeing slight improvements but continued frustration for New York until the stock is rebuilt, and the New York size limits for fluke remain at 19.5 inches; however, in 2012, New York overharvested again by 14 inches because of this data.

Our retention rate is very low on top of that. We essentially have to catch 10 fish for every one that we keep, so we're throwing back nine fish. A lot of them are dying which is another poor practice that we have to stop doing.

As Mr. Beal had mentioned in the last panel, we've had some good news. In the last ASMFC meeting, we have had a unanimous decision to try to share some of the fluke and it's, we're thankful to the states for doing that, and we're also going to have a panel to look at different ways of managing this fishery as we go into the next year and future years. So the states are trying to work together to come up with some innovative solutions outside the restrictions of Magnuson-Stevens and National Fisheries Service.

Just a couple of recommendations, in closing, for the future, while I'm hopeful we can develop better management through the ASMFC-Mid-Atlantic process, we and Magnuson-Stevens, as you look to reauthorize it, have to explore different strategies for fluke and other recreational fisheries. Multi-year limits instead of these annual limits. We're getting whipsawed by trying to change the rules every year. Fish don't respond this quickly and management shouldn't be trying to fix it every year, they should let it go for maybe 3 years at a time and get into more of a trend analysis. This will help us manage better and help the fishermen better. Annual catch limits and accountability measures are good but need a longer time to implement. This is having effects on other fisheries, such as scup and black sea bass. Science and statistical committees need longer time to implement their decisions.

And last, we need to recognize and include in future management the flexibility to adapt the changing environment resulting shifts in fish populations which appear to be the new norm for now and into the future.

Thank you, and I'll answer any questions you may have.

[The prepared statement of Mr. Gilmore follows:]

PREPARED STATEMENT OF JAMES J. GILMORE, DIRECTOR, BUREAU OF MARINE FISHERIES, NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Good morning. My name is Jim Gilmore and I am the Director of the Marine Bureau for the New York State Department of Environmental Conservation (DEC). I wish to extend the appreciation of Governor Cuomo, DEC Commissioner Joseph Martens and myself to Senators Rockefeller and Begich and the rest of the Committee members for this opportunity to testify on the history and methodology of, and potential inequities that may exist in, the allocation of catch of summer flounder between New York State and its neighboring states. My testimony will also address changes in data-collection and management which should be considered to ensure that the best available science informs decision-making, as well as fair and equitable allocation of fishing privileges, relating to this important east coast fishery.

Under the direction of Commissioner Martens, I serve as DEC's marine fisheries director responsible for implementing all management decisions for the state's recreational and commercial fisheries. I have held this position since 2007 and have been with DEC for twenty-six years. I represent DEC Commissioner Martens as New York's Administrative Commissioner for the Atlantic States Marine Fisheries Commission (ASMFC) and the State Official member on the Mid-Atlantic Fisheries Management Council (MAFMC). I am also a member of the faculty at Stony Brook University where I teach graduate level marine fisheries management. Probably as important, I have been a resident of Long Island most of my life and an avid angler since I was a child. Like many youths on Long Island, I knew who the U.S. President was, the pledge of allegiance and that the size limit for fluke was 14 inches.

The summer flounder fishery in New York is vitally important both for economic and recreational reasons. Hundreds of thousands of recreational anglers rely on this important natural resource to provide their sport and a good meal or two. In 2012, New York anglers made 1.35 million fishing trips targeting fluke, which accounted for over 36 percent of all saltwater fishing trips that year. So, over a third of all saltwater trips in New York's marine district were made for just one of the species available to catch. Fluke are very important commercially as well. Fluke harvest is tightly controlled, with an annual quota assigned according to the fishery management plan, but fluke are a high-value fish and one of the mainstays of New York's commercial fishery.

Fluke Catch Allocations: History and Inequities

New York has experienced problems with the allocation of fluke quota among the states since the development of the fishery management plan in 1996. I will focus my remarks on recreational aspects since others will testify on the commercial fishery. However, it is important to note that New York has several hundred Party/Charter Boats and supporting businesses such as Bait and Tackle Shops, Marinas, and other businesses that rely on this fishery for their economic viability.

Up until the mid-1990s, fluke size limits along the east coast were relatively consistent. A 13 or 14 inch size limit was the norm. However, the fluke population (stock) was in decline at the same time the Magnuson Stevens Act (MSA) was reauthorized in 1996 and instituted deadlines for rebuilding important fishery stocks. This statutory mandate prompted fishery managers to look at alternate management schemes to rebuild depleted stocks. Fluke occur in both state and Federal waters and are therefore managed through a joint fishery management plan (FMP) between ASMFC and MAFMC. Complicating management further, the size distribution of fluke along the coast varies with fish to the south tending to be smaller than fish to the north. As the rebuilding plan took hold and size limits were increased, changes to the management plan allowed for "state-by-state conservation equivalency," replacing consistent coastwide measures which had been the norm until the late 1990s. It was decided that each state's recreational harvest limit would be based upon landings in 1998—the last year for which there were consistent measures along the coast. This allocation resulted in an uneven split among the east coast states which remains problematic to this day: NJ—39 percent; NY—17.6 percent; Va.—17.7 percent other 6 states between 3–6 percent each.

The states, including New York, agreed to try this approach, but at that time New York raised the caveat that we could "change this if it did not work." It did and does *not* work. The Marine Recreational Fisheries Statistical Survey (MRFFS), which provides the data for key management decisions, was documented in 2006 to have significant flaws. It does not provide for regional changes in the location of the fluke stock even though the stock has moved further to the north, or changes in effort by anglers along the coast. It set up a dilemma where, if the population shifted or effort increased, a state experiencing a decrease would get fewer fish.

While the states have been locked in a management system based on decisions that occurred over a decade ago, many factors are no longer valid. I believe New York currently has a much higher level of effort now but is locked at 17.6 percent with no way of determining the actual fishing effort. This violates basic rules of fisheries management: provide for adaptive approaches as a fishery changes and utilize accurate data.

It's important to note here that male fluke have a typical maximum size of 17 inches so most fish larger than this are females. Yet New York's size limit is 21 inches, while New Jersey's limit is 18 inches. So Federal fisheries management law has forced the states to violate another basic principle in fisheries management—incredibly, we have been harvesting the large females which are the big egg reproducers for future recruitment. Unfortunately, a well-intended Federal law has led to bad fishery management.

We also believe the disparity between our neighboring states has created a situation of non-compliance. Anglers simply do not follow rules that do not make intuitive sense. We believe the population of fluke off Long Island has increased, along with angler effort. This appears to be the primary reason why we have exceeded our 17.6 percent quota for most of the last decade by as much as 112 percent but with the highest average of all states at 32 percent, if you believe MRFSS. This disparity between MSA-based restrictions and available catch has forced New York to annually adjust its size, season and bag limits to adjust for the overage while experiencing a declining then rebuilding stock. By 2009, the New York size limit was 21 inches with a 2 fish bag limit and short season. The neighboring state of New Jersey had an 18 inch size and 6 fish bag limit (Table 1).

The situation has frustrated New York fishery managers and anglers for so long that the New York Attorney General brought a lawsuit in 2008 against NMFS and ASMFC to attempt a correction. Unfortunately, New York was not successful at that time. Senator Schumer has been very active trying to find a solution to the problem and both the state and its anglers thank him for his continued efforts.

The last two years have seen slight improvement but continued frustration for New York since we all have been successful in rebuilding the coastwide fluke stock, but New York's size limit remained high at 19. 5 inches in 2012 and once again, New York has overharvested its quota by 14 percent (and New Jersey by 15 percent) (see Figure 1). Important to note in Figure 1 is the bar graph which shows that the New York and New Jersey overall catch rate is very high but retention rate is low. This means we are catching roughly ten fish for every one we keep. This is not a healthy practice since a good portion of the "throw-backs" die causing unnecessary mortality. However, in December, 2012, ASMFC/MAFMC jointly voted again to continue state-by-state conservation equivalency for 2013 which could result in an increased size limit in New York.

We recently had some good news. At the ASMFC Board meeting on February 21, 2013 the nine states in the fishery agreed to address this issue since the states generally recognize that New York has continued to be disadvantaged in this fishery despite its rebuilt status. As a short term fix for 2013, the seven states that underharvested will not take their full harvest increases leaving fish from the coastwide quota available for New York. Hopefully, this interstate cooperation will keep our size limits the same as 2012 or even drop the size. A subcommittee has been formed to include key states and the MAFMC to explore long term solutions for 2014 and beyond. Possible approaches include regional conservation equivalency, retention rates, and waterbody limits. The bottom line is that the states have worked together to create innovative solutions outside of the restrictions of the MSA and NMFS.

Recommendations for Changes in Management

While I am hopeful that we can develop more rational management through the ASMFC/MAFMC process, we have to explore alternative management strategies for fluke and other recreational fisheries. The current MSA has set up a situation where managers must react annually instead of waiting longer periods—say three to five years—before changing the rules. Fish stocks typically do not respond quickly but current management principles mandate quick action. We need to rely on good data and stop implementing annual changes based on short term data so that we can focus on longer term trends. Establishing consistent rules for a region with predetermined minor adjustments for all states over several years would provide greater stability for fluke and other species management plans. It will also provide more stability for the fishing industry so they can manage their businesses more efficiently. The current Magnuson-Stevens Act provided some good concepts such as setting Annual Catch Limits (ACL) and Accountability Measure (AM) but again, the quick deadlines to implement these has created other problems such as we have seen with Black Sea Bass and Scup (Porgy). The Science and Statistical Committees of the Councils need for greater latitude to consider ultra-conservative management in the face of limited data may not always be the best course.

We must also avoid setting management decisions in stone since this violates a fundamental principle of fishery management—natural populations fluctuate and we need adaptive and flexible management to address these changes. It is why we, the fishery managers, are in this business. Along with this, we also need to build in a mechanism to establish new baselines as fisheries change. Once we set disproportionate quotas, we lose the ability to get a true measure of effort and harvest. Lastly, we need to recognize and include in future management the flexibility to adapt to the changing environment and resulting shifts in fish populations which appears to be the new norm now and into the future.

On behalf of Governor Cuomo and Commissioner Martens, I thank you again for the opportunity to testify. I will be happy to respond to questions.

Figure 1

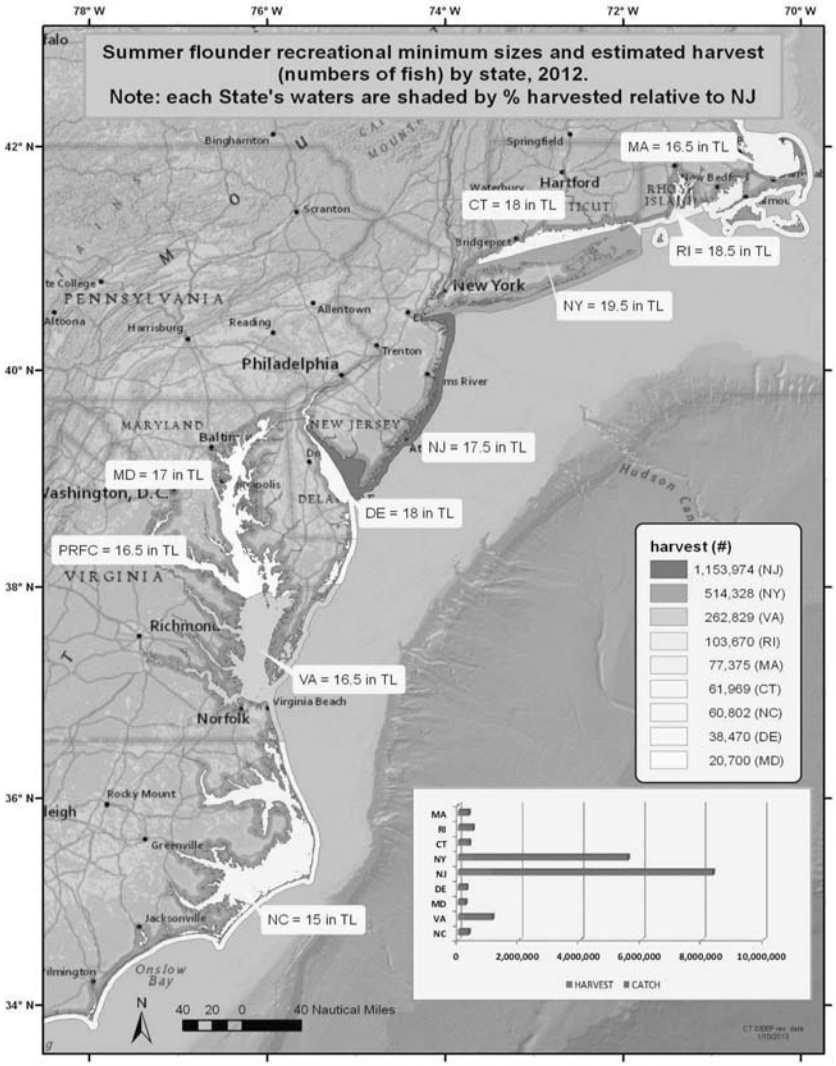

Table 1. Size Limit (inches) and Bag Limit by State and Year

State	Year	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
MA	*SIZE*	16.5	16.5	16.5	16.5	17	17	17.5	17.5	18.5	18.5	17.5	16.5
	BAG	7	7	7	7	7	7	5	5	5	5	5	5
RI	*SIZE*	17.5	18	17.5	17.5	17.5	17.5	19	20	21	19.5	18.5	18.5
	BAG	6	5	5	7	7	7	7	7	6	6	7	8
CT	*SIZE*	17	17	17	17	17.5	18	18	19.5	19.5	19.5	18.5	18
	BAG	6	6	6	6	6	6	5	5	3	3	3	5

Table 1. Size Limit (inches) and Bag Limit by State and Year—Continued

State	Year	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
NY	*SIZE*	17	17	17	17.5	17.5	18	19.5	20.5	21	21	20.5	19.5
	BAG	7	7	7	3	5	4	4	4	2	2	3	4
NJ	*SIZE*	16	16.5	16.5	16.5	16.5	16.5	17	18	18	18	18	17.5
	BAG	8	8	8	8	8	8	8	8	6	6	8	5
DE	*SIZE*	17.5	17.5	17.5	17.5	17.5	17	18	19.5	18.5	18.5	18	18
	BAG	4	4	4	4	4	4	4	4	4	4	4	4
MD	*SIZE*	17	17	17	16	15	15	15	17	18	19	18	17
	BAG	8	8	8	3	4	4	4	3	3	3	3	3
VA	*SIZE*	15.5	17.5	17.5	17	16.5	16.5	18.5	19	19	18.5	17.5	16.5
	BAG	8	8	8	6	6	6	5	5	5	4	4	4
NC	*SIZE*	13/15	13/15	14/15	14	14	14	14.5	15.5	15	15	15	15
	BAG	-/8	-/8	-/8	-/8	8	8	8	8	8	8	6	6

Senator BEGICH. Thank you very much, again, Mr. Gilmore.

Next person is Emerson Hasbrouck, Director, Marine Program, Cornell University. Thank you very much for being here.

STATEMENT OF EMERSON C. HASBROUCK, MARINE PROGRAM DIRECTOR, EMERITUS SENIOR NATURAL RESOURCES SPECIALIST, CORNELL UNIVERSITY COOPERATIVE EXTENSION MARINE PROGRAM

Mr. HASBROUCK. Good morning. I'm Emerson Hasbrouck and I'm with the Cornell University Cooperative Extension Marine Program. I would like to thank Chairman Begich and Senator Rubio for the opportunity to testify at this hearing. I would also like to thank Senator Schumer for working with the Committee to set up this hearing. I would also like to thank him on behalf of all New York fishermen for his support in fisheries' issues.

There are currently six species in the mid-Atlantic being managed on the state-by-state quota allocation system. As requested, the focus of this testimony will be on the commercial summer flounder fishery; however the issues, economic impact, and inequities to New York fishermen are similar for all species. My written testimony contains further detail.

In establishing the commercial state-by-state allocation, each state's percentage was based on the reported landings in that state during a baseline period. Although the fishing industry in New York was large and active during the base years, the allocation to New York is quite low. This is particularly evident when New York is compared to its neighboring states of New Jersey and Rhode Island. The basis of the inequity in the state-by-state allocation is the system of accounting for commercial fish landings that was in place during the baseline qualifying period. New York received 7.6 percent of the commercial quota; Rhode Island has 15.7 percent; New Jersey, 16.7; Virginia, 21.3; and North Carolina, 27.4.

The New York landings' records and histories, as compared to other states, were determined on a completely different and sepa-

rate methodology. The main difference is due to the unique way of landing and marketing fish in New York.

During the baseline period, National Marine Fishery Service had established a "way out" system in every major landing state in the northeast region except for New York. This "way out" system was developed specifically to collect, to track, and report commercial landings. The "way out" system, however, was not implemented in New York, because the first sale transaction system for placing seafood in New York was completely different. In states other than New York, the first sale of the fish occurs dockside. This transaction was recorded by the dealers purchasing directly from the boat and included a NMFS dealer report or "way out". New York fish landings do not include a dockside transaction. Fish are landed at a pack-out dock and then shipped on consignment by the fishermen to various dealers at the Fulton Fish Market in New York City. There was no "way out" generated to comply all landings information.

Thus, in New York, the dockside record during the baseline period did not include a sales transaction or species manifest, but simply a carton or box-total number trucked into Fulton Fish Market. Landings were constructed by National Marine Fisheries Service based on a dock-by-dock box count and an estimation of the content of those boxes based on dock personnel recall. There are no "way outs" available to verify landings. This difference in the data collecting and reporting system put New York at a severe and significant disadvantage relative to baseline calculations for state-by-state quota allocations.

The result of this is that New York receives a small annual quota allocation and thus, New York fishermen fish under very low trip limits. This has had a negative impact on New York fishing communities in terms of economic activity and jobs. We can estimate potential lost revenue to New York due to a disadvantage quota system. In 2011, this is estimated to be a lost to New York of $12 million compared to Rhode Island and a loss of over $9 million compared to New Jersey. New York fishermen are allowed far less quota and a smaller trip limit than fishermen from other states even while they're fishing together, side-by-side, in Federal waters. This makes little sense.

There is evidence that summer flounder, like other species, are experiencing changing migratory patterns based on changing ocean temperatures. This has resulted in a north ridge shift in the concentration of summer flounder. North Carolina, Virginia, and Delaware can no longer harvest their quota.

We're still managing the summer flounder resource on incomplete data from over 25 years ago. The resource and the fishery have changed. It's now time to change the management of the resource. A change should be made away from state-by-state quota, from a state-by-state quota allocation system to a system based on regional or coast-wide quota and associated trip limits. This would provide equitable treatment for all fishermen. It would help address the inequity to New York as fishermen from all states would be operating under the same quota and trip limits. Another approach could be a combination of coast-wide and state-by-state quotes, depending on season.

We also need to add flexibility into the management system. Not all species can fully respond with an arbitrary rebuilding 10-year timeframe.

Finally, we have reached a point in managing fisheries where management is putting demands on science that the science cannot keep up with. It is not that we don't have intelligent and qualified scientists, quite the contrary, but scientists can only do so many stock assessments or surveys in a given year based on resources available. Currently, the state and Federal resources available to support fishery science are not sufficient to meet the legal mandates of management.

Thank you for your opportunity to testify.

Senator BEGICH. Thank you very much.

[The prepared statement of Mr. Hasbrouck follows:]

PREPARED STATEMENT OF EMERSON C. HASBROUCK, MARINE PROGRAM DIRECTOR, EMERITUS SENIOR NATURAL RESOURCES SPECIALIST, CORNELL UNIVERSITY COOPERATIVE EXTENSION MARINE PROGRAM

"State-By-State Allocation of Commercial Fisheries Quota and the Impact on New York Fisheries"

Background

There are currently six species in the Mid-Atlantic being managed on a state-by-state quota allocation system. One of these species, striped bass, is only allowed to be harvested in state waters and will thus not be included in the discussion of this testimony. The other five species are: summer flounder (also known as fluke); black sea bass; bluefish; scup; and spiny dogfish. The state-by-state quota allocation for these species is each based on its own baseline time period during the late 1970s, the 1980s and early 1990s. See Table 1.

Table 1.—Baseline Period for Each Species

Species	Baseline Years
Fluke	1980–1989
Scup	1983–1992
Black Sea Bass	1983–1992
Bluefish	1981–1989
Spiny Dogfish	1990–1997

The reported commercial landings during the baseline period for each species, for each state, provides basis for the percent allocation to each state of the total commercial annual quota. The state-by-state allocations for these five species are shown in Table 2.

Table 2.—State-by-State Allocation—Percent of Commercial Quota

	Fluke	Scup	Black Sea Bass	Bluefish	Spiny Dogfish
Maine	0.0	0.1	0.5	0.7	58
New Hampshire	0.0	0	0.5	0.4	
Massachusetts	6.8	21.6	13.0	6.7	
Rhode Island	15.7	56.2	11.0	6.8	
Connecticut	2.3	3.2	1.0	1.3	
New York	7.6	15.8	7.0	10.4	2.7
New Jersey	16.7	2.9	20.0	14.8	7.6
Delaware	0.0	0	5.0	1.9	0.8

Table 2.—State-by-State Allocation—Percent of Commercial Quota—Continued

	Fluke	Scup	Black Sea Bass	Bluefish	Spiny Dogfish
Maryland	2.0	0	11.0	3.0	5.9
Virginia	21.3	0.2	20.0	11.9	10.8
North Carolina	27.4	0	11.0	32.1	14.0
South Carolina				0.0	
Georgia				0.0	
Florida				10.1	

The U.S. manages its fisheries in the Exclusive Economic Zone (3 to 200 miles offshore) through the Department of Commerce, NOAA and the National Marine Fisheries Service. The enabling legislation is the Magnuson-Stevens Act (MSA) (as amended) originally signed into law in 1976. The MSA established 8 regional fishery management councils to advise NMFS on fisheries management and to develop Fishery Management Plans for the conservation and utilization of our Nation's marine resources. Summer flounder, as well as the other 4 species managed under state-by-state quota fall under the jurisdiction of the Mid-Atlantic Fishery Management Council (MAFMC).

Fisheries within 3 miles are managed by the individual states. However, the 15 Atlantic coastal states from Maine to Florida have come together to form the Atlantic State Marine Fisheries Commission. The ASMFC develops fishery management plans which the member states then implement in their respective states. The 5 species managed under state-by-state quota are also under the purview of the ASMFC.

Although the MAFMC and the ASMFC are two separate entities, they work together on the development of Fishery Management Plans, including stock assessment, quota setting and other management measures. In fact, many individuals are members of both the Council and the Commission. Thus both are responsible for management issues relative to these state-by-state quota species.

As requested, the focus of this testimony will be on summer flounder, or fluke. However, the issues, economic impact and inequities to New York fisherman are similar for all five species.

History

Although the fishing industry in New York was large and active during the base years, the allocation to New York is quite low for many of the species. This is particularly evident when New York is compared to its neighboring states of New Jersey and Rhode Island. The fish did not avoid New York fisherman nor were New York fisherman any less skilled at catching fish. The basis of the problem and of the inequity in the state-by-state allocation is the system of accounting for commercial fish landings that was in place during the baseline qualifying periods.

As shown in Table 2 above, the state-by-state allocation system in place for the commercial summer flounder quota puts New York fishermen at a severe disadvantage. NY receives 7.6 percent of the commercial quota, while the allocation to other states is: RI—15.7 percent; NJ—16.7 percent; VA—21.3 percent; NC—27.4 percent. Other states receive less allocation.

The NMFS data collection system for commercial landings that was in place during the time period that established individual states' percent allocation of the summer flounder annual commercial quota caused inherent inadequacies in New York's allocation. The data collection system during the baseline period on which the state-by-state summer flounder allocation was based, put New York at a severe disadvantage compared to other states. The methodology used for data collection during the baseline period was inadequate and thus the method of allocation was prejudicial.

The NY landing records and histories, as compared to the other states, were determined on a completely different and separate methodology. The main difference is due to the unique way of landing and marketing fishery resources in NY as compared to the rest of the east coast. During the baseline period, NMFS had established a "weighout system" in every major landings state in the Northeast Region, except for New York, Connecticut and N. Carolina. This "weighout system" was developed specifically to collect, track and report commercial landings within the regulatory framework available at the time. The "weighout system", however, was not implemented in NY because the first sale transaction system in place for seafood in NY was completely different from what occurred in other states. The majority of

all fisheries landings for all states other than NY involve a process that included a dockside transaction, meaning, the sale and/or auction of the fish occurred at that point. This transaction was recorded not only by the dealers purchasing directly from the boat but also included a NMFS dealer report (weighout) that was generated at the point of sale. Thus, summer flounder landings were tracked at this point of first sale and then could be verified by individual fishing records generated by the "weighout system". NY fishery landings, including summer flounder, do not for the most part include a dockside transaction. Fish are landed at a pack-out dock and then shipped on consignment to various dealers at the Fulton Fish Market in NY City. The first-sale transaction does not occur dockside as in other states.

Thus, in NY the dockside report/record during the baseline period did not include a sales transaction or a species manifest, but simply a carton or box total number trucked to Fulton Fish Market. The consignment agreement between the fisherman and the Fulton Fish Market wholesaler during this period was simply completed by a return made by the Fulton wholesaler directly to the commercial fisherman detailing the result of the sale of the products with no copy or "weighout" provided to NMFS or NYSDEC or the unloading dock. During the period leading up to the summer flounder fishery management plan being implemented, there were no mandatory requirements for Fulton Market dealers to report their consignment sales/purchases. Mandatory reporting for dealers licensed to purchase from federally permitted fishing vessels did not go into effect until 1994. NY State did not initiate mandatory reporting for state dealers until after that. So there were no reports or "weighouts" generated by Fulton Market dealers during the summer flounder baseline period. Further, the general attitude by the NY fishing industry (including the Fulton Fish Market) was to treat this information as proprietary in nature. Specifically, there was a great amount of secrecy and thus information about landings by species and by location was protected for a myriad of reasons. Since there was no dockside transaction, NY landing histories were not readily available and proved to be inadequate at that time. Landings were constructed by NMFS based on a dock-by-dock box count and an estimation of the content of those boxes based on dock personnel recall. There were no "weighouts" available to verify landings.

This system also allowed for some volume of fish to go completely unaccounted for. Some small remote docks were not regularly visited by NMFS personnel to collect box-count information. There were also some number of fishermen in close proximity to the Fulton Market that would deliver their fish directly without any packing dock involved. During the 1970s, 1980s and early 1990s, there was a fleet of North Carolina and Virginia fishing vessels that fished out of NY ports during summer months. The dealers that these vessels normally sold to in their home ports would send trucks to NY ports to continue to buy from these vessels and truck the fish back to their homeport. Since there was no dock-side purchase by the unloading dock, these fish were reported by the first transaction dealers as landed in Virginia or North Carolina.

We need at this point to look back in time to when the state-by-state allocation developed and implemented and review the NMFS regional data collection activities at that time. If in fact, because the NY system of landing and marketing fisheries products resulted in inadequate histories available at the time compared to the rest of the region, an argument could be made that the dissimilar basis of the landing histories used, unfairly/inaccurately portrayed NYS summer flounder landings. Simply put, the NMFS system for collecting and reporting landings data was significantly different in NY than it was in the other Mid-Atlantic and New England states. This difference in the data collection/reporting system put NY at a severe and significant disadvantage relative to baseline calculations for state-by-state quota allocations. These included summer flounder as well as other species such as scup, sea bass and bluefish. Further, the disadvantaged NY industry was discriminately treated in an unfair manner in the establishment of the state-by-state quota allocation.

Recent attempts have been made to validate and/or collect NY baseline period landings information in several different ways: (1) An effort was made to correlate the Fishery Market News "green sheets", which were maintained by the National Marine Fisheries Service that tracked the daily general Fulton Fish Market activity, in order to determine some landing history. This proved to be difficult and did not generate useable information. (2) An effort was made to collect landing histories from individual NY fisherman by the NYS Department of Environmental Conservation in cooperation with commercial fishing organizations and others. This information also proved difficult to collect across the board and again did not result in a composite NY State landing history.

As was mentioned above, NMFS also did not have an established "weighout" system in place in Connecticut and North Carolina. However, the issue was resolved

in those states in the following manner. In North Carolina, the Division of Marine Fisheries had in place a reporting and sampling program during the baseline period. These data were used to establish North Carolina's state percent allocation. In 1993, Connecticut successfully convinced the MAFMC to re-examine their percent quota based on the fact that NMFS did not have a port-agent in Connecticut, nor were there weighouts available on which to base landings. In Amendment 4 to the FMP, Connecticut's percent of the annual quota was increased. No such consideration was ever given to NY.

Senator Schumer has previously arranged meetings with NMFS leadership to help resolve the severe and significant disadvantage for NY of the summer flounder state-by-state quota. A meeting was held in NY with the fishing industry to discuss issues relative to NY's summer flounder allocation. Attending this meeting were Senator Schumer, Congressman Bishop, Eric Schwaab—then NMFS Assistant Administrator for Fisheries and Dr. Jane Lubchenco—then NOAA Administrator. Nothing resulted from the meeting to help address the inequity of NYs fluke allocation.

Impacts

Since the implementation of the summer flounder fishery management plan, the resource has been steadily increasing and is now fully rebuilt and overfishing is not occurring. However, we are still managing a fully rebuilt stock the way we were managing a depleted stock 20 years ago. It is time to update the management of the summer flounder fishery.

Also, as the stock has increased, there is some evidence that there has been a shift in the concentration in the resource such that NY is geographically located near very high concentrations of summer flounder year-round based on new migratory patterns. In fact, this shift in the northward concentration of the summer flounder resource has also affected the fishery in the southern portion of the fish's range. For the past couple of years, neither North Carolina nor Virginia has been able to harvest their quota allocation. Additionally, North Carolina has been transferring quota to Virginia due to issues with North Carolina vessels not being able to access North Carolina ports because of shoaling inlets. In fact, even after transferring over half of its quota to Virginia, North Carolina still only harvested 65 percent of its quota in 2012. Also Virginia harvested 97 percent of its quota and Maryland only harvested 52 percent of its quota. None of this underage was offered to NY. The fish just aren't available any more in large abundance off of these southern states. High fuel costs prohibit vessels from North Carolina and Virginia from traveling to waters off of New York for access to the resource. Neither the distribution of the fish nor the fishery are the same as they were 20 to 30 years ago.

A significant amount of the summer flounder commercial harvest occurs outside of 3 miles. NY fishermen are fishing alongside of fishermen from RI, NJ and other states while fishing in Federal waters. NY fishermen are allowed far less quota and thus a smaller trip limit than fishermen from these other states, even when fishing together in Federal waters. Over the years, this has forced some NY fisherman to purchase (at a premium price) state fluke permits to allow them to land in New Jersey or Rhode Island. This only serves to reduce economic activity and jobs in NY and increase operating expenses for NY fishermen.

Table 3 highlights the impact to NY's economy, relative to other states, because of the state-by-state quota system. The value in Table 3 is ex-vessel value—the amount paid directly to the fisherman. The full economic return to the local community is approximately 4.2 times ex-vessel value. Conversely the economic loss to local NY communities can be seen as 4.2 times the potential lost revenue due to a disadvantaged quota system. In 2011, this amounted to a loss of $12 million compared to Rhode Island or a loss of $9.3 million compared to New Jersey—a severe impact to jobs and the economy in local NY communities.

Table 3.—2011 Ex-Vessel Value of Summer Flounder Landings (excludes RSA landings)

	Value in Dollars
New Jersey	5,422,719
New York	3,208,277
North Carolina	6,136,621
Rhode Island	6,057,311
Virginia	5,920,332
TOTAL VALUE	26,763,260

Recommendations

We are still managing the summer flounder resource (and other state-by-state quota species) on incomplete data from over 25 years ago. Further, we are managing summer flounder the same way we did 25 years ago for an overharvested stock. The resource and the fishery have changed. It is now time to change the management of the resource.

A change should be made away from state-by-state allocation to a system based on a regional or coast-wide quota and associated trip limits. This would provide equitable treatment for all fishermen and would help address the inequity to NY fishermen that was precipitated by the discriminatory NMFS data collection system in place in NY during the baseline period. As in other fisheries, qualified fishermen could fish where they wanted in the EEZ and all fishermen fish under the same regulations, quotas, trip limit or days at sea, regardless of what state they are from.

Another approach could be a combination of coast-wide and state-by-state quotas. As an example, Amendment 8 to the Scup FMP adjusted the scup fishery to modified partial coast-wide partial state-by-state quota system. In the summer months, the fishery is divided into a state-by-state quota system to allow inshore fishermen that fish in state waters equal access to the resource. Then in the Winter I and Winter II periods, when traditionally a larger portion of the fishery took place offshore, scup is regulated by a coast-wide quota system in which all states have the same limit per trip until the quota for that period is caught. During the development of Amendment 8 to the scup FMP, it was acknowledged that the year-round state-by-state system developed for summer flounder was not a desirable system. It would be advisable to create a modified partial state-by-state/coastwide fishery for summer flounder and other state-by-state fisheries, as the MAFMC did for the scup fishery in 1996. However, the state-by-state portion must be a more fair and equitable distribution than was established 25 years ago.

We also need to add flexibility into the management system. Not all species can fully respond within an arbitrary rebuilding 10-year time frame. Summer flounder is a prime example of that. Senator Schumer was successful in obtaining an additional 3 years in the rebuilding period for summer flounder. The fish did just fine and the stock is fully rebuilt. I urge you to consider providing for flexibility of rebuilding schedules in the upcoming reauthorization of Magnuson.

As our fishery resources become fully restored, management has to change to a new philosophy. All of the fishery management plans in the Mid-Atlantic were developed to rebuild overfished stocks. But now that stocks are fully rebuilt, the management approach has not changed. We have fully rebuilt stocks, but fishermen are still conservatively restrained. Ask any commercial or recreational fisherman if they have seen any improvement in their catch for fully restored summer flounder or black sea bass and they will respond in the negative.

Due to the current management process, quotas are set way below the level that could be harvested without causing overfishing to occur. The output from the stock assessment could allow harvests at higher levels. However managers must take a precautionary approach to setting quotas. The precautionary approach is driven by some of the uncertainties in the inputs to stock assessment models. If there is uncertainty or low confidence or high variability in the data inputs to the stock assessment, it causes uncertainty in the output. The greater the uncertainty the more precautionary the management approach and the lower the harvest quota becomes. But the uncertainty can also mean that there is either a higher or lower level of abundance than estimated. But the precaution always results in a lower quota.

The science of stock assessments is an imprecise science at best. Yet the management process is being driven by an approach that says because it is imprecise we have to take an extremely precautionary approach. Precautionary is a subjective term. Poor or incomplete data just makes the analysis even more imprecise and drives further precaution.

Much of this uncertainty and precaution is driven by poor or incomplete data. Often times even the "best available data" can still be poor or lacking data or science. We have reached a point in management, particularly with setting annual catch limits and accountability measures, where the science cannot keep up with management. Management is putting demands on science that the science cannot keep up with.

It is not that we don't have intelligent qualified scientists. Quite the contrary. But our scientists can only do so much in a day's work and the management asks for more. Scientists can only do so many stock assessments in a year. Many species go several years between benchmark stock assessments. Summer flounder is a prime example. It has been 5 years between full assessments for summer flounder.

Scientists can also only do so many surveys in a year. Or only collect so much data in a year. The current level of staffing for fisheries science cannot do all things

for all species every year. So we settle for a precautionary approach based on uncertainty and the fishermen and the communities that depend on them pay the price.

Much of the problem of course is funding. Currently the state and Federal resources available to support fisheries science are not sufficient to meet the legal mandates of management. More funding, of course, can solve most of the science issues. But I realize the fiscal reality that this is not likely to occur. The alternative is for management to not require science to do things we cannot afford to fund it to do. This can be fixed in the reauthorization of Magnuson.

An opportunity to help with science and data collection is cooperative research. Cooperative research is where scientists get together with fishermen to implement innovative programs to collect and provide needed fisheries data and information. Scientists and fishermen working side by side on fishing boats to improve fisheries science. It is good for the scientists, good for the fishermen and good for the fish. And it is supported by scientists and fishermen alike. Cooperative research does cost money. But it is less expensive and provides an excellent return for the investment.

Senator BEGICH. Our next speaker is Tom Fote, the Legislative Chair, Jersey Coast Anglers Association. Tom.

STATEMENT OF THOMAS P. FOTE, LEGISLATIVE CHAIRMAN, JERSEY COAST ANGLERS ASSOCIATION AND NEW JERSEY FEDERATION OF SPORTSMEN'S CLUBS

Mr. FOTE. I would like to thank the Chairman and the members of the Committee for this opportunity to testify. I have served in the Atlantic States Marine Fisheries Commission for 17 years and have attended their meetings since 1988. This experience has formed my testimony today.

Fisheries management is based on data. Data determines the stock assessment, the size of quotas, and the rebuilding period. The Federal and state's needs for better data for quota management continues to increase and so do the cost. In 1994, were quotas on a couple of species on the east coast, now almost every species managed in state or Federal is based on quota management.

In the reauthorization of MSA, NMFS was required to collect better recreational data, but the necessary funding was not supplied. I believe we have been underestimating the number of recreational anglers and the number of fish they are catching. This also means, has been underestimating the size of available stocks of these species that have a major recreational catch.

This is what happened to New York in 2003 regarding the summer flounder and scup fisheries. I believe that New York was treated unfairly and testified to this fact in 2004 in the Subcommittee to Fisheries, Conservation, Wildlife, and Ocean and suggested a solution to NMFS. They were ignored.

In my recent testimony, I tried to address Senator Schumer's letter to the commissioners to the ASMFC. New York actually made the motion in selecting 1998 for the base year for summer flounder and it was done with much deliberation. ASMFC is a compact estate, it is not our jobs to take advantage of other states. Our job is to make interjurisdictional fisheries decisions in the best interest of the marine resource in all the states. I have included a lengthy discussion on this problem and why I supported New York.

This could affect any state sometime in the future when we get the data that actually better reflects the recreational catch. The ASMFC and NMFS are trying to manage the recreational catch with tools that are not designed for the task due to lack of funding.

These tools were designed to establish trends in the recreational fishing industry as cheaply as possible and not quota management.

The other problem faced in the letter is really the lack of good stock assessment data. The SSC reduces the quota because of lack of confidence in the data. The recreational-commercial fishing industry suffer because of lack of spending of stock assessment. The SSC has insisted on keeping summer flounder sporting stock biomass numbers at the highest recorded level even after the last stock assessment included that recruitment is not based on how large a sporting stock biomass is.

There are varied opinions about the amount of flexibility that managers should have. The 2006 reauthorization of MSA gave too much power to the SSC. In 2013, we will have to reduce the catch for summer flounder and black sea bass in New York and New Jersey. SSC is telling us that unless we reduce the catch in New York and New Jersey in 2013, we will exceed the quota.

In my written testimony, I gave the estimate a number of damaged boats estimated in New York and New Jersey at over 52,000 boats combined from Hurricane Sandy. I will give you four to one odds that New Jersey and New York catch will be below the set quota for both summer flounder and black sea bass for no other reason than the hurricane. In 2013, the SSC will have lower catch numbers and suggest we can expand our catch in 2014 even though 2013 is a fluke year. Common sense management would consider the impact of the hurricane on numbers and would have a suggested status quo for 2013 and 2014 based at 2012. The managers need flexibility to take huge events into consideration rather than just rely on numbers crunching.

Here are the six suggestions, here are the three of the six suggestions I made in my written testimony:

The Federal Government needs to appropriate real money to develop and implement a system that will give us data we need and this needs to fund the north, northeast area monitoring assessment program as a line item budget issue.

Money should be allocated to states that do the actual data gathering. The states have proven they can implement any data gathering program more efficiently, accurate, and cost effective than the government contractors.

The elephant in the room is climate change. As far as fishermen are concerned, climate change is already there. The rise in water temperature is already having huge impacts on fish habitat. The change in temperature just by a couple degrees is already pushing fish further north. We need to spend money to study the impact of climate change and address the changes in fisheries management. Of course, what we really need to do is halt the progress of man-made climate change.

In closing, in the last hundred years, we have made amazing advances in science and technology, but when it comes to knowledge about what's happening in the ocean, we're still in the dark ages. So I hope that Congress and the President will keep the ocean as a priority. I know these are difficult times, but dollars invested in research and data collection will pay huge dividends in the economic recovery of the fishing industry and its ancillary businesses.

[The prepared statement of Mr. Fote follows:]

PREPARED STATEMENT OF THOMAS P FOTE, LEGISLATIVE CHAIRMAN, JERSEY COAST ANGLERS ASSOCIATION AND NEW JERSEY FEDERATION OF SPORTSMEN'S CLUBS

I am here testifying for Jersey Coast Anglers Association and New Jersey State Federation of Sportsmen's Clubs. These two organizations are comprised of 150,000 concerned sportsmen and women throughout New Jersey. I would like to thank the Chairman Mark Begich and the Committee for this opportunity to testify on this important issue. I would especially like to thank Senator Lautenberg for all his hard work for the citizens of New Jersey, the environment and the marine resource. I would also like to thank Senator Schumer for being a strong advocate for recreational anglers and working with Senators Menendez and Lautenberg for funding for stock assessment research through other groups including Partnership for Mid-Atlantic Fisheries Science Research. In addition to my volunteer work with JCAA and the NJ Federation of Sportsmen's Clubs, I have served on the Atlantic States Marine Fisheries Commission as the Governor's appointee for 12 years including 2008—the present, Legislative proxy for 5 years and a concerned citizen since 1990. That experience forms my testimony today. The reason I can do all this volunteer work is because I retired as an Army Captain in 1970 after being wounded in Vietnam. I am a disabled vet. In the aftermath of Hurricane Sandy, the work of the Senate has become even more vital in restoring the fishing industries in New Jersey and New York. I remain hopeful that the House of Representatives will follow your lead and fund this crucial work. The following is NOAA's current assessment was released March 15, 2013.

- NOAA's "Initial Assessment of the Economic Impacts of Sandy on New Jersey and New York Commercial and Recreational Fishing Sectors. "The report estimates total uninsured losses of $78 million to $121 million in New Jersey and $77 million in New York.
- The greatest damage from Sandy was to businesses supporting recreational fishing in New Jersey ($62 million to $105 million) and New York ($58 million). These damages included damage to marinas, docks, spoiled bait, destroyed tackle and damages to for-hire vessels.
- Impacts to commercial fishing were estimated at $14 million in NJ and $19 million in NY but this total in both states excludes damage to state-licensed vessels. The main types of damage included structural damage to processor and dealer facilities, loss of product, damages to commercial fishing vessels and lost gear.
- The evaluation provides information specific to the fishing industry in each state to assist governors information to help them assess storm-caused damage. It supplements ongoing work by the states.
- I reread my testimony from 2004 on data management and the problems we encounter. I discovered I would need to repeat much of what I said then since little has changed. The reauthorization of the Magnusson Act in 2006 required the NMFS to fix the data problems. Five years later much remains to be done.

I have testified before the House of Representatives Sub-Committee on Fisheries, Wildlife, Oceans and Insular Affairs on many fisheries management and environmental issues since the eighties. However, data management is certainly one of the most important topics. Most of what takes place in fisheries management is based on data. Data determines the stock assessment, the size of quotas and the rebuilding period. Without data we can't manage fisheries. The quality of fisheries management decisions is directly tied to the quality and accuracy of the data. The data we need does not come cheaply. As the Federal and state demands on fisheries management increase, particularly in the area of quota management, the need for quality data continues to increase and so does the cost. When I first got involved in fisheries management, there were quotas on only four or five species on the East coast. Now almost every species managed at the state or Federal level is based on quota management. Quota management is data intensive. To get good data you must have the proper systems in place to collect and quantify this data. It also takes a lot more money than we have in the present system.

The systems we are using were not designed for Quota or Total Allowable Catch (TAC) management for recreational fisheries. We were trying to use tools like the Marine Recreational Fisheries Statistical Survey (MRFSS) to set up state-by-state quotas for recreational fishing. We are now switching to Marine Recreational Information Program, or MRIP, as the new way that NOAA Fisheries is collecting and reporting recreational fishing catch and effort data. Even with the new program, the data is still insufficient to allow for accurate state by state quota management. The new program is still only showing trends, not giving real time information and pro-

ducing data good enough for quota management. . The weaknesses of the MRIP are that for the most part that program has only tweaked the models to look at bad data in different ways. There is still a lack of confidence levels and the same lag time, especially the confidence among recreational anglers. The number of intercepts that are done in each state varies greatly. Some states collect enough data to make the data slightly more reliable with less percentage of statistical error (PSE). Other states have sample sizes that are so small for specific species that a couple of outliers can totally skew the data. The problems with the intercepts are both in the number and in the quality. For 30 years many fisheries managers have been questioning the data collected, particularly on species that have large night time fisheries. For example, many private, charter and party boats along with surf anglers fish for bluefish and striped bass at night when no intercepts are collected. I understand that this will start being implemented in the immediate future. The lack of that data indicates a smaller stock and then impacts on overall stock assessment. When you passed the Magnusson Act in 2006, you authorized NMFS to collect better recreational data but did not supply the necessary funding.

Everyone is demanding a more accurate count of the number of recreational anglers and the fish they are catching. As we get better data, we are confronting new problems. I always believe we have been underestimating the number of recreational anglers and the number of fish they are catching. This also means we have been underestimating the size of the available stocks of species that have a major recreational catch. The virtual population analysis (VPA) uses catch figures and release figures in estimating the size of the stocks. What happens if a state starts adding intercepts? Or what happens if a state begins doing intercepts at night? I believe that we will discover that a state has more anglers making more trips and catching more fish. This would not reflect a change in fishing behaviors or overall catch, just a change in actual reporting. The management tools we presently use have no way to address this potential change. What will show up statistically will be more anglers entering the fishery, making more trips and catching more fish. This will erroneously indicate possible overfishing and lead to more restrictive management rules for the following year. This is what I think happened in New York in 2001—2003 regarding the summer flounder and scup fisheries.

New York was required to make a 48 percent reduction in summer flounder TAC and a 55 percent reduction in the scup fishery TAC. I think this is partially due to issues discussed in the previous paragraph. After a careful review of the data available, I believe that New York was treated unfairly and testified to this fact on 6/14/04 to the Subcommittee on Fisheries Conservation, Wildlife and Oceans on Data Collection and suggested solutions to NMFS that were ignored.

I was born and grew up in Brooklyn. I fished the North and South Shores of Long Island from one end to the other. When I moved to New Jersey, I was amazed to find that we usually counted double and sometimes triple the number of anglers that were counted in New York. I have always been interested in the trends from the MRFSS for both New York and New Jersey. The trends were generally similar. This makes sense since we share the same weather, the same fishing seasons and often the same waters.

I will use summer flounder catches in New York and New Jersey as an example. According to the MRFSS, for about 20 years New York averaged between 400,000 and 600,000 participants. During that same period, New Jersey has ranged from 1.5 million to 800,000. In 2001, MRFSS indicated New Jersey had 1.3 million participants. New York had over 700,000. Although that was not an all-time high for New Jersey, it was for New York. I wish I could share the 2002 figures but NMFS gave the contract for 2002 to the lowest bidder, fired the contractor after 6 months and then extrapolated figures from previous data to arrive at figures for 2002. They failed to tell ASMFC or the states about this problem and allowed management decisions to be made using this bizarre data. I have included more details in the attached article from the JCAA Newspaper. Given this problem, we really cannot use the faulty data from 2002. In 2003, the MRFSS showed New Jersey had 1, 054,000 participants. This decrease in 2003 may represent a legitimate trend in New Jersey due to weather and changes in fishing conditions. In 2001, we had excellent conditions. The drought allowed fishing almost every day. The winter was mild and we were able to fish comfortably through January 2002. In 2003 we had a rainy spring, lousy early fishing and we were freezing in November. A drop of about 250,000 participants makes sense. The total number of trips dropped by about 800,000. What happened in New York? In 2001, New York had its highest participation level in 20 years. In 2003, sharing our weather and fishing conditions, we would expect to see a decrease. Instead, MRFSS reported a huge increase to over 900,000 participants, the highest level ever recorded in New York. Perhaps bad weather and lousy fishing is attractive to New Yorkers. Or the data was horrible. Or the data was fi-

nally more accurate and the previous 21 years were inaccurate. The ASMFC had no choice but to interpret the data as a huge increase in New York because this is a jointly managed plan with the Mid-Atlantic Fisheries Management Council. The Council falls under Federal guidelines which do not allow for the necessary flexibility. They were unable to even consider that it was the previous data that was inaccurate. This led to a significant decrease in the summer flounder TAC for New York for 2004 and did have a devastating impact on New York's recreational fishing industry and all the ancillary businesses.

Because the summer flounder fishery is such an important one for New York, the estimates are a loss of tens of millions of dollars to the New York economy. In order to be in compliance, New York implemented 3 fish, 17 inches and a season from May 8 to September 6. The irony of New York's draconian regulations is this is only a 20 percent reduction and according to the tables they are out of compliance since New York needs to take a 48 percent reduction.

I'm from New Jersey. In 2003, why should I have worried about this? Most people feel this is strictly New York's problem. In addition to my concerns about using faulty data to make management decisions, this will also have an impact on New Jersey. I never thought I would hear charter boat captains from New Jersey talking about their concerns if tens of thousands of New Yorkers began fishing in New Jersey waters. Our bag limit of 8 fish, 16½ inches and a season from May 8 to October 8 was attractive to any New Yorker within reasonable traveling distance. New York was at 3 fish, 17 inches and a season from May 8 to September 8. Our regulations were based on our historical catch, not with consideration of a significant influx of New York anglers. This could have had a devastating impact on our 2004 statistics and on our regulations for 2005. We could have gone over TAC even after taking the most conservative path according to the tables we use to calculate seasons. What a hell of a way to run a system! I could discuss many other data gathering strategies including the Large Pelagic Survey but the message would be the same.

I carefully considered Senator Schumer's letter to the Commissioners for the Atlantic States Marine Fisheries Commission. Senator Schumer has been a strong advocate for recreational anglers. He has also been a strong advocate with Senators Menendez and Lautenberg for funding for stock assessment research through other groups including Partnership for Mid-Atlantic Fisheries Science Research. Because of this funding we have better information about summer flounder. Because of my respect for his work, I need to respond to some of his concerns. First, when we set the years for quota distribution for summer flounder and black sea bass using 1998 as the base year, it was done with much deliberation and concern. New Jersey gave up 20 percent of its catch so other states could raise their commercial levels. After much deliberation and a year of reviewing the charts, a motion was made at the Management Board Meeting by Gordon Colvin, the then director of Marine Fisheries for New York. Mr. Colvin is without a doubt the toughest negotiator for his state's interests that I have ever met. I always joke that he gives away snow in the winter. This was not the best or worst year for New Jersey and we were willing to agree to support the needs of other states. We are a compact of states. It is not our job to take advantage of other states for our own interest. Our job is to make interjuristictional decisions in the best interest of the marine resource and the states. This decision in 1998 predated the great increase in counting recreational anglers in New York in 2001—2003. It is this data that has helped create the difficulty for New York. Common sense suggested to me that we were not only underestimating the number of anglers and trips in New York but also underestimating the stock size. Despite my suggestion to resolve this issue, NMFS refused to address this problem. There is something else happening with this fishery. In order to stay within these quotas with this huge spawning biomass, we are required to further restrict the recreational catch. We can restrict bag limits, size limits and seasons. New York has been relying on size limits rather than seasons. New Jersey emphasizes changing seasons to gain the needed reductions. I understand the concerns facing New York's managers. Long Island Sound, Montauk, Captree, Sheepshead Bay and City Island, all areas I fished while living in New York, represent different management needs as far as size and seasons. Sometimes those varied needs are difficult in a single plan. We have the same problem in New Jersey dealing with Fortescue, Cape May, Barnegat Bay and Sandy Hook. We even have species like winter flounder and scup that don't migrate south of Barnegat Bay. I have included a comparison (Tables 1) of New York and New Jersey's regulations for the past few years. I have also included a table showing the reductions in other states from 2001 (Table 2). In our latest guidance in an ASMFC conference call last week on black sea bass, the technical committee recommended shorter seasons would give the most opportunity to meet the quota. It is important to point out that research done beginning in the 70s, showed that some species like black sea bass and summer flounder

have an interesting migratory pattern. These species move back and forth from the offshore to inshore waters from one season to another. Summer flounder travels as far as the continental shelf to spawn. They do not return directly to the same bay or estuary. It seems as these fish get larger, they go out and return further north. Because we are uniformly raising size limits for southern states, it causes the stocks to migrate farther north. We have continually seen larger and larger black sea bass and summer flounder harvested in the northern states. By raising size limits, we are causing other problems. If we caught the same poundage in 1994 and 2013, the number of actual fish is about 25 percent in 2013. That means the four anglers on a boat can catch only one fish to have the same poundage. Everyone else will need to catch and release despite the mortality problems that causes. Striped bass has a big hook and release contingent. We always knew the numbers for striped bass would be high. In many years we kill as many fish by catch and release as we do by catch and keep. Summer flounder and black sea bass are not considered the same way by anglers. Summer flounder and black sea bass are considered catch and eat, prime dinner fare in New York and New Jersey. We are not seeing figures for some years that suggest we are killing more summer flounder and black sea bass with catch and release than we are for catch and eat. These are called regulatory discards and the problem is created when the size limits are so large anglers need to discard multiple fish before they have a legal size for dinner. This is a terrible waste and has a huge impact on stock assessment. A dead fish is a dead fish. We need a better way to manage. I am a Brooklyn boy who grew up fishing from Canarsie Pier, Steeple Chase Pier and party boats from Sheepshead Bay. I understand the needs of the anglers who continue to fish in those areas and would like to work with this committee to make sure they are able to harvest fish for their families. I was always proud to bring home a fish for my Mom to cook for dinner in Brooklyn.

The Atlantic States Marine Fisheries Commission and the National Marine Fisheries Service are trying to manage the recreational catch effectively with the tools available. The tools they are using are not designed for the task due to a lack of funding. The current tools were designed to establish trends for the recreational fishing industry as cheaply as possible. We are requiring them to use data that is not appropriate for the task. It is no wonder that the decisions made using this data creates more problems than they solve. In a 2003 article which is included, Menakhem Ben-Yami stated, "Fisheries management is all about people. People are all it can manage, and people are those who either enjoy or suffer from its consequences, including depletion of fish stocks. Therefore, it cannot be feasible if it is perceived by fishing people as erroneous, wrong, unjust, etc. This is one more reason for fisheries management not working." I absolutely believe this is true. ASMFC and NMFS have been working on the Atlantic Coast Cooperative Statistical Program (ACCSP) to design and implement a better system for compiling fisheries catch data for both recreational and commercial fishing. They signed an agreement a number of years ago and are making some progress with this task. But the demands for fisheries management are increasing more quickly than the new system is being developed and implemented. With the reauthorization of the Magnusson Act in 2006, MRIP is slowly being implemented. What has lagged behind is the stock assessment work needed to make MRIP accurate.

The other problem we face is really good stock assessment. Because we cannot physically count every fish in the ocean, we rely on modeling to get an estimation of the stocks. My experience with these models is that they are based on assumptions that are very conservative. When you begin to layer one conservative assumption on another, the resulting model is extremely conservative. This is great when you are rebuilding stocks. It is necessary to take a very precautionary approach when stocks are rebuilding to guarantee success. However, I believe once the stocks are rebuilt or are well on the way, these models can result in a significant underestimation of the existing stocks. Summer flounder is a good example. We began rebuilding the stocks in 1994 when there was a low spawning stock biomass. We implemented measures to rebuild this spawning stock biomass with a target goal. The scientists set an unrealistic target which created numerous problems until several revisions became more realistic. We have been hovering at close to or slightly above that spawning stock rebuilding target since 2011. However, there has been relatively little or no increase in the summer flounder quota. The SSC (Statistical and Scientific Committee) for the Mid-Atlantic Fisheries Management Council has insisted on keeping the spawning stock biomass number the highest since we have recorded data. The last stock assessment concluded that recruitment is not based on how large the spawning stock biomass is. There are other factors that impact on the successful recruitment beyond the spawning stock biomass number. We can only guess what those other factors might be. We can make some assumptions about

the availability of forage species, water temperature, weather and environmental contaminants. Without reliable data, it remains only a guess. But we know for sure that there is often no reliable relationship between actual recruitment and the spawning stock biomass number. We have had some of the highest recruitments in years when the spawning stock biomass was half of what it is now. And with this very high spawning stock biomass we have had some low recruitment. Again, what is needed is more money to develop appropriate data gathering tools. I know these models have been peer tested but in the article below, Menakhem Ben Yami states, "I think that another reason for having inadequate science in charge for so many years is that the "peer reviewing" of publications and scientific reports is being done by scientists, however independent, who come from the same discipline and the same, prevailing school of thought as the authors. Thus, assessments made on the basis of statistical models are reviewed by statistical modellers, who obviously believe in their basic methodology, but not by scientists who may think that the whole existing modeling methodology cannot produce reliable results." I have been saying the same thing for years.

There has been ongoing conversation about flexibility. There are varied opinions about the amount of flexibility the managers should have. Historically, some Federal management councils did not act responsibly in implementing rebuilding measures. Because of the few irresponsible decisions there is a general mistrust of all of the councils by some of the scientific and fisheries advocate groups. With the last reauthorization of the Magnusson Act, more power was given to the SSC. This created problems rather than resolving them. The scientific modellers can take bad data in which we have little confidence and find ways to treat it as credible. It should be up to the fisheries managers to use the data in responsible way. In 2014, we will have to reduce the catch for summer flounder and black sea bass in New York and New Jersey. The SSC is telling us that unless we reduce this catch in 2013 NY & NJ will exceed the recreational quota on summer flounder and black sea bass. In the beginning of this presentation I gave you the economic numbers from Hurricane Sandy. What I didn't give you were the number of damage boats (estimated at over 52,000 combined New York and New Jersey attached article). This means less boats in the water, marinas and boat ramps still inaccessible, many of the beaches remain closed due to hurricane damage. If I was a betting man I would give you 4 to 1 odds that our catch will go down significantly on both summer flounder and black sea bass for no other reason than the hurricane. So what will happen in 2014? The SSC with the lower catch numbers will suggest we can expand our catch in 2014 by increasing seasons and lowering bag limits. Common sense management experts would consider the impact of the hurricane on the numbers and suggest status quo for 2013 and 2014 based on 2012. The managers should have the flexibility to take this huge event into consideration rather than just relying on the SSC numbers crunching. Common sense should prevail.

I would like you to consider the following suggestions:

1. The Federal Government needs to appropriate real money to develop and implement a system that will give us the data we need and need to make the Northeast Area Monitoring and Assessment Program a line item in NMFS budget.
2. The money should be allocated to the states to do the actual data gathering. The states have proven they can implement any data-gathering program more efficiently, accurately and cost effectively than government contractors.
3. We need a fund new stock assessment that counts fish more accurately. We also need to collect the Recreational Data necessary to bring the Percentage of Statistical Error to an acceptable level.
4. We need to develop a culture that respects the expertise of responsible fisheries managers that allows them to use the data in a flexible way. The SSC is charged with providing data, not making management decisions. The SSC should not be allowed to insert their own perspective on additional conservation since the need for conservation is already built into the models.
5. The elephant in the room is climate change. As far as fishermen are concerned, climate change is already here. This is a reality. Water temperature is having a huge impact on fish habitat. The change in temperature by just a couple of degrees pushes some fish further north or eliminates the surf clam fishery off Island Beach State Park. Who knows what the next 5—10 years will bring? We need to spend the money to study the impact of climate change and be flexible enough to address these changes in fisheries management. Of course what we really need to do is halt the progress of man-made climate change.

6. NMFS and ASMFC needs to revisit all the allocation of fish between commercial and the recreational sectors, State allocations and sector allocation. Especially before NMFS tries to set up catch shares.

In closing, in the last hundred years there have been amazing advances in science and technology. We can count the craters on the moon. We are able to use satellites to photograph a four foot area on earth from tens of thousands of miles away. We can actually land a vehicle on Mars to analyze the soil. These are things we couldn't even dream of 50 years ago. But when it comes to knowledge about what is happening in the ocean, we are still in the dark ages. The two recent Oceans Reports point this out dramatically. We're not even sure about the impact of human activity on the ocean. It is my hope that Congress and the President will see the ocean as a priority. That will have the most dramatic effect on all of our lives. I know these are difficult economic times but dollars invested in research and data collection will pay huge dividends in the economic recovery of the fishing industry and all its ancillary businesses.

Table 1

Year	New Jersey Summer Flounder Recreational Management Measures					New York Summer Flounder Recreational Management Measures				
	Reduction/ liberalization	Size Limit (inches)	Bag Limit	Open Season	# Days open	Reduction/ liberalization	Size Limit (inches)	Bag Limit	Open Season	# Days open
2000		15.5	8	May 6 - Oct 20	168		15.5	8	May 6 - Oct 20	168
2001	-34%	16	8	May 12 - Sept 11	123	-41%	17	7	May 2 - Oct 31	183
2002	-16.7%	16.5	8	May 18 - Sept 24	130	0%	17	7	May 2 - Oct 31	183
2003	56% (22%)	16.5	8	May 3- Oct 13	164	4% (2.5%)	17	7	Jan 1 - Dec 31	365
2004	-1.3%	16.5	8	May 8 - Oct 11	157	-48.5%	17 18	3 3	May 15 – July 30 July 31 - Sept 6	115
2005	5.52% (0%)	16.5	8	May 7 - Oct 10	157	-6.32%	17.5	5	April 29 - Oct 31	186
2006	9.73% (0%)	16.5	8	May 6 - Oct 9	157	-37.61%	18	4	May 6 - Sept 12	130
2007	-40%	17	8	May 26 - Sept 10	108	-49%	19.5	4	April 24 - Sept 17	147
2008	-41.8%	18	8	May 24 - Sept 7	107	-64%	20.5	4	May 15 - Sept 1	110
2009	-4%	18	6	May 23 - Sept 4	105	-37%	21	2	May 15 - June 15 and July 3 - Aug 17	78
2010	-1%	18	6	May 29 - Sept 6	101	78% (59%)	21	2	May 15 - Sept 6	115
2011	124.9% (77%)	18	8	May 7 - Sept 25	142	139.5% (125%)	20.5	3	May 1 - Sept 30	153
2012	38% (37%)	17.5	5	May 5 - Sept 28	147	71%	19.5	4	May 1 - Sept 30	153

Note: Reduction/liberalization:– minus sign denotes required reduction. Percent in parenthesis (%) denotes liberalization taken.

Table 2

	Massachusetts			Rhode Island			Connecticut			New York			New Jersey		
Year	Size	Bag	Season	Size	Bag	Season	Size	Bag	Season	Size	Bag	Season	Size	Bag	Season
2000	15.5	8	146	15.5	8	146	15.5	8	146	15.5	8	146	15.5	8	168
2001	16.5	7	103	17.5	6	101	17 or 17.5	6	365	17	7	183	16	8	123
2002	16.5	7	365	18	5	119	17	6	365	17	7	183	16.5	8	130
2003	16.5	7	365	17.5	5	143	17	6	365	17	7	365	16.5	8	164
2004	16.5	7	365	17.5	7	275	17	6	365	17/18	3	115	16.5	8	157
2005	17	7	365	17.5	7	275	17.5	6	246	17.5	5	186	16.5	8	157
2006	17	7	365	17.5	7	275	18	6	246	18	4	130	16.5	8	157
2007	17.5	5	66	19	7	122	18	5	129	19.5	4	147	17	8	108
2008	17.5	5	67	20	7	365	19	5	101	20.5	4	110	18	8	107
2009	18	5	44	21	6	199	19.5	3	66	21	2	78	18	8	105
2010	18	5	108	19.5	6	245	19.5	3	103	21	2	115	18	6	101
2011	17.5	5	132	18.5	7	245	18.5	3	114	20.5	3	153	18	8	142
2012	16.5	5	132	18.5	8	245	18/16	5	170	19.5	4	153	17.5	5	147
2013													17.5	5	122

	Delaware			Maryland			Virginia			North Carolina		
Year	Size	Bag	Season	Size	Bag	Season	Size	Bag	Season	Size	Bag	Season
2000	15.5	8	146	15.5	8	231/241	15.5	8	268	13/15	/8	365
2001	17.5	4	146	17	8	237	15.5	8	263	13	/8	351
2002	17.5	4	230	17	8	357	17.5	8	278	15.5	8	139
2003	17.5	4	365	17	8	278	17.5	8	365	14	/8	365
2004	17.5	4	365	16	3	365	17	6	278	14	/8	365
2005	17.5	4	365	15/15.5	2/4	365	16.5	6	365	14	8	365
2006	17	4	365	15/15.5	2/4	365	16.5	6	365	14	8	365
2007	18	4	365	15/15.5	2/4	365	18.5	5	272	14	8	365
2008	19.5	4	365	16.5/17.5	1/3	365	19	5	357	14/15.5	8	365
2009	18.5	4	365	16.5/18	1/3	152	19	5	365	14/15	8	365
2010	18.5	4	347	19	3	188	18.5	4	365	14/15	8	365
2011	18	4	358	18	3	199	17.5	4	365	15	6	365
2012	18	4	358	17	3	247	16.5	4	365	15	6	365
2013												

FISHERIES MANAGEMENT & LEGISLATIVE REPORT

by Tom Fote (from Jersey Coast Anglers Association April 2004 Newspaper)

Summer Flounder

At the ASMFC meeting there was a lengthy discussion about New York's summer flounder overages and the necessary reduction. I fought hard for a motion that would give New York some relief. Some people asked me why I fought so hard to reach a solution that was not allowed for in the plan. The implication was that I had not fought as hard when other states faced reductions due to overages. My reply is that times are different and the situation is different. My responsibility as commissioner is to look at each issue individually and consider the current situation. Circumstances change and in this case there were some outstanding reasons why I changed my mind. In 2002, because of the issue of paybacks, states were being very conservative on the implementation of changes in their fluke regulations for 2003. Most states made a good faith effort to develop regulations that would keep them in compliance with their targets. They used the available data conservatively in developing their regulations. None of us were told there was a problem with the 2002 Marine Recreational Statistical Survey. New York, New Jersey and other states used those figures as though they were calculated in the same way as the figures from 2000 and 2001. Even though we know none of these figures are accurate we expected some consistency from year to year. The National Marine Fisheries Service should have told us about the problem with the data for 2002. It is irresponsible to punish a state for developing regulations when they were given inconsistent data. Right now, New York is required to take a 48 percent reduction in the summer flounder fishery. This will have a devastating economic effect on the marine recreational fishing industry in New York and impact on the quality of life for recreational anglers. If this happened in New Jersey the impact would be even more devastating and I am not sure what actions we would need to take. We just can't use the Marine Recreational Statistical Survey to do quota management. It was not designed for this task and continues to create problems throughout the system. We are encountering the same problems in scup, sea bass, tautog and any other species that uses this data.

OPEN THE PANDORA'S BOX: A DISCUSSION ABOUT FISHERIES ALLOCATIONS

NOAA Fisheries has released the first-ever compilation and discussion of fisheries allocation issues which summarizes input received from a broad spectrum of stakeholders. The report is a direct outcome of commitments made by NOAA during the National Saltwater Recreational Fisheries Summit to address stakeholder concerns

regarding allocation. To read the report, go to *http://www.nmfs.noaa.gov/stories/2013/01/docs/lapointe__allocation__report__final.pdf.* I have included the white paper's conclusions below.

In politics the third rail is social security. In fisheries the third rail is allocation. This is the topic everyone avoids at all cost. It is one of the most difficult to deal with. I have asked Bruce Freeman to develop a white paper on the history of this issue. I have also asked some sports writers who have the institutional memory to consider writing articles on this topic. The recreational community has taken it on the chin on allocations because of the failure of the NMFS to historically gather good recreational statistics. NMFS never thought that the recreational sector would catch enough fish to need regulations. NMFS was created from the Bureau of Sports Fisheries and the Bureau of Commercial Fisheries. The Bureau of Commercial Fisheries was the site of all the money. They had port agents and were spending millions of dollars to collect commercial landings. The restrictions on the commercial fisheries go back hundreds of years. The Bureau of Sports Fisheries looked at trends in recreational fishing but was never intended to set up allocations. The money was never spent for Marine Recreational Fisheries Statistical Surveys. We were spending millions of dollars on commercial catch figures and a pittance on surveying all the recreational anglers in the country. This continues to this day under NMFS. While the budget for recreational surveys has doubled, double almost nothing is still almost nothing.

In the 1980s NMFS looked at historical recreational surveys and literally cut the numbers for the recreational sector fisheries in half with no scientific validation. When the Councils and Commissions began setting quotas, the only data available was from NMFS. This data was the flawed MRFS data and the 50 percent reduction data. Hardly scientifically valid! This has extremely negative consequences on the recreational sector to this day. The report referenced above will be used to generate a discussion about changing present allocations and making future allocations. Remember, the recreational sector is already in the penalty box and any decisions based on previous allocations will continue to handicap the recreational sector. We need to be skeptical in discussing the issues raised in this report since if fails to recognize the systemic problems already in existence. Without an acknowledgement of the history, the future will not be favorable for recreational anglers. We need to get the people who have the historical knowledge to share with all of us before any decisions are made.

MARINE FISHERY ALLOCATION ISSUES WHITE PAPER CONCLUSIONS

by George Lapointe

Allocation issues pervade fishery management discussions and decisions in the US, and likely elsewhere. Almost all fishery management decisions, direct and indirect, have allocative effects and stakeholders in fishery management are attuned to these impacts. Perceptions about the fairness of individual and cumulative allocation decisions can drive stakeholder's perspectives about the fairness of the overall fishery management system.

As mentioned in a number of project discussions, fishery managers have a difficult time explaining the process, rationale, and outcomes of allocation decisions because. At best, it's very hard to explain to a group or individual why a decision was made in a way that they do not agree with. In more difficult allocation discussions, it is nearly impossible to achieve an outcome that is not perceived as very unfair by some stakeholders.

Also evident from this project is that most managers and stakeholders favor an allocation process that is more efficient and understandable than currently done. Many suggestions were made about improvements to the management process to make allocation decisions more clearly understood, fairer, and based more on quantitative factors and less on qualitative factors which are often perceived as biased and arbitrary.

Clearly, there is difficult work to be done on allocation in the Nation's fishery management system. A logical conclusion from this type of perception is that fishery managers at the state, regional, and national levels need to focus more time and resources to allocation discussions and decisions. This should begin in the initial stages of a fishery management action and should include clear, direct language about the allocation definitions and decisions to be made, who is responsible for the decisions, and how stakeholders can engage in the process.

Similar to most difficult policy issue, progress lies in hard work, additional attention to the issue, and frank discussion among stakeholders. This project has identified some courses of action for decision makers to consider. Other options will likely

be identified by decision makers and stakeholders as future discussions about how to best address fishery allocation is discussed in states, at Council meetings, and at National venues. This project is clearly an initial step in this important discussion

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From my Testimony on 6/14/04 to the Subcommittee on Fisheries Conservation, Wildlife and Oceans on Data Collection

SOME MORE COMMENT ABOUT FISHERIES SCIENCE

Menakhem Ben-Yami is a fisheries Management and Development Advisor from Israel. I communicate with him through a message board that includes people from around the world. He sent me this e-mail and I wanted to share it with you. Pay particular attention to #5 where he discusses the peer review process. I have been saying the same thing for years. I mentioned to Menakhem that he did not include recreational fishing in his definitions. He replied that most of the countries he deals with pay little attention to recreational fishing.

Article from Menakhem Ben-Yami—Appeared on Fishfolk

I think that it might be useful to recall some definitions that we discussed here several years ago:

1. Fishery management is about maintaining the production of fish and the well-being of fish producers at sustainable levels.
2. Good assessment of the desired level of production (expressed either in the terms of input or output, or a combination of both), and of the production sector are necessary for successful management. The fishery science, as practiced today, may not be able in many cases to produce such assessment. It may be "the best available" but not necessarily adequate science.
3. Fisheries management is all about people. People are all it can manage, and people are those who either enjoy or suffer from its consequences, including depletion of fish stocks. Therefore, it cannot be feasible if it is perceived by fishing people as erroneous, wrong, unjust, etc. This is one more reason for fisheries managements' not working.
4. Choice of management strategy (by the authorities in charge) is in most cases political and economic. The two basic strategies are (1) favoring the existing fishing people and their communities, and (2) favoring larger and financially more efficient owners, which as a rule includes large corporations. Both strategies may eventually achieve similar fish yields, but each at different social and economic costs.
5. Within each strategy various technical/technological means can be adapted. Some of those are today criticized as based on inadequate, or just wrong science and assumptions. An example: selective fishing for only larger individuals in groundfish fisheries that, according to some scientists, leads to creation of stunted, starving populations of undersized, early and weak spawners, and, perhaps, genetic changes in those fish populations where genetically slower growers enjoy the selective fishing and bequeath this trait over an increasing share of the stock.

I think that another reason for having inadequate science in charge for so many years is that the "peer reviewing" of publications and scientific reports is being done by scientists, however independent, who come from the same discipline and the same, prevailing school of thought as the authors. Thus, assessments made on the basis of statistical models are reviewed by statistical modellers, who obviously believe in their basic methodology, but not by scientists who may think that the whole existing modeling methodology cannot produce reliable results.

NEWS from *BoatUS*—November 14, 2012—Boat Owners Association of The United States

FOR IMMEDIATE RELEASE

Press Contact: D. Scott Croft, 703–461–2864, SCroft@BoatUS.com

Over $650 Million in Estimated Losses to Boats Makes Storm Single Largest Disaster for Recreational Boats on Record

Boat Owners Association of The United States estimates that Hurricane Sandy's damage to recreational boats will reach $650 million, with over 65,000 boats damaged or lost, like these boats at a marina on Great Kills Harbor, Staten Island NY.

STATEN ISLAND, NY, November 14, 2012—The nation's largest group of boaters, Boat Owner's Association of The United States (BoatUS), estimates that over 65,000 recreational boats were damaged or lost as a result of Hurricane Sandy. BoatUS also estimates that dollar damage to all recreational boats (only) is $650 million, making the late October storm the single-largest industry loss since the Association began keeping track in 1966. A video of the BoatUS Catastrophe response team on the ground in New York and New Jersey can be found at http://youtu.be/TGoCBe6ObpA.

"We are all reeling from the huge impact this storm has had on communities and people's lives," said BoatUS AVP Public Affairs Scott Croft. "We've never seen anything like it. The scope of the damage to boats is unprecedented, affecting large areas from the Atlantic seaboard as far inland as the Great Lakes, with the majority of damage in New Jersey, New York and Connecticut. The combination of boats stored ashore at low elevations and record high surge levels caused hundreds, if not thousands, of boats to float away into neighborhoods, parks and marshes. The tri-state coastline left no place for the surge to go, but up. While some boats that stayed in the slips did fine, other boats tied to floating docks simply lifted off too-short pilings and floated away—still tied to the dock. Some vessels never made it out of their slip and rest on the bottom."

The BoatUS Catastrophe Response Team reports that the marine community has rallied to gain the upper hand on the recovery process. "If there is a story to tell, it's about how the boating industry got together immediately after the storm to help each other out and get boats back in their place," said BoatUS Catastrophe Team Member Jack Hornor. While some New Jersey barrier islands continue to restrict access delaying boat recovery efforts, some marinas, boat clubs and yards have recovered their customers' boats and put them back on blocks to undergo damage assessments. Many boating facilities, especially those on New Jersey's coast, Staten Island and western Long Island, sustained significant damage to infrastructure such as docks, workshops, clubhouses and equipment, which will likely have an impact on the 2013 boating season.

BoatUS estimates over 32,000 boats were damaged in NY, followed by New Jersey's 25,000, Connecticut's 2,500 and 6,000 remaining in various states. Dollar damage to recreational boats (only) in New York is estimated at $324 million, followed by $242 million in New Jersey and $23 million in Connecticut. Previously, in the 2005 storm season, Hurricane Wilma and Katrina damage was estimated at over $700 million combined.

As with any storm, the BoatUS Marine Insurance Program will be investigating hurricane damage prevention measures taken by boaters and possible new solutions, but one early indication is that boats tied-up to protected floating docks with tall pilings had the best chance of survival with Sandy. "However, you can't base a hurricane preparation plan on one storm. While storm surge was the biggest factor here, wind and rain can be major factors in the next one. Hindsight is only good if you look at the bigger picture," said BoatUS Director of Technical Services Bob Adriance.

One new factor that is affecting post-hurricane boat recovery efforts? Snow. BoatUS reports there is some concern in the industry that storm damaged vessels may not be winterized in time with the arrival of colder weather.

Senator BEGICH. Thank you very much.

Let me thank you for your, all three of your testimony and we'll have a little bit of time here to ask some questions, so I'm going to turn to Senator Blumenthal, whose joined us, and we appreciate his attendance, so we'll turn to him for his first line of questions.

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

Senator BLUMENTHAL. Thank you, Senator Begich and thank you for chairing this subcommittee meeting and thank you to Senator Schumer for helping to convene it and to each of you, the witnesses who are here now and the prior panel.

I am very concerned, not only about the stock that exists naturally, but also about aquaculture, that is, efforts to increase the ability of our region and our nation to, in effect, grow the sources of seafood, food from the sea. Particularly in light of the challenge

that we face, the Food and Agriculture Organization of the United Nations is predicting that we have to double our seafood supplies by 2050 to meet expected demand from around the world, including in this country. The general population growth is expected to make that challenge necessary to meet and a lot of experts are saying that aquaculture has to be a primary driver of the supplies necessary to meet that extraordinary demand.

So let me begin, perhaps, with you, Mr. Hasbrouck, to ask whether you think that currently we devote enough resources, right now it's a very, very small part of our Federal budget, I think NOAA spends a fraction of its $5 billion budget on this objective, and whether we should be spending more on this kind of aquaculture effort?

Mr. HASBROUCK. Thank you, Senator Blumenthal.

I'd just like to point out, before I directly answer, that I was born and raised in Connecticut and all my interests in fisheries and marine science to my youthful activities along the beaches of Stratford and Milford in the tidal estuaries of the Housatonic River.

Senator BLUMENTHAL. Thank you. And we welcome you back anytime.

Mr. HASBROUCK. Thank you. I still have a lot of family in Connecticut.

Senator BLUMENTHAL. Wonderful. You look like a real expert to me. I didn't know that Connecticut roots were part of it.

Mr. HASBROUCK. It's from my roots in Connecticut.

I agree that we should be spending more money on aquaculture and that there are probably a lot more opportunities for aquaculture. Aquaculture is being practiced in more extent in other parts of the world. We do have some aquaculture taking place. A lot of it is relative to shellfisheries. As you know, oysters were at one time a tremendous industry in Connecticut as well as New York. That industry now is based a lot on aquaculture. So we've made great strives in shellfish culture, not only with the oysters, but hard clams and recently with bay scallops, but I think there's a lot more opportunity with fin fisheries. We need to take a look at what impacts there may be to the environment of large-scale aquaculture facilities, but I think we have the ability to do that. I think we also need to make sure that any fills fish culture utilizes local wild stock as broodstock.

An issue with aquaculture is high cost of electricity, especially in New York, and I think Connecticut has high electrical costs, as well. In terms of the shore-side support facility for aquaculture, I just mentioned that as a fact of life, essentially the cost of electricity for running pumps and so forth, but yes, I think we need to have more emphasis and more funds toward aquaculture.

Senator BLUMENTHAL. As you may know, the half shell market and shellfishing is still a very vibrant and important industry. As a matter of fact, it produces about $30 million and employs 300 people in the state of Connecticut, many of them in the Milford, Stratford area where you're from, and so I very much appreciate that answer, and the National Marine Fisheries Service spent about .07 percent last year on aquaculture research which is about $5.5 million out of the budget of almost $5 billion, so there's a lot of potential, a lot of opportunity there.

I don't know whether any of the other witnesses have any comments on that issue?

Senator BEGICH. Mr. Fote.

Mr. FOTE. I've served, as I said, 17 years, the last 23 as either commissioner or the legislative proxy as a volunteer all these years on the Atlantic states. One of the biggest battles we had, going back about 10 years ago, is using foreign oysters and afraid of contamination of the stock going back and forth.

The other problem we have, I mean, clams, mussels, everything, like the shellfish seems to be the prime target with what goes on and it doesn't cause ecological damage that other species have with the amount of antibiotics and drugs that we have to put into the fish to basically put them in a those tight pens.

Yes, it's an important part and we should be looking at it, but it's something that's got to be done carefully. There's a lot of concerns about, you know, and—genetically engineered fish being put into the environment that will affect the other stocks of fish. So shellfish seems to be prime as long as we keep the native shellfish and not bring ones from around the world. And it's also how the invasive species have affected those stocks, also, but yes, I mean, it's a way of supplementing the food and who wouldn't be—if it wasn't for aquaculture, I wouldn't get the clams I want to eat or the oysters I want to eat. I grew up in Brooklyn so I used to eat at one of these fish markets in Sheepshead Bay where Senator Schumer probably had clams. I don't know if he eats clams because they're not kosher, but you know what I'm saying, that's the same fish market that we had.

Senator BEGICH. Very good.

Senator BLUMENTHAL. Thank you.

Senator BEGICH. Mr. Gilmore.

Mr. GILMORE. Thank you, Senator, and I'm not from Connecticut, I'm—was originally from the Bronx, so I apologize.

Actually, and I agree with most of the accounts, we need to put more into aquaculture, but one cautionary note here is that we got to make sure we maintain our wild populations and that we don't, in terms of, you know, advancing aquaculture, maybe impact those negatively. I think there are mistakes that can be, that were from the past in the inland fisheries that we had and essentially, we now have complete artificial populations, and just personally, wild fish tastes much better than aquaculture fish. So if we can maintain the wild populations but then augment that with aquaculture, I think that would be a good way to be going.

Thank you.

Senator BLUMENTHAL. Well, my time has expired, but I really want to thank all three of you. These comments have been really excellent, and I take to heart the caveats that have been raised by both Mr. Fote and Mr. Gilmore, and thank you, Mr. Hasbrouck, for being here today and for your excellent work on the program at Cornell. Thank you.

Senator BEGICH. Thank you very much.

Let me ask a couple follows-ups on that and then have a couple other individual questions.

I agree with your comments, especially on shellfish. We're doing some, as you know, in Alaska, but I've been one of those outspoken

critics of what we call frankenfish or genetically engineered fish because of the impact it could have and your cautionary notes are very well received. And I agree with you, Mr. Gilmore, we would always say in Alaska, wild caught is always better, and you know, there's a great effort, as you know, we've introduced a piece of legislation about traceability and I know there is some discussion about some of the work, on the last panel, in making sure that what we catch is what we eat, which is a big issue. And when you get into fish farming or agriculture, you have to be very careful with the impacts that could happen, but also what the consumer actually thinks they're getting at the end of the day, which is very important, so I appreciate your comments there.

Let me ask you, and it seemed to be a consistent commentary, and I'm just going to go right to the flounder issue, and that is, and correct me, and I tried to write down the numbers as quick as possible on the states, but it was, I think it was Virginia, Maryland had a higher percentage but they weren't getting caught, and New York has a lower percentage and sees more; is that a—I'm trying to summarize, New York-New Jersey, I should say that region; is that a fair summary, to Mr. Gilmore, to Mr. Fote?

Mr. GILMORE. Yes. Actually, the way, for the recreational fishery, the two highest states——

Senator BEGICH. Yes.

Mr. GILMORE.—are New York and New Jersey then followed by Virginia. The rest of the states only harvest between 3 and 5 percent, so the three big states are those.

Senator BEGICH. Of their percentage that's required or is that——

Mr. GILMORE. Of the percentage of that unequal distribution.

Senator BEGICH. OK.

Mr. FOTE. When we changed regulations and we started raising the size of fish, I mean, New York and New Jersey took a ride, you know, we got a pass in the early years because when we raised the size limit from—North Carolina, Maryland, and Virginia had 12-inch size limits. They went to 13 inches, they went to 14 inches. They lost the amount of fish they could catch under those size limits.

Senator BEGICH. OK.

Mr. FOTE. We started going to 15 and 16, they got more greatly impacted on what it is, so sometimes, if they don't see the bigger fish, some of that is not to do with climate change. Summer flounder's studies going back to the 60s show that as they get bigger, they do this kind of v-shape and move north.

Senator BEGICH. Gotcha.

Mr. FOTE. So smaller fish are available unless you can't catch them at 12 or 13 inches so some of them are migrating north before they can get caught by the southern states.

Senator BEGICH. Let me ask you, and I think you all said it a little bit there, this whole concept of the state-by-state allocation system. Again, give me your thoughts on that, does there need to be a reexamination, obviously, of that it seems, from at least some of the testimony, but give me, and we'll start here then kind of go down.

Mr. FOTE. The commission looked at state-by-state allocation because we realized coast-wide didn't work for states like Virginia, Maryland, and North Carolina. They were getting unfairly disadvantaged because of the small size fish that are predominantly in their waters for summer flounder. So we looked at a method that would basically be equitable to all, with a lot of deliberation on this, and we basically set—but we came up with a good system.

One of the problems with New York, as I pointed out in my written testimony, is they all of a sudden started having 200,000 more anglers and that's when they started pushing over, and I suggested that we give them a special allocation, back in 2004, and spread this out for the other years.

Senator BEGICH. Yes.

Mr. FOTE. Also, what happened is when we thought that the fisheries would be increasing, instead of when you put the SSC in charge, that we'd be up to about 30 or 40 million pounds of quota by now——

Senator BEGICH. Right.

Mr. FOTE.—that all the increases in quota above 29 million, what we were thinking about back then, was to be equally divided among the states.

Senator BEGICH. Gotcha.

Mr. FOTE. And catch up. But all of a sudden, we got into this crazy airs where they demanded the spawning stocks' biomass be so large before we could harvest any fish. And you know, one of the most frustrating jobs I've had in my life as a volunteer is this, because I never come back with good news. When I first got involved with fisheries and management, I thought because we did the right thing, we protected the stocks, we rebuild the stocks——

Senator BEGICH. It could go this way, yes.

Mr. FOTE. We would, basically, be allowed to harvest, both commercially and recreationally, more fish, and just the opposite. Recreationally, right now compared to 1994, a recreational angler in either states, any of the states along the coast are harvesting one-fourth the number of fish they harvested when the stocks were collapsed. The problem is those fish are so much bigger because we're forced to reel in bigger and bigger fish——

Senator BEGICH. Understood.

Mr. FOTE.—that it takes less fish to fill up that 200,000 pounds.

Senator BEGICH. OK.

Mr. FOTE. So, instead of getting—I'll give an example, it has nothing to do with it, but instead of getting five fish to do this, you're now getting one fish because you're catching bigger fish.

Senator BEGICH. Gotcha.

Mr. FOTE. And that's really the real problem. So the angler tries to go out for a day to catch fish is now getting the opportunity to bring a fish home because of the bigger size limits.

Senator BEGICH. Mr. Gilmore.

Mr. GILMORE. The state-by-state allocation was essentially something, as I said in my testimony, to try to correct, there was a downward, it was a decline in the stocks, so we had to do something, and the issue really came that we couldn't get out of this box. It was something we etched in stone and that was really the problem with it.

The other issue that surrounded it was not only was the MRFSS data suspect, but the MRFSS's data was originally designed to be the only estimate of the state-wide, or a coast-wide effort now from different anglers, whatever, it was never designed to be used on individual states. So we violated a statistical principle by even using that back in, you know, the early 2000s when this, this whole thing decided, you know, when we decided to go by state-by-state. So the idea was one where we, it just was that we did not allow an escape out of this, out of the box to essentially reevaluate the fishery and now we're stuck. Because once we set up an unequal quota along the coast, we really don't have any way to go back and say, well, what is the normal fishing——

Senator BEGICH. Right, what's the real baseline.

Mr. GILMORE. Correct.

Senator BEGICH. Right.

Mr. GILMORE. We need to establish a new baseline before we can actually decide what an appropriate distribution would be.

Senator BEGICH. Let me end on this comment and first say, I appreciate each one of you who did give recommendations and some ideas as we get ready to deal with some of these reauthorizations, especially the Magnuson-Stevens Act, which will be significant. And our approach is going to be to have regional as well as hearings here to make sure we walk through this very carefully because it has long-term impact, and fisheries is not something you turn off and on and I like the idea of trends versus every year going through this process of trying to figure out allocation numbers and I think it makes a big difference, so first, thank you for that.

Second, Mr. Fote, you made a very interesting comment, which I just want to put on the table, because I know some folks here in the Senate have heartburn when they hear the word "climate change". I do not. I think of one group that understands this more than most people is fishermen, because they're seeing the impact. We can argue why, but the fact is it's happening, and it's a combination of warming of waters and acidification of waters. These two things are having—in Alaska, which is, in my personal view, one of the more sustainable fisheries in the country, the two things that are impacting us that is hard to manage are these two things which, so for you to bring it up, I appreciate it. And it's important because I think the economic impact is significant, because if you're now in one region, the waters are warming, the fish are moving, you know, hypothetically, north. Those fishermen, that whole infrastructure that's built around that industry in one area now has potential of, I don't want to say collapsing, but having huge negative economic impact, and not recognizing that maybe it's moving north and what we have to do, depending on the species. And I think as we deal with this issue, people always ask me: What do I think about climate change?

Well, I look at it from an economic issue. Maybe it's fisheries or Sandy is a great example. You know, there—weather is changing and we have to figure out how to adapt to that. And fisheries, if I were to have asked this question of fishermen in Alaska half a dozen years ago, they would not really have it on their radar screen. They know some things were changing. When I ask them today, it's very clear that they're having impact and they, they're

not sure the answer, and that's the scariest part of all this, that what is the answer when your waters are becoming more acidified or you're dealing with warming trends that where you used to fish now you're having to go, and especially in Alaska, further north. That it's not usual for the type of species. Or some of the fish is not going further north, depending on, again, the species.

So, I want to thank you for kind of putting that on the table.

Please.

Mr. FOTE. One of the most important industries commercially in New Jersey is surfclam fishery. I live in, right by Island Beach State Park. That was one of the biggest grounds—we actually supplied at one point, it was 40 percent of the clams that we're eating around the country as clam strips. They have disappeared from that area because of warm water temperatures. They have moved further offshore. It has affected the commercial fishery dramatically in our area and just because of warm waters.

And we see the same thing with sand eels. When the sand eel population, they need a cold temperature to spawn and basically, when they disappeared during the 1980s and 1990s, that's when the bluefish populations went way down.

Senator BEGICH. Right.

Mr. FOTE. So we, we're seeing it and we're afraid of what's the consequences. Fishermen know it and we're looking for you for the answers.

Senator BEGICH. Right. Well, I appreciate the fact that you mentioned it, because I, you know, you know the controversy over what causes it and, again, I don't debate that. What I say is there's a changing temperature pattern, water and onshore, so what do we do, how do we manage this for the economic losses that could be accumulating at a rapid pace if we're not careful.

Please, Mr. Gilmore.

Mr. GILMORE. And if you look at the fisheries that, say, it's our best example, besides what Mr. Fote had mentioned, I mean, the lobster fishery in southern New England is in bad shape just because of climate changes. Look at the data, it's warmer water and they're all moving into the Gulf of Maine and that fishery is doing very well. And then we just heard a couple of weeks ago, we have blue crabs in the Gulf of Maine for the first time——

Senator BEGICH. This is unheard of.

Mr. GILMORE.—for the record. So it's, if you don't want to listen to climate change, watch the fish because that's what's telling us what's going on.

Thank you.

Senator BEGICH. Good point.

Mr. Hasbrouck.

Mr. HASBROUCK. As I mentioned in my testimony, summer flounder, like other species, are experiencing a change in migratory patterns based on ocean temperatures and this has resulted in a north ridge shift in the concentration of summer flounder——

Senator BEGICH. That's right.

Mr. HASBROUCK.—to the extent that some of the southern states, like North Carolina, Virginia, and Delaware, can no longer harvest their commercial quota because the fish are up——

Senator BEGICH. They moved.

Mr. HASBROUCK.—in the northern part of their range now——

Senator BEGICH. Yes.

Mr. HASBROUCK.—rather than down in the southern part of their range. And fish move based on temperature, food, and spawning.

Senator BEGICH. Right.

Mr. HASBROUCK. And spawning is usually based on temperature as well.

Senator BEGICH. Absolutely.

Mr. HASBROUCK. And if that's changing then the resource is changing.

Senator BEGICH. Again, thank you all very much and let me just check with staff.

We'll keep the record open for 2 weeks for additional questions that may be submitted by the Members, the Committee, to both this panel and the current, or the previous panel.

We want to thank you very much for being here. Thank you for helping us put some issues on the table, and as you'll see, this committee will continue to be pretty active, based with the new Ranking Member and myself, on dealing with issues in Magnuson-Stevens and other issues, so thank you all very much.

This hearing is adjourned.

[Whereupon, at 12:13 p.m., the hearing was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF HON. JOHN D. ROCKEFELLER IV,
U.S. SENATOR FROM WEST VIRGINIA

Before we begin the first hearing of the Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard in the 113th Congress, I want to congratulate Senator Rubio on his elevation to Ranking Member of the Subcommittee. Hailing from Alaska and Florida –the states with the two longest coastlines in the country– there is not a duo in this chamber more invested in and better equipped to navigate the important issues of the Oceans Subcommittee than Senator Begich and Senator Rubio. I look forward to engaging collaboratively with both them and the Subcommittee's other members, as has generally been the tradition with the work of this subcommittee and the Commerce Committee as a whole.

Collaboration is in fact the subject of today's hearing, which will take a look at how we manage our interjurisdictional fisheries resources. Though individual states have jurisdiction over the fisheries that occur within their maritime borders, the natural range of many species do not adhere to our political boundaries. These "fish without borders" require close coordination between various state, federal, and intergovernmental partners for management to be effective. And given the value the oceans' bounty provides our nation, it is crucial that we get it right. According to the National Oceanic and Atmospheric Administration, fisheries-supported industries provided nearly 1.7 million jobs and over $57 billion in income nationwide in 2011, the most recent year for which such statistics are currently available. In short, whether it's for livelihood or pleasure, fishing is an activity critical to our economic well-being.

Yet, I am concerned that the collaborative approach to managing our shared fisheries may be in jeopardy. Authorizations for a number of Federal statutes relating to interjurisdictional fisheries have expired, and updates to them may be warranted to reflect changing scientific and management needs. In addition, funding at both the Federal and state levels for much of the science that underpins management decisions has been flatlining or reduced in recent years. In some cases, it has disappeared altogether. I hope to hear from witnesses on how the Federal government can better partner with state interests to support interjurisdictional fisheries, whether through additional investments or new authorities. I also want to make sure that when it comes to using and managing these fisheries sustainably, everybody involved shares in the benefits and burdens fairly. Cooperation can only work when everyone shares in the sacrifices and rewards.

To that end, we will be receiving testimony from a number of federal, state, and intergovernmental partners and stakeholders today, including representatives from each of the three interstate marine fisheries commissions. As laboratories of management for their respective coasts, each of the commissions has their own unique role in the stewardship of their member states' shared fisheries resources. I look forward to hearing from them about what is going right and what improvements we can make. As the Committee looks to them for insight into the opportunities and challenges of interjurisdictional management, perhaps they can learn from each other's shared experiences in the process.

PREPARED STATEMENT OF HON. BRIAN SCHATZ, U.S. SENATOR FROM HAWAII

Thank you, Chairman Begich, for holding this important hearing. Fisheries hold great cultural and economic importance for my home state of Hawaii. The ocean in large part defined life for early Native Hawaiians as they used marine resources for their daily needs. They managed and conserved the fisheries by placing a "kapu," a law, forbidding people to catch certain fish. Fisheries remain critically important in Hawaii as they are a local source of healthy food and serve as a major economic driver.

Therefore, I am deeply concerned about the harmful impacts of sequestration on the National Marine Fisheries Service. As many of us know, the Federal government will not be able to carry out vital services, including managing and protecting fisheries in U.S. oceans, because of significantly reduced funding levels. Inadequate funding for the National Marine Fisheries Service will essentially mean that there will be less fish available to the public.

Drastic budget cuts will limit the resources National Oceanic and Atmospheric Administration's (NOAA) fisheries scientists need to conduct research for fishery stock assessments. Without the necessary information, NOAA's scientists will set lower catch limits to ensure that overfishing does not occur. Lower catch limits will mean that both commercial and recreational fishermen will catch fewer fish. And as a result, there will be less fish available in the marketplace. In addition, sequestration will also have a devastating impact on jobs. Fishing is an important industry in this country, especially in Hawaii. According to NOAA, recreational and commercial fishing accounted for more than one million jobs in 2009. We must work together to find ways to mitigate the effects of sequestration on our fisheries.

I look forward to working closely with NOAA and members of this Subcommittee to ensure that the National Marine Fisheries Service not only has much needed tools and resources to protect marine life, but is also equipped to effectively manage commercial and recreational fishing, which are so vital to the culture and economic growth of this country.

Thank you, Mr. Chairman.

PREPARED STATEMENT OF LARRY B. SIMPSON, EXECUTIVE DIRECTOR, GULF STATES MARINE FISHERIES COMMISSION

Established by both state and Federal statutes in July 1949, the Gulf States Marine Fisheries Commission (Gulf Commission) is an organization of the five states (Texas, Louisiana, Mississippi, Alabama, and Florida) whose coastal waters are the Gulf of Mexico. It has as its principal objective the conservation, development, and full utilization of the fishery resources of the Gulf of Mexico to provide food, employment, income, and recreation to the people of the United States.

One of the most important functions of the Gulf Commission is to serve as a forum for the discussion of various challenges and programs of marine resources management, industry, research, etc. and to develop a coordinated approach among state and Federal partners to address those issues for the betterment of the resource for all who are concerned.

Interjurisdictional Fisheries Management Program

As you are already aware, the Interjurisdictional Fisheries Act (IJFA) of 1986, as amended (Title III, P.L. 99–659), was established by Congress to: (1) promote and encourage state activities in support of the management of interjurisdictional fishery resources and (2) promote and encourage management of interjurisdictional fishery resources throughout their range. In essence, the IJFA is to the states what the Magnuson Act is to the Nation and the benefits of sound fisheries management under these acts do not accrue separately. The IJFA is probably the single most important Congressional act to professionalize the states' scientific staff within the marine resource agencies.

In addition to supporting resource management, the IJFA also allows Congress to provide assistance to the states in the event of a Fisheries Disaster under SEC. 113 in the form of funds and other economic assistance and does not require state match for financial relief. Following hurricanes Katrina and Rita, Congress passed an emergency disaster relief funding package that included $128 million for fisheries restoration. The package included funding to support restoration of oyster grounds, restoration of shrimp and other fisheries grounds, and cooperative research to restore fisheries. A second program was funded in 2007 in the amount of $85 million to provide assistance for individual commercial fishermen and fishery-related business and industry that continue to recover from the post disaster impacts.

In the Gulf of Mexico, nearshore species such as Spanish mackerel, striped mullet, blue crab, and oyster comprise the majority of the commercial and recreational harvest, resulting in significant social and economic benefits to the states and the Nation. In the last decade, nearly 80 percent of the Gulf's commercial landings and 90 percent of the recreational landings have come from state waters. In 2009, prior to the Deep Water Horizon disaster, 82 percent of the Gulf's total commercial fishery value was derived from state waters. The IJFA provides funding under Section 308(c) for the three interstate marine fisheries commissions to develop and revise interjurisdictional fishery management plans (FMPs) that are used by the states to

enact appropriate management strategies with conservation standards intended to maintain sustainable stocks into the future. IJFA funding supports the states' monitoring and assessment programs and other research efforts that gauge the health of various commercially and recreationally important fish stocks.

In the Gulf of Mexico, the IJFA is the cornerstone of the fishery management programs for the states and has provided the support for long-term databases for commercial and non-commercial crustaceans and finfish in the Gulf of Mexico. The fishery-independent databases are becoming more and more essential in state and Federal stock assessments and will be critical to future regional management success. The five Gulf States' long-term monitoring programs are funded to a large extent by the IJFA and provide the States the ability to gauge the health of commercially and recreationally important fish stocks in their waters. NOAA has established a Federal fisheries stock assessment process designated the SouthEast Data, Assessment, and Review (SEDAR) to develop reliable fishery stock assessments for the Gulf of Mexico and Atlantic regions. These assessments rely heavily upon the independent data provided by the states related to abundance indices of many species. As new stock assessment methodologies, such as ecosystem and food web approaches to management are explored and implemented, these state-derived data will be even more important. However, the ability to conduct stock assessments will hinge upon the quality and duration of these datasets which have been supported by the IJFA.

Under the IJFA language, the appropriations provided to the states to support their respective fisheries monitoring programs are determined by a formula based on a state's total marine fisheries landings. Based on the 2011 appropriations, the maximum allocation that any state could receive was approximately $100,000 and the minimum was approximately $8,000. The Gulf of Mexico had three 'maximum' states by volume and value.

The loss of IJFA funds in the Gulf region has resulted in drastically reduced support for the monitoring of our shrimp, crab, and finfish fisheries. The loss of IJFA has resulted in the elimination of other funding sources under the 1-for-1 match requirement, including contributions from limited state license revenues. Florida has lost three positions from their blue crab, shrimp, and horseshoe crab program which represents 40 percent of their crustacean research staff. Texas has reprioritized other funding to determine the status of their shellfish populations for formulating shellfish management and harvest regulations in coastal waters. Louisiana will be reprioritizing their sampling programs which may slow the development of appropriate management recommendations. Mississippi has been forced to reduce efforts in other state fishery programs to make up the difference to continue collecting long-term fishery-independent data. Alabama reports that the loss of IJFA funding has resulted in less efficient enforcement related to Alabama and Gulf of Mexico fisheries and the interactions of fishing activities among protected species.

In addition to the five States' fisheries monitoring, the IJFA also provides funding for the Gulf Commission to regionally coordinate inshore, state water fishery resources by the development of regional fishery management plans (FMP). The FMPs are used by the states to enact appropriate management strategies with conservation standards intended to maintain sustainable stocks into the future and provide coordinated support to get these management measures passed through their respective state commissions and/or legislative bodies. The Gulf Commission uses its limited IJFA funds to support the completion of regional stock assessments that are currently excluded from the Federal SEDAR program but required in regional FMPs. Finally, the funds from the IJFA also provide coordination for marine law enforcement in the five Gulf States which is critical to the enforceability of the regulations enacted by the states in accordance with the regional FMPs. However, the costs related to the Gulf Commission's IJFA activities have increased substantially in recent years, while the program has remained level-funded since 1998. The Gulf Commission currently has 16 species under management plans or profiles with 10 additional species identified for future plan development. Unlike Federal fisheries management council plan development, the states provide agency staff to participate on the plan's technical task force and draft the regional inshore plans. Meeting and travel costs have more than doubled over the last decade forcing IJFA staff to streamline its program using electronic formats and Internet access to supplement its activities. In future reauthorizations of the IJFA, considerations should be taken to fund the IFJA at levels appropriate to the cost of fisheries management for today and beyond.

SouthEast Area Monitoring and Assessment Program (SEAMAP)

The SEAMAP program is a State/Federal/University program for collection, management, and dissemination of fishery-independent data and information in the

southeastern United States. SEAMAP is a cooperative program whereby Texas, Louisiana, Mississippi, Alabama, Florida, South Carolina, North Carolina, Georgia, Puerto Rico, the U.S. Virgin Islands, the United States Fish and Wildlife Service, and the National Marine Fisheries Service jointly plan and conduct surveys of economically significant fish and shellfish and the critical habitats that support them. The main goal of SEAMAP is to collect long-term, standardized, fishery-independent data on the condition of regional living marine resources and their environment.

The program consists of three operational components; SEAMAP-Gulf of Mexico, which began in 1981; SEAMAP-South Atlantic, implemented in 1983; and SEAMAP-Caribbean, formed in 1988. Each SEAMAP component operates independently under annual joint coordination, planning and conducting surveys and information dissemination.

SEAMAP has sponsored long-term (1982 to present) and standardized research vessel surveys that have become the very backbone of fisheries and habitat management in the region. The long-term dataset obtained through SEAMAP surveys provides the ONLY region-wide mechanism for monitoring the status of populations and habitats. Through its cooperative nature, SEAMAP has the ability to sample the entire coastline from North Carolina through Texas during the same time period and describe the distribution and abundance of fish populations throughout their range in order to better evaluate the status of recreational and commercially utilized fish stocks.

Current SEAMAP surveys include coastal shrimp and finfish trawl surveys (Gulf and South Atlantic), reef fish trap, hook and line, and video surveys (Caribbean and Gulf), inshore bottom longline (Gulf), bottom mapping/essential fish habitat data compilation (South Atlantic), spiny lobster, queen conch, and whelk surveys (Caribbean), annual plankton surveys (Gulf), and a striped bass winter tagging project (South Atlantic).

SEAMAP data has been used to assess long-term trends in coastal marine species, linking population trends with changes in environmental conditions such as global warming, nutrient enrichment, and overfishing. The data is used to document and define Essential Fish Habitat in the fishery management plans for the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils. SEAMAP provides long-term monitoring of juvenile red snapper abundances for the red snapper stock assessments.

SEAMAP data has been used to identify and verify the recovery of Gulf and South Atlantic king mackerel stocks, leading to increased fishing quotas, prove the need to eliminate Japanese longline fishing for Atlantic bluefin tuna in the Gulf of Mexico, and determine population size structures, abundances, and necessary information for stock assessments of Atlantic croaker, queen conch, spiny lobster, Spanish mackerel, whelk and weakfish.

SEAMAP data has been used to evaluate the abundance and size distribution of penaeid shrimp in Federal and state waters to assist in determining opening and closing dates for commercial fisheries, assess the impact of the Deepwater Horizon disaster on marine species in the Gulf of Mexico through the Natural Resource Damage Assessment (NRDA) program, and conduct surveillance of hypoxia (Dead Zone) in the Gulf of Mexico that continues to threaten the marine resources of Louisiana and adjacent states. Finally, data collected through SEAMAP programs have been used by Federal and state fishery managers, Universities, research agencies, and others, to expand the knowledge on species life histories, define essential fish habitat, develop fishery management plans, and determine the impact of fishery regulations.

In order to continue these important fishery-independent sampling efforts, expand current surveys, and begin new surveys to provide fishery-independent data on red snapper, shrimp, grouper, king mackerel, blue crabs, sharks, striped bass, weakfish, spiny lobster, queen conch, and other species that support the economies of the Southeast region, adequate resources need to be allocated towards these efforts. Without continued funding to support SEAMAP, the Southeast region will lose its only region-wide mechanism for monitoring the status of marine populations and habitats.

Fisheries Information Network (GulfFIN)

The GulfFIN program is a State/Federal cooperative program to collect, manage, and disseminate statistical data and information on the marine commercial and recreational fisheries of the Southeast region. It consists of two components: the Commercial Fisheries Information Network (ComFIN) and the Recreational Fisheries Information Network (RecFIN).

The need for a comprehensive and cooperative data collection program has never been greater because of the magnitude of the commercial and recreational fisheries

and the differing roles and responsibilities of the agencies involved. GulfFIN, through the Texas, Louisiana, Mississippi, Alabama, and Florida marine agencies, the Gulf Commission, and NOAA Fisheries, has coordinated activities such as collection, management, and dissemination of marine recreational fisheries data; collection of catch and effort for head boats; collection of menhaden catch/effort data; operation of the GulfFIN Data Management System; implementation and operations of state commercial trip ticket programs; and sampling and analysis of biological data for commercial and recreational catches. These data collection activities have led to significant improvements of commercial and recreational data that has allowed managers to address some of the necessary management needs.

However, adequate fiscal resources need to be allocated for the current activities as well as expansion of current efforts and implementation of new data collection endeavors, ensuring that the best data is available for critical management decisions. Better data allows managers to make more informed decisions leading to better management of these essential natural resources.

Gulf Seafood Trace Program

In the wake of the *Deepwater Horizon* disaster, the Gulf Commission, with funding and assistance from NOAA Fisheries, developed Gulf Seafood Trace, a regional electronic traceability program. Launched in March 2012, the Gulf Seafood Trace is a groundbreaking tool for promoting seafood from the U.S. Gulf of Mexico. The electronic, internet-based program aims to drive demand for Gulf seafood products from both seafood buyers and consumers by communicating its Gulf source (thus differentiating from imports), telling its unique story, and sharing key information from vessel to plate or shelf.

The program is comprised of three parts: an Electronic Traceability Platform, a Data Quality and Confirmation Component, and a Marketing Module. The use of an Electronic Traceability Platform builds off of the current electronic trip ticket seafood landing system and empowers the seafood market with the ability to access reliable trace data that has been approved and shared by each business in the supply chain. The implementation and utilization of a Data Quality and Confirmation Component helps to ensure the quality and reliability of the shared data. The Marketing Module allows seafood businesses to tell the compelling and unique story about their Gulf seafood to consumers. The components of the program are powered by Trace Register™, an electronic seafood traceability company.

Participation in the Gulf Seafood Trace program is voluntary, and is currently offered at no cost to qualified, Gulf seafood businesses through the end of 2014. To date, 56 businesses have enrolled in the regional program, representing approximately 25 percent of the Gulf seafood processors.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV TO ROBERT BEAL AND ANSWERED BY THE ATLANTIC STATES MARINE FISHERIES COMMISSION

Interjurisdictional Fisheries Management

Under the current spend plan for programs under the Interjurisdictional Fisheries Act, the statute's grant program, which supports fisheries science at the state level, has been zeroed out since FY2012. Funding for the Commissions to produce fishery management plans has largely been level going back to at least FY08.

Question 1. Beyond funding issues, are there updates to statutes like the Interjurisdictional Fisheries Act and other interjurisdictional statutes that would help support the Commission and States' management efforts?

Answer. The Interjursidictional Fisheries Act, as well as the Atlantic Coastal Fisheries Cooperative Management Act and the Atlantic Striped Bass Conservation Act have provided the states the opportunity to form successful partnerships among themselves and with their Federal counterparts, to carry out their public trust responsibility of sustainably managing shared marine fishery resources. All three of these laws are effective, efficient, and continue to achieve the Congressional objective of supporting and enhancing fisheries management across state and Federal boundaries.

The Interjurisdictional Fisheries (IJF) Act recognizes the states' role in ensuring fisheries management activities across the state/federal jurisdictions along the Atlantic, Pacific, and Gulf coasts. These grants, though some may be small, have been successfully leveraged by the states to boost their survey, data collection, and monitoring abilities, including Northern shrimp and American lobster sampling in New England; monitoring state quotas of black sea bass, summer flounder, and striped

bass in the Mid-Atlantic; and surveying flounders, drum, shrimp and crabs in the South Atlantic.

Through initial passage of the Atlantic Striped Bass Conservation Act (Striped Bass Act) and the hard decisions and sacrifice by the states and the fishermen, the Atlantic striped bass fishery is a success story. The authorization provided by the Striped Bass Act required the Atlantic States Marine Fisheries Commission (Commission) to facilitate state action to recover the collapsed striped bass stock in the 1980s. The fishery management plan, agreed to, implemented, and enforced by the states, has sought to provide protection to the spawning populations. These protections have in turn resulted in renewed recreational and commercial fishing opportunities as well as expanded economic benefits to coastal communities throughout the range of the stock.

The success of the Striped Bass Act paved the way for the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act), which empowered the Commission to facilitate development and implementation of mandatory conservation measures for all of its interstate plans. This management process has given our states the tools they need to make sound management decisions, providing for sustainable fisheries for both recreational and commercial fishermen along the coast.

Some stakeholders have suggested that guiding principles, akin to the Magnuson-Stevens National Standards, should be added to the Atlantic Coastal Act. While these guiding principles would likely be less prescriptive than the Magnuson-Stevens National Standards, there is a delicate balance needed when considering Federal mandates on the management of state fishery resources. The Atlantic States Marine Fisheries Commission feels these statues are generally functioning well and would not benefit from significant updates. Although beyond the scope of this question, the need for adequate funding is critical to the effectiveness and continued success of interjurisdictional management of shared resources.

Question 2. In your opinion, how well has the Commission been able to work collaboratively to overcome inconsistent state fishery management issues?

Answer. Each of the interstate fishery management plans (FMPs) developed by the Commission provides minimum compliance standards for each state. The states are often provided considerable flexibility to meet the needs of their stakeholders while achieving the compliance standards. This This flexibility is one of the hallmarks of the Commission's success, however it does, at times, create inconsistencies in regulations among neighboring states that need to be addressed.

Collaboration and cooperation are the very principles upon which the Commission was founded. It has a 70-year history of effectively bringing the states together to address state, regional and coastwide issues. Operating under the principles of fairness and equity, the states seek outcomes that maximize the benefit to all versus the benefit to one state or region.

The state allocations included in many of the FMPs are based on states' landings history during an agreed-upon base period. The Commission has initiated a review of some FMP allocations to determine if the base period is still appropriate given the current abundance trends and fisheries practices. For example, a working group was developed to explore alternative management strategies for the summer flounder, scup, and black sea bass recreational fisheries. It is anticipated that the products of this working group will be considered when establishing the 2014 summer flounder recreational management program. Also, the Commission has tasked its Management and Science Committee with evaluating the impacts of changing ocean conditions including increased water temperature on the geographic distributions of fish stocks. The results of this evaluation will be considered by the Commission to determine if current allocations should be reconsidered.

Question 3. Can you identify any gaps in regulation and management of migratory fish stocks between jurisdictions? How would you propose to address those shortcomings?

Answer. Overall, the state, interstate, and Federal management efforts along the Atlantic coast are well coordinated resulting in comprehensive management programs throughout the range of most species. The Commission maintains FMPs for eight species that are also managed by the Atlantic coast regional fishery management councils. These joint and complementary FMPs ensure consistent management programs in state and Federal waters.

Over the past several years, the Commission has significantly advanced our assessment efforts on shad, river herring (alewife and blueback herring) and American eel with the completion of benchmark assessments for all three species groups. Further, the states (through the Commission) have initiated management responses to all three assessments, mandating a moratorium on fishing for shad and river herring in the absence of state-specific sustainable FMPs and proposing changes to

state eel fisheries. The Commission has also worked closely with the Mid-Atlantic and New England Fishery Management Councils to address bycatch of river herring in small mesh fisheries that occur in Federal waters.

The membership of the Commission and the regional councils has considerable overlap including state and Federal fishery managers, stakeholders, and Commission staff. This overlap provides a critical link in cooperative management efforts.

While there are many positive example of effective coordination and collaboration, I would offer that improvements could be made in the state/federal coordination of endangered species/protected resources and highly migratory species (HMS). Recent activities such as the listing of Atlantic sturgeon under the Endangered Species Act (ESA) and proposed coastal shark management changes have left the Atlantic coast states frustrated by the lack of collaboration between NOAA Fisheries and the states.

The recent listing of Atlantic sturgeon as threatened/endangered under the ESA is a highly visible example of a missed opportunity for greater collaboration. The states could have provided additional information and insight on the population status and biology of Atlantic sturgeon. While this collaboration may not have changed the listing decision, there would have been greater confidence among the stakeholders that NOAA Fisheries was fully informed during the process. The states also request greater transparency and collaboration, including data sharing during the development of response plans.

Another opportunity for improved collaboration is the management of coastal sharks. In response to a request from NOAA Fisheries, the Commission adopted an Interstate FMP for Atlantic Coastal Sharks to complement Federal management actions and increase protection of pregnant females and juveniles in inshore nursery areas. Following the approval of the Interstate FMP, NOAA Fisheries HMS Division made a number of changes to the Federal management program with limited opportunity for state input and collaboration on these decisions. . The states' primary opportunity for input is through the HMS Advisory Panel process, where states are seated with other stakeholders. Further, HMS public comment opportunities frequently do not overlap with a Commission Meetings to allow for the development and submission of a unified state position. Given that the states have invested considerable resources to manage shark species at the state-level, they would like a reasonable opportunity to provide input on HMS activities.

Seafood Traceability I

Through a cooperative agreement with the National Marine Fisheries Service, the Gulf Commission has established a voluntary, regional seafood traceability program called "Gulf Seafood Trace". Though Gulf Seafood Trace is in its infancy and has an uncertain future, the program holds great promise as a value-added service for both producers and consumers in the way it distinguishes traced seafood from competitors.

Question 4. Has the Atlantic Commission explored the possibility of doing something similar to the Gulf Seafood Trace Program?

Answer. The Commission has not explored a comprehensive traceability program similar to Gulf Seafood Trace. A few states, for specific fisheries, have considered traceability programs as part of sustainability certification programs. The Commission and its member states are participating in the national dialogue on seafood marketing, traceability, and sustainability with the goal of improving the economic return of domestic fisheries.

Seafood Traceability II

The brilliant thing about Gulf Seafood Trace is that it "piggy-backs" on the electronic trip ticket systems that the Gulf Coast States already have in place to track landings as a part of their conservation efforts. As I understand it, Gulf Coast fishermen filling out an electronic trip ticket have the option, with just an additional click of a button, of providing basic information regarding the species and date of their catch, as well as the general fishing area where it was caught, to the Gulf Seafood Trace system. The information is available to processors, distributors, retailers, and ultimately consumers, thereby assuring the integrity of the product and enhancing its value throughout the supply chain. The Pacific Coast States have a Pacific Fisheries Information Network that could be capable of serving as a conduit for basic traceability information for fish landed in Alaska, Washington, Oregon, and California.

Question 5. Is there any kind of electronic trip ticket "back-bone" capable of serving as a similar conduit for basic traceability information for fish landed on the Atlantic Coast?

Answer. Since the mid1990s, the states have focused on collecting comprehensive catch and effort data through the Atlantic Coastal Cooperative Statistics Program (ACCSP). ACCSP is a cooperative state-federal marine fisheries statistics data collection program that integrates data into a single data management system to meet the needs of fishery managers, scientists, and fishermen. In 2005 in response to the needs of its' partners, the Standard Atlantic Fisheries Information System (SAFIS) was created by ACCSP. An on-line electronic reporting system, SAFIS is designed to meet the increasing need for accurate, real-time commercial landings data necessary for quota and compliance monitoring. In addition, SAFIS enables data, collected under the authority of the associated program partners, to be transferred directly into the ACCSP Data Warehouse (the on-line database populated with fisheries dependant data supplied by the program partners). ACCSP is comparable to the Pacific Fisheries Information Network and the Gulf Fisheries Information Network.

The data collected through SAFIS could serve as the foundation for an Atlantic coast seafood traceability program. In some instances, additional data elements would need to be collected. However, with these enhancements, ACCSP could provide the value-added service of traceability for both producers and consumers.

It is important to remember; the Gulf Seafood Trace system was developed as a component of the Gulf States Commission's Oil Disaster Recovery Program and was supported through funds derived from the Deepwater Horizon oil spill. While the ACCSP can provide the foundation for a traceability program, additional resources would need to be secured to fund the effort. There are many funding options that can be explored, including partial funding by industry. With additional time, we can estimate the cost of establishing a program similar to Gulf Seafood Trace.

ASMFC and Judicial Review

The Atlantic Coastal Fisheries Cooperative Management Act contains specific procedural and substantive requirements for rules issued by the Commission, as do the Commission's own rules and regulations and the Interstate Fisheries Management Program Charter.

Question 6. What administrative recourse do regulated individuals have in order to challenge the Commission's regulatory actions?

Answer. The Commission's procedures concerning the formulation and amendment of FMPs provide for broad rights of participation for all persons and entities whose interest may be affected (see Interstate Fisheries Management Program Charter ("Charter"), §§ 1(c)(2), 4(e)(2), 6(a)(6); ASCMC Rules and Regulations, Art. II, § 1; Art VI, § 3). This public participation typically involves the opportunity to review proposed or draft policies; to submit written comments; and to attend and present oral and written comments at public hearings.

Once a plan or plan amendment has been finally adopted, the Commission's procedures do not provide for further administrative recourse for interested persons or entities that are not member states. Under the Commission's Appeals Process, any member state or group of member states may obtain a review of a management board's decision by the Commission's Interstate Fisheries Management Program Policy Board (see Charter, 3(d)(9), 4(h); ASMFC, Appeals Process (August 18, 2004)). The grounds on which appeals may be pursued include claims that the decision of a management board is not consistent with the relevant FMP or failed to follow applicable procedures.

The Commission does not directly regulate individuals; rather, it promulgates FMPs that member states implement pursuant to state law, by means such as adoption of regulations or enactment of regulation. Those plans frequently afford states considerable flexibility as to the choice of means for implementing plan requirements. Parties subject to state administrative action that implements Commission FMPs may be able to challenge those state decisions under state law, to the extent that the challenge does not seek to overturn required elements of a Commission FMP.

Question 7. After exhausting all administrative recourse available to them, do regulated individuals or others have the right to challenge the Commission's regulatory actions in state or Federal court, either on the grounds that the Commission failed to conform to its procedural or substantive requirements, or on other grounds?

Answer. As courts have uniformly held, there is no Federal right of judicial review of Commission FMPs (see *New York* v. *Atl. States Marine Fisheries Comm'n,* 609 F.3d 524 (2d Cir. 2010); *Martha's Vineyard/Dukes Cnty. Fishermen's Ass'n* v. *Locke,* 811 F. Supp. 2d 308 (D.D.C. 2011), *appeal dismissed,* 11–5311, 2012 WL 1922402 (D.C. Cir. May 14, 2012)).

This understanding has persisted throughout the Commission's more than 70 years of existence, including 20 years under the management regime set forth in

the Atlantic Coastal Fisheries Cooperative Management Act, 16 U.S.C. §§ 5101, *et seq*. The carefully designed institutional mechanism set forth in the Compact and related laws, rather than litigation, has served as the central means of providing oversight of the Commission's fishery management decisions.

This longstanding practice reflects the fundamental ways in which the Commission differs from administrative agencies such as the National Marine Fisheries Service or state wildlife agencies. The Commission is an interstate compact organization that exists by virtue of the congressionally-approved agreement of the member states and those states' continuing assent and support. The Commission's structure—including state delegations composed of a top state fishery management official; a state legislator, and a public representative (see Compact, Art. III)—is designed to ensure broad representation of affected interests in a manner somewhat akin to a legislative body and markedly different from most administrative agencies.

The Commission, moreover, is subject to a variety of checks that administrative agencies typically are not, including the need for policies to secure the support of a majority of state delegations representing a broad array of stakeholders; the absence of any means of enforcing its own management measures (and the requirement, discussed below, that the Secretary of Commerce make formal findings subject to strict procedural requirements before the Department of Commerce may enforce Commission plans), and the ability of member states to withdraw from the Compact (see Compact, Art. XII).

Furthermore, while there is no private right of judicial review, member states stand in a much different position. Precedents under the Compact Clause indicate that in appropriate circumstances compacting states may sue to enforce their rights under the Compact (see, *e.g., Oklahoma* v. *New Mexico,* 501 U.S. 221, 245 (1991); *Texas* v. *New Mexico,* 462 U.S. 554, 569–70 (1983); *State of Nebraska* v. *Central Interstate Low-Level Radioactive Waste Compact Comm'n,* 187 F.3d 982, 985 (8th Cir. 1999)). Furthermore, Federal precedent affirming the absence of a private remedy for certain statutory violations indicates that, even when individual right to sue does not exist, that the Federal Government is entitled to bring suit to remedy violations of Federal statutes. See *Alden* v. *Maine,* 527 U.S. 706 (1999).

Question 8. If regulated individuals currently cannot appeal final administrative decisions of the Commission in state or Federal court, given that the ASMFC has the ability to enforce its recommendations on member states through a Federal moratorium, do you agree ASMFC decisions should be subject to some form of judicial review?

Answer. The statement that the Commission has "the ability to enforce its recommendations on member states through a Federal moratorium" is not accurate. Under the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act), if the Commission determines that a member state is not in compliance with the provisions of a FMP, it notifies the Secretary of Commerce (see 16 U.S.C. § 5105(a), (b)). The Secretary shall then determine whether the state is out of compliance with the relevant FMP and "if so, whether the measures that the state has failed to implement and enforce are necessary for the conservation of the fishery in question." *Id.* § 5105(a), (b). If the Secretary makes those findings, the Secretary declares a moratorium and promulgates Federal regulations governing the moratorium. *Id.* § 5106(c).

Thus, before any moratorium may be imposed, the Secretary must make independent determinations of noncompliance and conservation need. It is the Federal agency that declares the moratorium, which is then implemented pursuant to Federal regulations. Because the Secretary's actions in declaring a moratorium and promulgating regulations to give effect to the moratorium are "agency actions" under the judicial review provisions of the Administrative Procedure Act, 5 U.S.C. § 706, parties adversely affected or aggrieved by a moratorium could obtain review of the Secretary's decisions in Federal court. That review could, in appropriate cases, include challenges to the Secretary's determinations as to whether the ASMFC management plan provisions in question are "necessary for * * * conservation."

While Federal law thus provides an opportunity for judicial review of the Secretary of Commerce's action to enforce compliance with a FMP, creating a private right to judicial review of Commission FMPs would represent a significant departure from longstanding practice and would raise a number of serious concerns, a few of which are briefly outlined here.

Adding judicial review of Commission plans could be problematic from the perspective of the Commission's central mission of ensuring healthy, self-sustaining Atlantic fisheries. The Commission manages 25 fish species and is continually amending and reevaluating plans to take account of changing stock statuses and new data. Litigation, and litigation delays, could complicate and disrupt that process, and compromise some of the flexibility and responsiveness that have often been important

features of effective coastal fishery management. Litigation schedules are poorly suited to fishery management needs.

The Commission currently directs its staffing and financial resources primarily toward developing sound scientific information and administering the interstate fisheries management process. The Commission's small staff is principally focused on compiling and analyzing fisheries data and managing its public processes. The Commission does not employ any legal staff (in the Commission's relatively rare participation in litigation, it has been represented by outside counsel). Judicial review would also likely be highly resource-intensive, and would either divert already stretched Commission resources, or require major expansion of the Commissions resource allocations from states or the Federal Government.

Furthermore, introducing the ready option of court challenges to fisheries management decisions would likely undermine a collaborative management process that has proven successful over many years. Fisheries management decisions tend to involve inherently complex technical determinations that must be made under conditions of uncertainty and where it is certain that important private interests will be affected no matter what decision is made. The Commission's current process orients all participants toward reaching common ground and finding practical solutions that can carry broad support among the Atlantic coastal states and the many varied stakeholders.

The availability would divert the focus and energy of these many stakeholders—which include not only commercial and recreational fishermen and groups, but also conservation groups, community organizations, and others—away from finding practical and effective management solutions and toward prosecuting (or defending against) court challenges. Creating a right of judicial review would make these various groups, who often have significantly divergent interests and outlooks, less likely to cooperate and compromise and more likely to dig in theirheals or "hold" out in hopes for achieving complete victory in litigation. The Commission's carefully crafted public process—rather than being the central forum for deciding difficult questions of fishery management—could become a mere preliminary to the litigation phase, which would be perceived b all as the main event. This would represent a significant, unwelcome and problematic departure from a management regime that has been remarkably successful for many years.

Finally, imposing such a judicial review regime on the Commission member states without their consent and support would raise serious questions of interstate compact law and federalism. It is important to note that, when Congress, in passing ACFCMA in 1993, added significant new provisions affecting the Commission's responsibilities, it did only after lengthy consideration and after experience had clearly indicated that difficulties in implementing Commission FMPs had seriously hampered coastal fishery management efforts. Furthermore, the Atlantic Coastal Act, including its carefully limited obligations on the Commission, its provision for Federal support for but not takeover of the Coastal States' cooperative management efforts, and the carefully crafted enforcement mechanism described above—enjoyed broad support from the Commission member states and the Commission itself (see Statement of Philip G. Coates, Chairman, ASMFC, Hearing Before the Subcommittee on Fisheries Management, of the House Committee on Merchant Marine and Fisheries, on H.R. 2134 at 10–11, 53–60 (Serial No. 103–25) (May 19, 1993)). In contrast, there has not been any compelling case of a need for any such significant revision with respect to judicial review; indeed, it seems highly unlikely that provisions ostensibly creating rights of judicial review would command support from the Commission or its member states.

Question 9. What concerns with judicial review, if any, would the Commission have, and can you recommend judicial review limitations or alternatives that would balance effective management with due process for affected individuals?

Answer. We cannot concur with any suggestion that Commission's current fishery management practices have deprived affected stakeholders of "due process" either in the constitutional sense or in the everyday sense of basic fairness. The Commission's decision-making is marked by a high degree of transparency and an extensive public process that typically affords stakeholders multiple opportunities for meaningful participation, both directly and through the state delegations represent them. (Indeed, the Commission's structural features and decision-making processes provide those affected considerably greater opportunity for involvement and protection than the administrative agencies to which it is sometimes likened). The Commission has, we believe, continued to fulfill its duty to make inherently difficult fishery management decisions—which are inherently difficult and sometimes highly contested—in a manner that affords meaningful participation for and fair treatment of all affected stakeholders.

Finally, as noted, the Commission is an organization composed of—and resting upon the consent and support of—its member states. Any major change in organizational structure and practice such as a proposal to create a private right of judicial review of fishery management decisions would, at a minimum, require careful consideration by, and the approval of, the member states. But given the concerns briefly explained in response to the previous question, we are quite skeptical that t of private right of a judicial review would improve the quality of fishery management, and we believe such a change would come at significant cost in terms of the Commission's core mission and its historic strengths.

External Participation in the Commission's Technical and Scientific Processes

Question 10. It is my understanding that the Commission is developing guidelines for participation in technical committee meetings and stock assessment workshops by experts advising industry and non-governmental stakeholders. At the Federal level, many regions allow appropriately credentialed experts a reasonable opportunity to effectively participate in these types of discussions. Will the Commission be considering making similar allowances in its new guidelines? If not, what is the rationale for excluding valid scientific opinion, expressed in open scientific debate?

Answer. Earlier this year, the Commission updated its existing 'Technical Support Group Guidance and Benchmark Stock Assessment Process' document that has defined participation in Commission technical meetings since the 1990s. (*http://www.asmfc.org/publications/ASMFC_CommitteeGuidanceAssessmentProcess_May2013.pdf*). It provides guidelines for public participation in the Commission's technical and stock assessment processes. Overall, the guidelines strive for openness and transparency, while ensuring the integrity and rigor of the scientific process is upheld.

The Commission welcomes valid scientific input to its stock assessment and other technical processes, recognizing the best science is often produced via thorough and constructive debate among all scientific parties. The Commission's guidelines for technical committee meetings allow for participation by the public, including experts who advise industry. Following are relevant excerpts from the document:

> *Public Participation at Meetings*
> Public comment or questions at committee meetings may be taken at designated periods at the discretion of the Committee Chair. In order for the Committee to complete its agenda, the Chair, taking into account the number of speakers and available time, may limit the number of comments or the time allowed for public comment. The chair may choose to allow public comment only at the end of the meeting after the Committee has addressed all of its agenda items and tasks. Where constrained by the available time, the chair may limit public comment in a reasonable manner by: (1) requesting individuals avoid duplication of prior comments/questions; (2) requiring persons with similar comments to select a spokesperson; and/or (3) setting a time limit on individual comments. The Commission's public participation policy is intended to fairly balance input from various stakeholders and interest groups.
> Members of the public may be invited to give presentations at committee meetings if the board/section has tasked the Committee with reviewing their materials, or if members of the public have been invited in advance by the Committee Chair to respond to a request from the Committee for more information on a topic. Invitations will be offered in advance of the meeting. Public presentations will not be allowed without these invitations. See Section 8 for additional details regarding public participation in stock assessment data, assessment, and peer review workshops.
>
> *General Submission of Materials*
> Public submissions of materials for committee review outside of the benchmark assessment process must be done through the board/section chair (see Section 4.0). The chair will prioritize the review of submitted materials in relation to the existing task list. Materials provided by the public should be submitted to the chair at least one month in advance of the meeting. A committee is not required to review or provide advice to the board/section on materials provided by the public unless it is specifically tasked to do so by the board/section chair in writing. Materials will be distributed to committees by Commission staff.
>
> *Benchmark Assessment Submissions*
> The Commission welcomes the submission of data sets, models, and analyses that will improve its stock assessments. The Commission will issue a press release requesting data and assessment submissions at the start of the benchmark process. The press release will contain specific deadlines and submission

requirements for materials to be considered. For data to be considered at a data workshop, data files must be sent in the required format with accompanying methods description to the designated Commission Stock Assessment Scientist at least one month prior to the specific workshop at which the data will be reviewed; see Section 8.6.1. Alternative analyses, models, or assessments must be submitted three months in advance of the assessment workshop and the board/section chair must request they be reviewed before consideration by the SAS. New data sources and alternative analyses/models/assessments will not be considered during an assessment update.

External groups must notify the Commission one month in advance of an assessment workshop regarding their interest in presenting an alternative assessment at the workshop. Any analyses submitted outside the benchmark process may not be considered for management until the next Commission benchmark assessment.

Data Workshop

Stakeholders will be encouraged to attend Commission data workshops and share any information or data sets that might improve the benchmark stock assessment. A public announcement will be made prior to the data workshop to call for data of which the technical committee may not already be aware. Commission staff will send notifications to known interested parties soliciting data and inviting participation from a wide range of stakeholders, agencies, and academics to attend at their own expense. For data sets to be considered at the data workshop, the data must be sent in the required format, with accompanying affiliation statement, methods description, to the designated Commission Stock Assessment Scientist at least one month prior to the data workshop. Stakeholders may be invited by the technical committee chair to present a summary of their data and answer questions if they can attend the data workshop.

Recordings

Committee meetings are open for the public to attend and as such may be recorded (audio or video) by any participant (public or committee member) with notification to the chair and staff prior to the start meeting, and so long as those recordings are not disruptive to the meeting. The chair and/or staff will notify committee members prior to the start of the meeting that they will be recorded. Staff may record meetings for note taking purposes, but the official meeting record is the meeting summary or committee report. Staff recordings will not be distributed.

Webinars

. . . If a committee meeting is held via webinar (*i.e.,* there is no in-person meeting), it shall be open to the public. As with in-person meetings, public comment or questions at committee webinars may be taken at designated periods at the discretion of the Committee Chair (see Section 6.5 for more detailed guidance on public participation in Committee meetings). Certain agenda items may not be open to the public; these include discussion of confidential data and preliminary model results. Non-committee members will be asked to leave before confidential issues are discussed. To ensure that enough bandwidth is reserved for the meeting, members of the public who wish to attend the webinar must contact staff 24 hours prior to the webinar to ensure there is available space.

Question 11. Does the Commission have a policy of encouraging and supporting collaborative research efforts to provide needed information or data? Related to the question above, if outside science or data is presented relevant to technical discussions or stock assessments, does the Commission support these efforts by providing technical feedback and by allowing scientists conducting the research or analysis to participate in relevant discussions?

Answer. The Commission has a long history of collaborative research with state, federal, academic, NGO, and industry partners, both on the water and during the development of stock assessments. The Commission and the stocks it manages have benefited greatly from this practice, for example, we initiated and continue to coordinate the Northeast Area Monitoring and Assessment Program (NEAMAP), whose nearshore trawl survey is operated by a commercial captain on a commercial fishing vessel. Support for the NEAMAP survey comes from the Mid-Atlantic Research Set-Aside (RSA) program, a collaborative effort with considerable industry participation. The Commission has been actively engaged in RSA since its inception in 2001. Research activities such as the lobster ventless trap surveys operated from commercial vessels in several Northeast states are additional examples of the Commission actively seeking out industry participation in data collection, and ensuring those data are considered when a new stock assessment is developed.

The initiation of stock assessments for American lobster, American eel, Atlantic menhaden, tautog, and black drum are recent examples where the Commission has made public calls for data via press releases and personal contact to non-traditional data sources, in order to gather all available information for consideration in the stock assessment process. Following the Commission's participation guidelines, submitted data are presented by stakeholder representatives and evaluated by the technical committees for potential inclusion in the assessment during meetings that are open to the public. The 2011 American eel assessment and Atlantic menhaden stock assessment meetings in 2012 are examples where experts advising industry stakeholders presented their data and discussed their utility with the technical committee. The lobster stock assessment currently underway is using data gathered by the lobster industry, in direct consultation with industry representatives who attend assessment meetings. Commission staff has played a vital role in each of these examples, working directly with non-traditional data providers in and outside of meetings to gather data and facilitate their evaluation with Commission technical committees.

While working within the constraints of our financial resources and availability of technical representatives, the Commission strives to be open and inclusive to produce the best available assessment products that are fully understood by all stakeholders.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV TO RANDY FISHER

Interjurisdictional Fisheries Management

Under the current spend plan for programs under the Interjurisdictional Fisheries Act, the statute's grant program, which supports fisheries science at the state level, has been zeroed out since FY2012. Funding for the Commissions to produce fishery management plans has largely been level going back to at least FY08.

Question 1. Beyond funding issues, are there updates to statutes like the Interjurisdictional Fisheries Act and other interjurisdictional statutes that would help support the Commission and States' management efforts?

Answer. With the exception of the funding issue the (PSMFC) Commission has not identified any similar Interjurisdictional Statutes that require updating.

Question 2. In your opinion, how well has the Commission been able to work collaboratively to overcome inconsistent state fishery management issues?

Answer. On the West Coast and Alaska the Commission has worked well to coordinate and overcome any inconsistent State Fishery Management issues. The successful Dungeness Crab Fishery on the West Coast, which is coordinated by the Commission, is a prime example of the collaborative approach to fishery management. You can add to the list the shrimp fishery, the exotic species and cutthroat.

Question 3. Can you identify any gaps in regulation and management of migratory fish stocks between jurisdictions? How would you propose to address those shortcomings?

Answer. At this time, I can't identify any specific gaps.

Seafood Traceability I

Through a cooperative agreement with the National Marine Fisheries Service, the Gulf Commission has established a voluntary, regional seafood traceability program called "Gulf Seafood Trace". Though Gulf Seafood Trace is in its infancy and has an uncertain future, the program holds great promise as a value-added service for both producers and consumers in the way it distinguishes traced seafood from competitors.

Question 4. Has the Pacific Commission explored the possibility of doing something similar to the Gulf Seafood Trace Program?

Answer. The Commission has had presentations at the PSMFC Annual Meeting on traceability. I am confident the Commission could operate a program similar to the Gulf if we had funding to carry-out that program.

Seafood Traceability II

The brilliant thing about Gulf Seafood Trace is that it "piggy-backs" on the electronic trip ticket systems that the Gulf Coast States already have in place to track landings as a part of their conservation efforts. As I understand it, Gulf Coast fishermen filling out an electronic trip ticket have the option, with just an additional click of a button, of providing basic information regarding the species and date of their catch, as well as the general fishing area where it was caught, to the Gulf Sea-

food Trace system. The information is available to processors, distributors, retailers, and ultimately consumers, thereby assuring the integrity of the product and enhancing its value throughout the supply chain.

Question 5. Is the Pacific Fisheries Information Network capable of serving as a similar conduit for basic traceability information for fish landed in Alaska, Washington, Oregon, and California?

Answer. Our current Pacific Fisheries Information Network or PacFIN identifies species, date of catch and area of catch. Our Electronic Fish Ticket Program for the Catch Share Fishery also identifies the same information. All of this information comes from the processor. If you want to track the fish in the market, back to the fisherman, the processor would have to supply that information and that would probably add to the cost.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV TO DAVID DONALDSON

Interjurisdictional Fisheries Management

Under the current spend plan for programs under the Interjurisdictional Fisheries Act, the statute's grant program, which supports fisheries science at the state level, has been zeroed out since FY 2012. Funding for the Commissions to produce fishery management plans has largely been level going back to at least FY08.

Question 1. Beyond funding issues, are there updates to statutes like the Interjurisdictional Fisheries Act and other interjurisdictional statutes that would help support the Commission and States' management efforts?

Answer. In the IJFA, there is no language specific to the Commissions other than funding. It might be good to consider including something similar to the Council FMP language to allow us to specifically address things like interstate/multistate stock assessments. Federal plans have SEDAR (SouthEast Data, Assessment, and Review) as their resource for developing and updating assessments but the Commission's haven't had any mechanism. While we should be able to run our assessments through the SEDAR process, the program is nearly exclusive to Council managed species. Therefore, we are currently working to develop a similar framework to SEDAR for our nearshore species but the Commission's IJFA funds just aren't sufficient to support true multistate assessments.

Question 2. In your opinion, how well has the Commission been able to work collaboratively to overcome inconsistent state fishery management issues?

Answer. There generally hasn't a big issue with inconsistent fishery management between the Gulf States other than the enforcement of inconsistent size and bag regulations across adjacent state boundaries.

Question 3. Can you identify any gaps in regulation and management of migratory fish stocks between jurisdictions? How would you propose to address those shortcomings?

Answer. While most of our species essentially migrate between state jurisdictions (with the exception of oysters), there aren't any real gaps other than some issues with varying regulations across state lines as noted above. These are more angler migrations than species migration issues.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARK BEGICH TO DAVID DONALDSON

Seafood Traceability Issues and Gulf Seafood Trace

Recently, I introduced legislation—S. 520—that is aimed at improving the safety of imported seafood, as well as promoting seafood traceability and preventing seafood fraud. S. 520 would, if enacted into law, promote the inclusion of certain basic information with seafood distributed or sold in the United States, in order to verify what it really is, where it was caught, and so forth. The idea is to allow everybody in the "chain of custody" of a freshly landed seafood product to know at a minimum, (1) the General Fishing Area where it was caught, (2) what it is, (3) the date it was caught, and (4) the weight or number of seafood products by individual fish or lot, as appropriate.

Question 1. It sounds like your Gulf Seafood Trace Program already provides a platform for that very type of information to accompany seafood products of fishing companies and processors who choose to participate—is that right?

Answer. Yes, the Gulf Seafood Trace Program was implemented in March 2012 and will be operating until December 2014. After that time, the funding for the program will have been expended.

Question 2. It also sounds like more and more businesses are electing to participate in the Program because it increases the value of the product throughout the distribution chain. Is that fair to say?

Answer. Yes. There is an increased emphasis on sustainability and product traceability coming from retailers and consumers. The Gulf Trace Program helps the industry address this issue and restore the confidence of users in Gulf seafood. It also provides the added benefit of distinguishing Gulf seafood from imported products and allows the industry to market an all-American, premium brand.

Question 3. What is the cost each year of providing this service, and what is the customer capacity—is there a limit to how many participants the Program can accommodate for funding you're putting into it?

Answer. Under the current program, we can provide the service (at no charge) to up 200 processors/dealers. Based on that number, the annual cost would be approximately $920,000/yr or about $4,600/business/yr. The capacity is limited by the total amount of available funding as well as the willingness of the industry to participate.

Question 4. Would you support national implementation of seafood traceability, assuming that it will be left up to individual producers to decide what system to use?

Answer. As the focus continues to increase on knowing where the seafood is coming from and where it is going, the need for traceability grows not only in the Gulf of Mexico but on the other coasts as well. Various organizations and agencies from both the Atlantic and Pacific coasts have expressed an interest in the Gulf Trace Program and are intently monitoring the progress and success of the program.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. JOHN D. ROCKEFELLER IV TO HON. ERIC C. SCHWAAB

Illegal, Unreported, Unregulated Fishing

I know we are focused on U.S. interjurisdictional fishery management issues in this hearing, but I would like to turn for a moment to our international fishery conservation and management efforts. Earlier this year, I reintroduced two international fisheries bills that were sponsored in past congresses by the late Daniel K. Inouye of Hawaii—S. 269, the International Fisheries Stewardship and Enforcement Act, and S. 267, the Pirate Fishing Elimination Act. I know the Obama Administration strongly supports these measures, which are aimed at preventing and deterring illegal, unregulated, and unreported fishing in the waters of other nations and on the high seas.

Question. Could you please speak to the merits of each of these bills and explain the importance, from your perspective, of seeing each one enacted into law?

Answer. S. 269, the International Fisheries Stewardship and Enforcement Act (IFSEA), would establish uniform administrative and enforcement authorities and penalties for the High Seas Driftnet Fishing Moratorium Protection Act and similar statutes that implement regional fishery management agreements to which the United States (U.S.) is a party. It would include in those authorities additional enforcement tools to enhance the agency's ability to detect imports of fish and fish products that were harvested or imported illegally. This bill would also strengthen the ability of the U.S. to identify and work with other nations under the High Seas Driftnet Fishing Moratorium Protection Act to address illegal, unreported, and unregulated (IUU) fishing; bycatch of protected species; and shark catch on the high seas.

Through efforts of the National Marine Fisheries Service (NMFS), the U.S. Coast Guard, and its deputized state agencies, compliance with fishery regulations in U.S. waters is believed to be far better than most countries of the world. However, IUU fishing continues on the high seas, in many cases in fisheries that include U.S. fleets or that yield seafood that ends up in the U.S. market. IUU fishery operators have little to no concern about the marine environment in which they are operating, therefore such illegal fishing often uses fishing techniques that incur high rates of bycatch of protected species (*e.g.,* marine mammals) and finfish, and that cause habitat damage (*e.g.,* bottom trawling in coral reef or other sensitive habitat).

Title IV of IFSEA provides for adoption of implementing legislation for the Inter-American Tropical Tuna Commission (Antigua Convention). The Antigua Convention is an important international agreement that provides critical updates and modernizations to the mandate and functions of the Inter-American Tropical Tuna

Commission, established in 1949. The U.S. took the lead in negotiating the new Antigua Convention, and worked very hard to ensure that it contains modern principles and reflects the duties and responsibilities of nations to cooperate to ensure the sustainable management of shared fisheries resources, to minimize impacts to bycatch species and to conserve the marine ecosystems on which sustainable fisheries depend. It is important that the U.S. follow through in our leadership role and ratify the Antigua Convention, having worked so hard in its creation and after encouraging other nations to ratify it as soon as possible. Without implementing legislation, the U.S. Government does not have the authorities necessary to ensure it is able to fully satisfy the commitments under the Antigua Convention.

NOAA is concerned, however, that S. 269 does not contain provisions that were included in previous versions (S. 52, which was introduced in the 112th Congress; S. 2870, which was introduced in the 111th Congress; and S. 2907, which was introduced in the 110th Congress) that would provide NOAA with a comprehensive suite of modern enforcement authorities to help combat IUU fishing. These provisions provide for investigative subpoena authority and higher civil administrative penalties as well as civil judicial and additional criminal enforcement authority. The global seafood business is growing in complexity and requires a broader set of tools for detection as well as more significant consequences for IUU fishing that rise above the "cost of doing business."

S. 267 is substantively identical to the Administration's bill to implement the *Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (Agreement)* and NOAA supports its passage. The Agreement was adopted by the United Nations Food and Agriculture Organization in November 2009 and is the first binding global instrument focused specifically on combating IUU fishing. It sets forth minimum standards for the conduct of dockside inspections and training of inspectors and, most significantly, would require parties to restrict port entry and port services for vessels known or suspected of having been involved in IUU fishing, particularly those on the IUU vessel list of a regional fishery management organization. These new requirements will increase the risks and costs of IUU activities and thus serve as a deterrent. This bill presents another opportunity for Congress to take steps to keep IUU fishery products out of U.S. markets. By closing a critical loophole in the global fishing business, notably the ability to offload illegal fishery products in so-called "ports of convenience," this effort would help ensure that there is no safe or lucrative haven for illegally-caught products, therefore removing the profit incentive associated with such activities. This bill is an important step that Congress can take to keep illegal fish products out of the U.S. market, for the sake of the U.S. fleet as well as American consumers who want to be part of the solution, not the problem.

IUU fishing deprives law-abiding fishermen and coastal communities around the world of up to $23.5 billion[1] in revenue every year, and undermines efforts to monitor and sustainably manage fisheries. Since seafood caught through IUU fishing enters the global marketplace through wide-ranging ports mostly outside the U.S., keeping that seafood from entering the global market requires an international solution and the cooperation of multiple countries.

The U.S. was a primary participant in the negotiation of the Agreement and was one of the first countries to take a step toward ratifying the Agreement by signing it in 2009. Since its adoption in 2009, four countries and the European Union have ratified the Agreement. The Agreement will enter into force once 25 countries have ratified it. By staying at the forefront of this effort, the U.S. will demonstrate strong leadership in the global battle against IUU fishing and will be well-positioned to encourage broad ratification of the Agreement by other countries, with the effect of closing the world's ports to IUU vessels and keeping their illegal catch from entering the stream of commerce. As a global leader in sustainable fishing practices, and the third largest importer of seafood in the world, the U.S. has a responsibility to ensure the fish we import is caught legally. The U.S. also wants to work to create a level playing field for U.S. fishermen and ensure consumer confidence in the seafood supply by keeping illegal product out of the market.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO HON. ERIC C. SCHWAAB

U.S.-Canada Albacore Treaty I

The albacore tuna fishery is important one for Washington, providing both direct fishing jobs as well processing, shipbuilding and repair, ports and other support

[1] *http://www.fao.org/docrep/013/i1820e/i1820e02.pdf*

jobs. I understand bilateral negotiations have begun regarding a possible 2013 fishing regime under the U.S.-Canada Albacore Treaty. This treaty is meant to be a reciprocal agreement between the U.S. and Canada, however albacore harvesters maintain that fishing access is not equal, which U.S. albacore jobs decreasing. For example, in 1997 there were 1,200 vessels in the U.S. albacore fleet. In 2010, there were only a little over 600 vessels in the U.S. fleet.

Question 1. What is being done as a part of this current bilateral negotiation to ensure the economic well-being of our domestic albacore fishery? Is NOAA at the table during these bilateral discussions? What is NOAA's role?

Answer. The U.S. delegation that prepared for and participated in the negotiations that reached agreement for a regime for 2013 included representatives from the harvesting sector, as well as other sectors and interests with a stake in the economic viability of the fishery as a whole (such as processors and the states). The overall position of the U.S. delegation was to continue to reduce the level of Canadian participation in the U.S. EEZ to reflect the harvesting sector's desire to reduce competition for the albacore resource on the fishing grounds. It should be noted that the number of U.S. albacore vessels can vary significantly with each year. The 1,200 vessels referred to in 1997 exhibit a 75 percent spike in the number of U.S. vessels operating during the prior year. Averaged over the last 20 years, the number of U.S vessels has been less than 700. In efforts to achieve more equivalent reciprocity, the Canadians provided longer access to their EEZ for U.S. harvesters in 2013 as well providing access to their ports through the end of the year. All Canadians albacore fishing vessels must depart from the U.S. EEZ by September 15.

NOAA's role at the bilateral discussions was to provide consultation to the Department of State (State) for drafting agreements that are able to be implemented through regulation. NOAA provided fisheries management expertise and technical information to State, the U.S. Delegation, and other interested parties. OLE attended the bilateral discussions for compliance and enforcement related topics.

U.S.-Canada Albacore Treaty II

In 2003, the Senate voted on ratification of amendments to the U.S.-Canada Albacore Treaty. The treaty amendments approved by the Senate were designed to "reduce Canadian fishing effort in U.S. waters to tolerable and more equitable levels . . ." The specific objective was one that "reduces the fishing effort each year until a level is reached in the third year that is slightly above the pre-1998 average level of fishing."

Question 2. Does your data show that the pre-1998 objective been reached? What steps were taken by the agency to achieve this Senate-ratified objective? What efforts are currently underway to ensure that any future negotiations will result in fishing levels that conform to the pre-1998 standard, as ratified in the 2003 amendments? Does NOAA have all the data they need to fully answer these questions? Why or why not?

Answer. The introduction of limits on the number of Canadian Vessels permitted to operate in the U.S. EEZ, implemented with the treaty amendments ratified in 2003, were further decreased through renegotiation of the limits in 2008. The recent agreement for 2013 resulted in additional reductions that restrict the number of Canadian treaty vessels to 45 (down from 110 vessels in the previous regime), which is less than the estimated annual average number of Canadian vessels operating in the U.S EEZ from 1995 to 1997. NOAA staff continues to chair the Data Working Group assembled to ensure that all information relevant to the treaty is both comprehensive and made available to the interested public.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. AMY KLOBUCHAR TO HON. ERIC C. SCHWAAB

Aquatic Invasive Species

Across the country in both fresh and saltwater ecosystems we have seen the impact of aquatic invasive species. I have introduced legislation to help prevent the spread of Asian Carp further into Minnesota. I know that some Atlantic states have taken steps to address the invasive species problems, including offering bounties to reduce the numbers of invasive Lionfish.

Question. What kind of impact does aquatic invasive species have on the domestic fisheries industry? Based on some of the intervention you've seen by agencies at different levels, do you see this as a problem that is going to get better or get worse if we don't devote serious attention to the problem? How can we be helpful to ensure you have the right resources to combat invasive species?

Answer. Invasive species result in enormous economic costs, costing the Nation more than $120 billion per year—a cost higher than the total of all other natural disasters combined. In regards to domestic fisheries, aquatic invasive species may directly impact this industry by preying on or competing with economically valuable fish. Although reduced fish stocks may be the greatest cost to bear, the industry may also be affected indirectly by aquatic invasive species. For example, non-native mussels commonly foul watercraft, fishing equipment, and electrical systems, while aquatic weeds can make waters impassable to boats or clog engines. Beyond industrial costs, recreational fisheries, tourism, and other sectors of the economy are also impacted by aquatic invasive species. Many cases of economic losses to fisheries and aquaculture associated with aquatic invasive species have been reported, a small portion of these cases are highlighted below.

The first known aquatic invasive species detected in the Great Lakes was the sea lamprey, which arrived in the 1830s and continues to be a problem today. Since detection, many once prominent and economically valuable fish, including late trout, sturgeon, and lake herring, have completely disappeared or have declined. As a result, control measures are taken through an integrated pest management approach to reduce the sea lamprey population. Over $20 million in U.S. and Canadian investments are spent each year to apply chemical lampricides and operate barriers to suppress sea lamprey population numbers and keep fish populations safe. The Federal government also has active sterilization, lamprey pheromone, and research programs that require ongoing and consistent effort to mitigate the threat that sea lamprey pose. In recent years, Asian carp have been in the spotlight, as these aquatic invasive species are capable of out-competing and reducing native fish populations that are important to fishermen. If introduced into the Great Lakes, there are serious concerns over the fishes' potential to negatively impact the area's $7 billion-per-year fishing industry. However, even if Asian carp are successfully excluded from the Great Lakes, but continue to spread throughout the Mississippi River Basin watershed, this invader may reach 31 states and 40 percent of the continental United States.

Other fish species that impact the fishing industry include the lionfish (*Pterois volitans* and *Pterois miles*), which have become invasive along the Eastern Atlantic, Caribbean, and Gulf of Mexico. These top-level predators have a diverse diet which may cause a decrease in landings, hamper stock rebuilding efforts, and slow conservation-based initiatives. In addition, lionfish may compete for resources with economically important species such as the Nassau grouper and yellowtail snapper. Finally, the walking catfish (*Clarias batrachus*), introduced via the aquarium trade, is a particular problem in Florida. Walking catfish are now known to have invaded aquaculture farms, where these predators prey upon fish stocks.

Salmonids traverse large geographic areas spanning freshwater, estuarine, and ocean habitats where they encounter numerous non-native species. In the Columbia River system alone, juvenile Pacific salmon will encounter more than eight invasive predator and competitor fish species en route to the sea. Native salmonids are also vulnerable to several invasive pathogens and the diseases that result from them. Hundreds of millions of dollars are spent annually to research salmonid populations, with the majority of funding spent towards studying the impacts of habitat alteration, hatcheries, harvest, and the hydrosystem (the "all-H's.") However, scientists have suggested that invasive species may pose as much of a threat to native salmonids as the all-H's.

Invasive fish are not the only impact to the fishing industry. One of the worst marine invasions occurred in the 1980s when the North American comb jelly (*Mnemiopsis leidyi*) was introduced into the Black Sea via ballast water. The species rapidly took hold in the predator-free water and ate vast quantities of fish eggs and larvae as well as zooplankton that served as the primary food source for many commercially-important species. Eventually, this invasion led to a collapse of many fish stocks in the Black Sea. The U.S. is currently plagued by the white spotted jellyfish (*Phyllorhiza punctate*). This species has been found off the coasts of Hawaii and California and has experienced recent population explosions in the Gulf of Mexico. This species has been known to negatively affect the shrimp industry by clogging nets and damaging fishing equipment. There is also evidence that suggests that this jellyfish has reduced the white shrimp harvest in Mobile Bay, Alabama the Mississippi Sound by 26.7 percent.

Crustaceans can also damage the fishing industry. The invasive green crab (*Carcinus maenas*) is present from Nova Scotia to Virginia and is believed to be at least partly responsible for the destruction of the soft-shelled clam fisheries in the 1950s which affected thousands of people. Likewise, the Chinese mitten crab (*Eriocheir sinensis*) is capable of causing considerable damage to fisheries by consuming netted fish and by cutting nets. In recent years, Asian tiger shrimp have

entered the Gulf of Mexico and threaten native shrimp stocks and the Gulf ecosystem.

Invasive tunicates, or sea squirts, are adversely affecting aquaculture of species such as the bay scallop, Eastern oyster, hard clam, and blue mussel along much of the U.S. East Coast. For example, the colonial tunicate (*Didemnum vexillum*) forms dense mats that overgrow adult scallops, limits space for larval development, and prevents fish from bottom feeding. Studies in Alaska have also shown evidence that the highly acidic and toxic surface of the colonial tunicate may impact the development of herring eggs.

Impacts to the fishing industry may even be microscopic. The spiny waterflea (*Bythotrephes longimanus*) and fishhook water flea (*Cercopagis pengoi*) were introduced into the Great Lakes by ballast water discharged from ocean-going ships. These tiny predators have led to the decline of some species of zooplankton; however, these species are also capable of fouling fishing lines and other gear. While this may be an annoyance for sport fishers, to commercial fisherman it is financially damaging.

Shellfish have been intentionally introduced for mariculture, yet can become a threat to native biodiversity or livelihoods as many species often carry pathogens or parasites that may infect native and commercial species and/or be a human health risk. For example, many organisms travel with oysters, including the oyster disease MSX (*Haplosporidium nelsoni*), which continues to threaten native species as well as commercial oyster aquaculture and fishing communities along the Eastern coasts of U.S. and Canada.

Finally, aquatic invasive species can have severe impacts on the quality of habitat. Some fish species, such as the common carp (*Cyprinus carpio*), increase turbidity and phosphorus levels, which often causes a reduction in aquatic plants needed by native fish. Infestations of nonnative aquatic plants often result in impairment of water bodies, by creating oxygen depletion and altering predator-prey relationships. For example, an invasive algal species from Japan, *Codium fragiles,* also referred to as deadman's fingers, outcompetes native kelp and eelgrass, thus destroying habitat for many finfish and shellfish species. Nutria (*Myocastor coypus*), an aquatic rodent that has invaded the Chesapeake Bay, Louisiana, and Pacific Northwest, destroys the very marshlands it infests. These wetlands, which function as environmental filters, are often the nursery grounds for commercial and recreational fisheries as well as essential habitat for birds, mammals, reptiles, and amphibians.

While management of aquatic invasive species is challenging, considerable success is being achieved in the prevention, detection, eradication, control, and outreach efforts of aquatic invasive species along with increased emphasis on the restoration of ecosystems that have been affected by aquatic invasive species. Additional research and information exchange, new detection and eradication techniques, innovative control methodologies, and collaborative models are increasing our capacity to manage aquatic invasive species. Awareness of the problems caused by aquatic invasive species has dramatically improved, as evidenced by increased activity at federal, state, and local levels. Despite the significant increase in activity and awareness, invasions are increasing in number and the damages to ecosystems, economic activity, and human welfare are accumulating. Without improved strategies based on recent scientific advances and stronger investments to counter invasions, harm from invasive species is likely to accelerate.

Improved technology and management practices could reduce damages from current and future invasive species. The following recommendations are made to further prevent, detect, respond to, and control aquatic invasive species in a cost-effective and environmentally sound manner, and are reflected in several national management plans, including the Aquatic Nuisance Species Task Force Strategic Plan[2] and the National Invasive Species Council Management Plan.[3] NOAA is a co-chair of each of these organizations and continues to support and promote these activities.

1. *National Invasive Species Act.* The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (NANPCA) was intended to identify and implement ways to prevent the unintentional introduction and spread of invasive species into waters of the United States, to work toward minimizing economic and ecological impacts of established nonindigenous species, and to establish a program to assist states in the management and removal of such species. NANPCA was last reauthorized and amended in 1996 by the National Invasive Species Act (NISA); since this time a great deal has been learned about

[2] *http://www.anstaskforce.gov/Documents/ANSTF%20Strategic%20Plan%202013-2017.pdf*
[3] *www.invasivespecies.gov/main_nav/mn_NISC_ManagementPlan.html*

invasive species in regards to their introduction, management, and impact to the environment, economy, and human health. Reauthorization of NISA would provide an opportunity for Congress to review these findings.

2. *Coordinate Vector Management.* The possibility of an invasive species is not as threatening as seeing the evidence, which is why most efforts to combat aquatic invasive species are reactive. Focusing on prevention avoids many of the long-term economic, environmental, and social costs associated with aquatic invasive species. While not the only method, prevention is widely recognized as the most cost effective technique to deal with invasive species. New invasions could be prevented through use of new information and practices to better manage vectors to reduce the transport and release of potentially harmful aquatic invasive species. Interagency coordination is important. In addition, all marine and freshwater vectors could be evaluated (*e.g.,* magnitude and volume of biota that is moved by different transfer mechanisms) and management plans could be developed to reduce species movements via these pathways. Federal government efforts that target prevention through voluntary and regulatory action in living industry pathways, transportation related pathways, and others should be reviewed. For example, the U.S. Fish and Wildlife Service is developing voluntary and regulatory mechanisms to address importation and interstate movement of invasive species under Title 18 of the Lacey Act.
3. *National strategy for monitoring.* Some species will inevitably slip through prevention efforts and establish small populations. The lag time between establishment and spread associated with many invading populations provides an opportunity for early detection and rapid response, which would include monitoring habitats to discover new species soon after introduction, reporting sightings of previously unknown species in an area, and working quickly to keep the species from becoming established and spreading. Extensive monitoring across environments would allow documenting the distribution of native species, identifying range shifts, and detecting invasions. Further, new innovations for early detection could be explored to determine the most efficient, cost-effective means of eradicating new biological invasions.
4. *Control and Management of Invasive Species.* Control programs for widespread species are inevitably expensive, such as the $20 million annual expenditure to control the sea lamprey in the Great Lakes. Nevertheless, they are often cost effective; the sea lamprey program, for example, protects a fishery worth about $4 billion annually. Control and eradication are the most advantageous when action is taken immediately upon first detection, when populations are still localized and can be contained. In the short-term, plans should be developed for the necessary actions needed to respond quickly to newly detected non-native species that may cause ecosystem, public health and/or socioeconomic impacts. Risk assessments are needed to prioritize species that warrant targeted prevention efforts and rapid response plans. Further, an emergency fund for such efforts should also be established. In the long-term, Federal agencies should develop and implement effective strategies for control and management of invasive species. In addition, Federal support for State-led aquatic invasive species responses should continue as the States are often the jurisdictional lead for problems once issues are "on the ground." Support of Federal actions for planning and implementation of State/Interstate Management Plans called for under NISA has been recognized by the American Fisheries Society as a needed step to more effectively manage aquatic invasive species in the U.S.[4]
5. *Expand Educational and Outreach Programs.* It is imperative that the public has an understanding of the problems and impacts associated with invasive species so that they can be partners in solving the problem. More importantly, people need to know what they can do to help prevent the introduction and spread of invasive species. Increased support should be provided for national invasive species campaigns (*e.g.,* Habitattitude™ and Stop Aquatic Hitchhikers!) that are designed to increase awareness about invasive species and promote actions that empower audiences to become part of the solution in preventing future invasions. Additionally, citizen-science could engage the public and enhance invasive species monitoring and management.
6. *Directed Research Programs.* Dedicated research programs to predict, and possibly prevent, the impact of invasions would serve to better detect species movements and foresee likely interspecies interactions. These goals will best be accomplished via focused, mechanistic studies of invasive species to inform

[4] *http://fisheries.org/docs/policy__statements/policy__36f.pdf*

and predict how factors, such as global climate change, might affect native species versus invasive species, as well as interact with local stressors to affect invasion success.

7. *Increased Coordination.* To assist coordination, partnerships should be built or strengthened among international, federal, state and local agencies, academic institutions, and others to enhance capacity for detecting, responding to, and managing invasive species. Interagency groups such as the National Invasive Species Council and Aquatic Nuisance Species Task Force need to build partnerships that broadly implement recommendations at local, regional, and national levels. The dispersal of invasive species is a global problem; therefore international coordination and cooperation is also an important part of the solution. Invasive species are moved around the globe as a result of trade, transport, and travel, thus it is important to collaborate internationally on the management of pathways and to disseminate information on the risks and impacts from invasive species.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARK BEGICH TO HON. ERIC C. SCHWAAB

Seafood Traceability

I have introduced a bill, S. 520, the Safety and Fraud Enforcement for Seafood Act, that would require traceability for all seafood sold in interstate commerce in the U.S. to help fight seafood fraud and keep illegal product out of our markets.

Question 1. Do you think the current regulatory system is adequate to address these problems?

Answer. The Administration has not taken a position on this legislation; however, we would be happy to discuss some of the Administration's activities to address these complex issues. Seafood mislabeling presents significant challenges for law enforcement, as 54 percent of the world's fish production is processed at sea or soon after landing (FAO 2009). In most cases, this processing renders the species unidentifiable without forensics. Additionally, seafood can be mislabeled at any point along the supply-chain. To address these challenges, NOAA currently conducts inspections of seafood shipments and production facilities as do some other state and Federal agencies (*e.g.,* U.S. Food and Drug Administration (FDA)). The NOAA Office of Law Enforcement (OLE) and the NOAA Seafood Inspection Program (SIP) both have inspection personnel and each program plays an important role in the regulatory system designed to help fight seafood fraud. FDA is charged with enforcement of the Federal Food, Drug, & Cosmetic Act (FD&C Act), which allows the Agency to take enforcement action against products in interstate commerce that are adulterated or misbranded and refuse entry of imported products that appear to be adulterated or misbranded. Substitution of one species of seafood for another could cause a seafood product to be adulterated and/or misbranded under the FD&C Act, depending on the facts. Species substitution has been an area of concern for FDA and within the seafood industry for some time because it could be a public health risk. Further, it is a violation of the FD&C Act for labeling to be false or misleading. Labeling is defined in the FD&C Act to include "all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article."

The SIP is a voluntary fee-for-service program authorized by the Agricultural Marketing Act. The program assists the seafood industry with regulatory compliance, but has no enforcement authority and does not undertake enforcement actions. The SIP also provides inspection services upon request by industry and, in that capacity does inspect shipments of seafood imported into the U.S.; however, it does not currently have a role in making admissibility determinations for seafood imports.

The OLE and NOAA Office of General Counsel (GC) are responsible for enforcing the statutes administered by NOAA, some of which have specific provisions or implementing regulations addressing catch documentation, trade tracking and/or labeling. Noncompliance with these requirements can result in the denial of entry or other enforcement action. NOAA would welcome the opportunity to work with Congressional staff, in consultation with FDA, on addressing these issues while preventing the duplication of existing authorities.

Question 2. Please describe the relationship between NOAA and the Food and Drug Administration (FDA) in ensuring that our seafood—both imported and domestic—is honestly-labeled. How would you improve the communication and coordination between the two agencies?

Answer. The FDA and NOAA have a Memorandum of Understanding (MOU) to facilitate coordinated and cooperative seafood inspection efforts, including ensuring proper seafood labeling. FDA uses its resources to focus upon species substitution through the DNA library and targeted enforcement actions for misbranding. FDA recently invested in significant technical improvements in order to identify seafood species using state of the art DNA identification methodologies. FDA has trained analysts from other Agencies, including the NOAA, in its new DNA-based species identification methodology. The SIP, which inspects approximately 2 billion pounds of seafood each year, performs a number of tests on seafood products offered for voluntary inspection, including net weight checks to detect fraud related to low net weight in packaged seafood, which is far more prevalent than species substitution.

Additionally, NOAA and the FDA periodically work together on seafood fraud and mislabeling cases. The two agencies are currently involved in joint efforts to detect and interdict fraudulently labeled seafood along with several other Federal law enforcement partners. FDA and NOAA do work together on these types of cases when appropriate and possible. As stated above, NOAA would welcome the opportunity to work with Congressional staff, in consultation with FDA, on addressing these issues while preventing the duplication of existing authorities.

Question 3. NOAA's Seafood Inspection Program (SIP) is a voluntary, fee-for-service program that provides seafood producers with certificates of inspection. Given the program's voluntary nature, do you think it is adequate to address the problem of seafood fraud? What else is NOAA doing to combat seafood fraud and ensure that illegal product is not mislabeled? Is SIP required to report violations to NOAA law enforcement? What is the budget for seafood inspections by NOAA officials for ensuring product is properly labeled and legally caught? Does NOAA need seafood inspections for enforcement purposes outside of SIP?

Answer. NOAA's OLE and SIP both have inspection personnel and each program plays a role in the regulatory system designed to help fight seafood fraud. The SIP conducts inspections on a fee-for-service basis at the request of the seafood industry and provides compliance assistance. The OLE, in conjunction with GC, is responsible for enforcing the statutes administered by NOAA, including those which address seafood fraud.

Whenever SIP personnel note an issue with seafood products or production facilities, correction is the first step. Once corrective action is taken, the SIP decides whether to refer the case to the OLE or the FDA for further investigation and possible enforcement action. Under existing law, the SIP is not required to report seafood labeling violations to OLE or FDA, but has discretion to do so. The SIP is now tracking reports and inspections involving suspected fraud in order to work more closely with OLE and FDA. The SIP is voluntary and has limited authorities, so its activities are not specifically designed to prevent fraud or effect regulatory actions. The program inspects about two billion pounds of seafood per year, and approximately one billion pounds is exported and about one billion pounds is consumed domestically, which represents about 20 percent of U.S. consumption. The SIP ensures that these products are properly labeled, but has no effect on the four billion pounds of consumption that are not inspected by the program.

The SIP budget for FY 2013 was estimated to be $25.1 million. Since ensuring proper labeling and legal harvest are only a small portion of its overall mission, which includes export certification, regulatory compliance with food safety and quality laws and regulations, and product quality evaluation, it is very difficult to determine the actual cost of these activities. The budget is an estimate of the cost of providing services to the seafood industry, and the various fees are calculated to cover the expected costs of those services.

The OLE and GC work with our Federal and state law enforcement partners to conduct targeted enforcement to address suspected seafood fraud and mislabeling. Currently, the offices are engaged in operations investigating suspected mislabeling of seafood product and continue to place resources toward detection, apprehension and prosecution of those involved in seafood fraud.

In a recent case, three seafood wholesale owners were sentenced to a combined 70 months imprisonment for falsely labeling and selling cheaper imported farm-raised fish as more expensive domestic wild-caught fish and shellfish. Farm raised Vietnamese catfish and African Lake Victoria perch were sold as grouper and snapper, and farm raised foreign shrimp were sold as U.S. wild caught seafood. In addition, some of this fish tested positive for chemicals which are prohibited in U.S. aquaculture. This falsely labeled fish was sold to consumers throughout the Gulf of Mexico region, including U.S. military bases.

Similar investigations by OLE revealed other companies falsely labeling fish to avoid import duties, and in one case duties exceeded $65 million dollars. These fish were then sold as the falsely labeled imported product. Individual prison sentences

in these cases have ranged up to 63 months and resulted in fines and restitutions of more than $75 million. Each of these cases involved thousands of man-hours to investigate, required the unraveling of complex corporate accounting records, and the penetration of well-entrenched criminal conspiracies. OLE agents have worked for years on cases involving seafood fraud, and continue to work with GC and the Department of Justice to prosecute those responsible.

Question 4. S. 520 includes a provision requiring the FDA to treat NOAA's Seafood Inspection Program as a certified third-party inspector under Sec. 808 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 384d) to inspect imported seafood or seafood offered for import originating from any country or exporter. What benefits might there be if this were enacted? What challenges could you foresee?

Answer. The Administration has not taken a position on this provision; however, NOAA can seek accreditation under Section 808 of the FD&C Act, which directs FDA to establish a program for accreditation of public and private third-party auditors to certify foreign food facilities and their foods offered for import into the U.S. It is important for all potential auditors to demonstrate their qualifications before joining the program, to maintain confidence in the process and to ensure objectivity and independence in all aspects of the program. Moreover, the FDA Food Safety Modernization Act (FSMA) authorizes NOAA, in coordination with FDA, to send inspectors to a country or facility of an exporter to assess practices and processes used in connection with the farming, cultivation, harvesting, preparation for market, or transportation of seafood. It directs FDA to consider the inspection reports when allocating inspection resources.

NOAA can foresee challenges surrounding the proper use of confidential business information. Currently SIP personnel have access to information at seafood firms that FDA does not have access to under their regulations. Although the SIP would work with FDA on any issue at a particular firm, they would need to ensure that protected proprietary information would not be improperly disclosed. Use of such information underscores the difficulty the SIP faces in providing voluntary compliance assistance services while also assisting FDA with enforcement activities.

Question 5. For many years the vast majority of seafood consumed in the U.S. has been imported. As U.S. fishermen work under strict Annual Catch Limits and Accountability Measures to rebuild and conserve U.S. fish stocks, what value do you see in adding traceability to all seafood to promote and increase the value of limited U.S. catch?

Answer. Since the U.S. imports over 90 percent of the seafood consumed in the country, the presence of illegal or mislabeled seafood product can have a significant adverse impact on the market for legally harvested seafood products. NOAA encourages a thorough examination of any proposed traceability program to ensure that any traceability measures are practical and enforceable, and do not duplicate or conflict with existing authorities and programs.

You may be interested to know that Congress has already given HHS/FDA responsibility for the labeling of seafood. Labels are subject to a comprehensive regulatory scheme. Furthermore, it is a violation of the FD&C Act for labeling to be false or misleading. Labeling is defined in the FD&C Act to include "all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article." In addition, FDA routinely does traceback as part of foodborne illness outbreak investigations. FSMA directs FDA to establish a system that will enhance its ability to track and trace both imported and domestic foods. The ability to more quickly trace foods associated with foodborne illness outbreaks can help prevent further illnesses, and FDA's current system that generally requires facilities to maintain records of the immediate previous source and immediate subsequent recipient of food, as well as the transporters who transported the food to and from the facility should be considered in the development of a seafood traceability program.

NOAA would welcome the opportunity to work with Congressional staff, in consultation with FDA, on addressing these issues while preventing the duplication of existing authorities.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. BRIAN SCHATZ TO HON. ERIC C. SCHWAAB

Sequestration Impacts on Fisheries Science

According to the National Oceanic and Atmospheric Administration's latest report on fisheries impacts in Hawaii and the Western Pacific, fishermen in Hawaii earned $92 million from their commercial harvest in 2011. The report also cited that the

Western Pacific's seafood industry generated $694 million in sales, $213 million in income, and approximately 8,600 full- and part-time jobs. As you know, fisheries' stock assessments provide data on past and current status of fish stock, and are critical to establishing annual catch limits to prevent overfishing in commercial and recreational fisheries.

Question. How will sequestration affect fisheries' stock assessments? Specifically, how might it impact Hawaii and the Pacific Region economically?

Answer. The approved FY 2013 spend plan provides approximately $169 million for stock assessment activities from several budget lines (Expand Annual Stock Assessments, Fisheries Statistics, Fish Information Networks, Survey and Monitoring Projects, and Observers/Training). This is a reduction of $1.1 million from FY 2012, and a reduction of $12.8 million from the FY 2013 request. The uncertainty of final FY 2013 funding levels and the sequestration in FY 2013 led to reductions in the collection of data necessary for stock assessments, such as fishery observer and port sampling data, life history characterization, and integrated ecosystem process research. The FY 2014 President's Budget includes $186 million for stock assessment activities.

More specifically, in Hawaii, American Samoa, Guam, and the Northern Mariana Islands, the NOAA Pacific Islands Fishery Science Center's (PIFSC) fisheries science budget has been reduced by approximately 8.6 percent from FY 2012 levels, and as a result:

- Critical scientific staff cannot be rehired;
- Grants to assist in monitoring Hawaii's commercial fisheries cannot be funded "ahead"; and
- Travel to the three U.S. jurisdictions in the western Pacific will be restricted and/or cancelled.

Additional reductions will occur in PIFSC programs that provide data, biological research, and other critical information for understanding the underlying dynamics that affect fish populations in this region.

These restrictions in staff, travel, and the program activity they support will result in:

- Reduced ability to track landings against Hawaii bigeye tuna and bottomfish catch quotas, increasing the risk that quotas might be exceeded;
- Reduced support for cooperative research;
- Reduced monitoring of the U.S. purse seine fishery operating in the South Pacific;
- Increased backlog for processing life history samples necessary for scheduled reef fish stock assessments;
- Reduced ability to provide technical support and direct oversight and feedback to local agencies concerning their fishery surveys and bio-sampling; and
- Restricted NOAA participation in highly migratory species (tunas, billfish, and sharks) stock assessment working groups through the International Scientific Committee for Tuna and Tuna-like Species.

If sequestration were to continue, it is likely to result in reduced time series of data for reef fish assessments; delays in conducting new assessments; and reduced capacity to improve the PIFSC fishery-dependent surveys of small boat fisheries in each jurisdiction. Additionally, reduced sampling of billfish and shark biological and size-at-catch data from China fisheries could increase the uncertainty of the highly migratory species assessments and subsequent management advice in international fisheries management organizations, potentially disadvantaging U.S. fishing fleets, including the Hawaii-based and American Samoa-based longline fisheries and the U.S. purse seine fishery in the South Pacific. Given the lack of adequate data and scientific analysis, stewardship decisions must be taken using a precautionary approach, which can impact commercial activities associated with oceans, including fishing, offshore energy development, and other activities.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. WILLIAM COWAN TO HON. ERIC C. SCHWAAB

Addressing Challenges in the New England Fishing Industry

According to NOAA's 2011 Final Report on the Performance of the Northeast Multispecies Fishery, the number of active vessels dropped from 957 in 2009, to 890 in 2010, to 805 in 2011. These declines do not fully show the lost revenue for thou-

sands of other vessels and they do not quantify the effect on families in coastal communities around Massachusetts.

Question 1. Since the implementation of catch shares in 2010, what has NOAA done to assist the fishermen and fishing communities who have been forced out of the industry or into bankruptcy? Given that Commerce has declared a Federal fishery disaster, and given how desperately this assistance is needed, have you requested that disaster assistance for the Northeast be included in the President's budget for 2014? If not, why not?

Answer. NOAA understands Northeast fishing communities face serious challenges due to the condition of groundfish stocks, and we are committed to doing everything we can to help them through these difficult times. It is going to take us all working together to ensure that both fishermen and groundfish survive.

NOAA has provided over $50 million in start-up funding to groundfish sectors to pay for operational costs to get the individual sector programs off the ground. We have paid for at-sea monitoring coverage since the implementation of the sector management program in 2010. We also funded dock-side monitoring for the duration of that requirement.

NOAA has also been working with the New England Fishery Management Council and the fishing industry to optimize fishing opportunities and to provide access to healthy stocks like monkfish, redfish, dogfish, and winter flounder. Using emergency authority, we responded to new information regarding improvements in the white hake stock status by increasing the white hake quota in time for the May 1 start date. We also provided many of the requested sector exemptions, which were finalized before the May 1 fishery start date. We expedited these actions to help mitigate the impacts of low quota on key groundfish stocks. NOAA Fisheries has allowed groundfish fishermen to carryover 10 percent of quota from the 2012 fishing year to the 2013 fishing year. This applies to all groundfish stocks except Gulf of Maine cod because of the poor condition of the Gulf of Maine cod. Fishermen have been able to carryover just under 2 percent of unused GOM cod quota.

NOAA will continue to support improvements in fisheries science and, in its Fiscal Year 2014 budget proposal, has requested $180 million for fisheries research and management programs, $70 million to expand annual stock assessments, and $12 million for cooperative research. These represent proposed increases over current levels and reflect NOAA's commitment to fisheries science during these fiscally austere times.

On September 13, 2012, Dr. Blank determined a commercial fishery failure due to a fishery resource disaster had occurred. This determination includes the 2013 fishing year, which started May 1. The Administration does not have a standing source of funds that Congress appropriates to apply to disasters as they arise.

Question 2. According to its mission statement, the Commerce Department's goal is to "help make American businesses more innovative at home and more competitive abroad." What is your plan to work with the rest of the Commerce Department to provide real assistance—funding, training, business development assistance, etc. to our fishermen in the Commonwealth? Please report back to this Committee with a plan by April 15th, the day our fishermen have to pay the Federal government for its services.

Answer. The Department of Commerce (DOC) and NOAA are committed to doing whatever we can to provide real assistance, funding, training, and business planning to help fishermen in the Commonwealth and around the country sustain profitable and sustainable fishing businesses. As you know, Northeast Regional Administrator John Bullard has been meeting with fishing industry leaders throughout the Region and talking with members of the New England delegation, as well as state and Federal agency partners, to put together an economic resources document for Northeast fishing communities. John Bullard has the full support of NOAA and the DOC in this effort.

He has been meeting with the Small Business Administration, the U.S. Department of Agriculture (USDA), U.S. Department of Labor, and DOC's Economic Development Administration (EDA) to discuss what they can do to help, and they have pledged to work with us. We will continue to look to our Federal agency partners, state partners, and nongovernmental partners in this effort to find ways to assist New England fishermen and their communities. In addition, last year EDA deployed interagency Economic Development Assessment Teams to fishing communities in the Northeast to help design economic recovery strategies. These efforts focused on providing comprehensive, customized, and capacity-building technical assistance from economic development and recovery experts. The information provided as part of this effort can assist communities as they consider long-term development goals and transitional strategies. The EDA's Economic Development Representatives and

Specialists continue to be available to local communities to provide information on EDA programs, its grants application process, and other Federal resources that communities may wish to explore. As we go forward in this effort, we want to work closely with you and others in the New England delegation as well as state leaders. It is essential that we collaborate to ensure that both fishermen and groundfish survive.

Question 3. From reading your testimony, one would assume that things are moving forward in the Gulf of Maine fishery and that, while there are difficulties, our fishermen accept the current state of affairs. Despite your testimony before this Committee, the truth is our fishermen are facing bankruptcy and the fishing industry is failing. Given these circumstances, why have you refused to take any interim measures that would allow this important industry to continue during these difficult times, particularly given the reality that your science is not perfect and has changed dramatically from survey to survey?

Answer. We fully appreciate the importance of this issue to the New England groundfish industry. We have worked hard to implement measures that will help the industry adjust to the economic realities associated with significant cuts to iconic species. These efforts include increasing access to healthy stocks and slowing the transition of observer costs from the Federal government to the industry.

Last year, based on the unique situation presented at the time, we implemented interim measures under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act in setting catch limits for Gulf of Maine cod. As these measures reduced, but did not end overfishing in 2012, some economic impacts to the fishery were mitigated. We notified the industry and the Council that this authority was only valid for one year and the Council adopted measures that ended overfishing for this stock for the 2013 fishing year. In addition, allowing overfishing on this stock for another year, in light of the current science that indicates that the stock is not recovering and that quotas will not be increasing in the near future, would contribute to its declining status, which would harm the fishing industry even further, and would violate our obligations under the Magnuson-Stevens Act. Generally, groundfish quotas are reviewed and updated annually by the Council based on the best available science.

Question 4. Recently, NOAA highlighted the importance of helping our fishermen with at-sea monitoring costs. However, instead of committing to find a way to provide full funding for at-sea monitoring costs, you fell short and basically said you "will try." That is just unacceptable. I know these are tough times for everyone, but NOAA does have funds. The Saltonstall-Kennedy Act, for example, directs 30 percent of the duties on imported fish products to a grant program to benefit the U.S. fishing industry. In 2010, that was equal to $113 million. Of that $113 million, $104.6 million went to NOAA's operations budget, and only $8.4 million was used by NOAA for our fisheries. That is completely unacceptable. Considering the state of the Massachusetts fishing industry, how is it possible that NOAA is not using this funding to help our fishermen and fishing businesses, as Congress intended? And what are your plans for using Saltonstall-Kennedy Act funds to help New England fisheries with at-sea monitoring costs, science, and economic assistance?

Answer. NOAA remains committed to working to fund the 2013 at-sea monitoring costs. At present, we believe we can fund these costs.

The Saltonstall-Kennedy (S–K) Act calls for funds to be used to support the U.S. fishing industry through Research and Development. Funding is derived from a transfer from the USDA to NOAA from duties on imported fishery products. Since 1979 Congress has transferred, through the appropriations bill, a portion of the S–K funds to NOAA's Operations, Research and Facilities (ORF) account for activities that the industry wants and needs, including cooperative research, stock assessments, survey and monitoring projects, and other fishery research.

The 2013 appropriations bill directs the ORF offset for: Expanded Stock Assessments, Fish Information Networks, Survey and Monitoring Projects, Interjurisdictional Grants, and Cooperative Research. These funding lines support the agency's fisheries science including external grants for scientific work with fishermen in New England. For example, depending on final numbers, the New England study fleet would be funded through the Cooperative Research budget line. The study fleet is a subset of fishing vessels from which high quality, self-reported data on fishing effort, area fished, gear characteristics, catch, and biological observations are collected.

NOAA will also have funding for a dedicated S–K Program in FY 2013. Now that our final spend plan is approved, we are commencing a competitive grant process to solicit project proposals and determine which ones should be funded. FY 2010 was the last year NOAA had funding for a dedicated S–K Program, and proposals se-

lected for funding included aquaculture projects and fishing gear cooperative research projects to help reduce bycatch and environmental impacts. These are examples of projects funded with S–K money that help fishermen.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARCO RUBIO TO HON. ERIC C. SCHWAAB

Saltonstall-Kennedy

During the hearing, you indicated that you would provide the amount of the funding from Saltonstall-Kennedy that Commerce receives each year from the Secretary of Agriculture that has gone to the Promote and Develop Fisheries national grant program over the last four years. Please provide that information.

Question 1. If the funds have not gone out to support regional grants, where has the funding gone? Who decided how those funds should be spent?

Answer. The table supplied as a response to Question #16 (below) shows the amount transferred from the USDA into the Promote and Develop Fishery Products and Research Pertaining to American Fisheries account, the amount that the appropriation bill directs to offset NOAA's Operations, Research and Facilities (ORF) account, and the amount remaining for the Saltonstall-Kennedy program. The portion of the Promote and Develop (P&D) funds that did not go to the National Program or competitive grants was directed by Congress to NOAA's ORF Account. Historically these funds were executed under the "Fisheries Research and Management Programs" budget line item. The ORF offset supports fisheries research and management activities including the analysis and decision-making that support ecosystem approaches to fisheries management, fisheries management plan and regulatory implementation, development of fisheries regulations and fisheries management plans and amendments in order to maintain and restore productive stocks important to commercial, recreational, tribal, and subsistence fisheries. In FY 2012, funds were executed under the following budget line items:

- Fisheries Research and Management ($16.0M)
- Expand Stock Assessments ($60.4M)
- Survey and Monitoring Projects ($21.7M)
- Cooperative Research ($11.0M)

These are some of the core funding lines that support the fisheries science mission including vessel surveys, stock assessments and collaborative science with the fishing industry. The Expand Annual Stock Assessments and Survey and Monitoring Projects lines support the science to set annual catch limits to prevent overfishing and maximize fishing opportunity. Cooperative research enables commercial and recreational fishermen to become involved in collecting fundamental fisheries information to support the development and evaluation of management options in their fishery. This year, NOAA will use the funds transferred from the Promote and Develop account in accordance with the FY 2013 Appropriations Act language: "That in addition, $119,064,000 shall be derived by transfer from the fund entitled 'Promote and Develop Fisheries Products and Research Pertaining to American Fisheries,' which shall only be used for fishery activities related to Cooperative Research, Annual Stock Assessments, Survey and Monitoring Projects, Interjurisdictional Fisheries Grants, and Fish Information Networks. . ." The FY 2014 budget request also proposes to use the funds to offset these accounts for the same activities as FY 2013.

Question 2. Is there a detailed accounting of how those funds have been spent over the past four years? If so, please provide. If not, why?

Answer. More information on the transfer of funds from USDA to P&D, and the allocation between the ORF offset and Saltonstall Kennedy Grants over the last four years is provided below. In 2013, $11.2M is available for Saltonstall-Kennedy grants. For details on the Saltsonstall-Kennedy program, please see the Saltonstall-Kennedy reports to Congress through FY 2011.[5]

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[5] *http://www.nmfs.noaa.gov/mb/financial_services/skhome.htm*

in millions	FY 2010	FY 2011	FY 2012	FY 2013
S–K Transfer from USDA to Promote and Develop (P&D)	$113.3	$90.2	$109.1	$130.2
Transfer from P&D to offset ORF	$104.6	$90.2	$109.1	$119.1
Dept. of Ag funds available for Saltonstall-Kennedy grants	$8.8	$0	$0	$11.2
Saltonstall-Kennedy Grants				
Competitive Program	$4.8	$0	$0	tbd
National Program	$3.5	$0	$0	tbd
Administrative Costs	$0.5	$0	$0	tbd
Total	$8.8	$0	$0	$11.2

*Subtotals may not sum due to rounding

Question 3. When funding from Saltonstall-Kennedy is transferred to NOAA's Operations, Research, and Facilities (ORF) account, are you required to use 100 percent of the transferred funds for the authorized uses under the Saltonstall-Kennedy Act as amended (15 U.S.C. 713c-3)?

Answer. The Appropriations bills each year include language directing transfer of a portion or all of the P&D account to the ORF account to support fisheries activities. The difference between the total transferred from the USDA and the amount Congress directs NOAA to use to offset fisheries activities is the amount available for Saltonstall-Kennedy grants.

Historically, transferred funds to the ORF account were executed under the "Fisheries Research and Management Programs" budget line item. In FY 2012, funds were executed under the following budget line items:

- Fisheries Research and Management ($16.0M)
- Expand Stock Assessments ($60.4M)
- Survey and Monitoring Projects ($21.7M)
- Cooperative Research ($11.0M)

These are some of the core funding lines that support the fisheries science mission including vessel surveys, stock assessments and collaborative science with the fishing industry.

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