

**REAUTHORIZATION OF THE MAGNUSON-STEVENS
FISHERY CONSERVATION AND MANAGEMENT ACT:
OVERSIGHT OF FISHERIES MANAGEMENT
SUCCESSSES AND CHALLENGES (PART 2)**

FIELD HEARING

BEFORE THE

SUBCOMMITTEE ON OCEANS, ATMOSPHERE,
FISHERIES, AND COAST GUARD

OF THE

COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION

UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

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AUGUST 23, 2017
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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

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**REAUTHORIZATION OF THE MAGNUSON-
STEVENS FISHERY CONSERVATION AND
MANAGEMENT ACT: OVERSIGHT OF
FISHERIES MANAGEMENT SUCCESSES
AND CHALLENGES (PART 2)**

WEDNESDAY, AUGUST 23, 2017

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

The Subcommittee met, pursuant to notice, at 1:03 p.m. in Room 102, Kenai Peninsula College, Hon. Dan Sullivan, Chairman of the Subcommittee, presiding.

Present: Senator Dan Sullivan [presiding].

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

Senator SULLIVAN. Well, good afternoon, everybody.

The Committee on Commerce, Science, and Transportation will now come to order.

You may have seen that the title of today's hearing is the "Reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act: Oversight of Fisheries Management Successes and Challenges."

I am Senator Dan Sullivan. I want to thank everybody for being here.

I had the good fortune of being named, at the beginning of this most recent Congress, the Chairman of the Senate's Commerce Committee's Subcommittee on Oceans, Atmosphere, Fisheries, and the Coast Guard, which has jurisdiction over our Nation's fisheries and Federal waters. This is the first field hearing that the Subcommittee is doing anywhere in the United States. And, of course, you are not surprised that we are doing it here in Alaska.

With me today, I have two professional staff members from the Senate Commerce Committee, Emily Patroliia and Cindy Qualley; along with staff members in my office, Tom Mansour, who is a Coast Guard officer on detail to my office; Scott Leathard, who is the Staff Director of the Subcommittee; Elaina Spraker, who many of you know from my Kenai office.

My Chief of Staff in Washington, D.C., Joe Balash, who some of you may know on a very different, but important topic to the State of Alaska, has recently been named by the President to be the As-

sistant Secretary of Interior in charge of all oil, gas, minerals, onshore, and offshore; not only for Alaska, but the entire country.

So Joe will be going through his confirmation hearing in the Senate Energy and Natural Resources Committee chaired by Senator Murkowski in a couple of weeks. So we will be losing Joe, but America and Alaska will be gaining a strong advocate for our state and the country on some very, very important issues that we are not going to be talking about today, but I just wanted you to know that.

Today's hearing is the second in a series of hearings that I am chairing, which focuses on the long overdue reauthorization of the Magnuson-Stevens Fisheries Conservation and Management Act—we short-handedly refer to it as the MSA—to examine this law's impact on managing our Nation's fisheries, its successes, of which there are many, and areas of improvement.

Again, I first want to start by thanking our hosts. Gary, thank you, and the Kenai Peninsula College. I also want to thank the Kenai River Sporting Association for their help in organizing this important event.

This year, the Kenai River Classic celebrates 25 years of raising funds for conservation, education, and other projects in South Central Alaska, and I wish the organizers another very successful event week.

I also want to thank everybody for being here today. We have an all-star list of witnesses who are going to be testifying on three different panels today. This is an important hearing.

I know that many of you traveled throughout parts of Alaska to be here and some of you have traveled, literally, thousands of miles from the Lower 48, to be here. I want to personally thank everybody for the travel, sacrificing their time, even sacrificing their time out on the water to fish.

Earlier this month, I chaired a hearing in Washington, D.C. that solicited testimony from the Regional Fisheries Management Councils and NOAA. Today, our intention is to have the opportunity to broaden the amount of testimony, and witnesses, and different points of view dramatically from all kinds of different stakeholders in our fisheries.

One of the things that I just want to emphasize: this is an area where I see significant bipartisan opportunities. One thing when I am back home, I try to talk about what is going on in Washington and you often only hear about the conflict and where things are not working. There are also a lot of things that are working from a bipartisan perspective. I will just mention one that relates to fisheries.

We had a bill called the Save Our Seas Act that recently passed the Senate. That came out of the Committee that I chair. It was a bill that I authored, but it had numerous Democrats and Republicans dealing with a really important issue that relates to this topic and that is the issue of ocean pollution, ocean debris. You cannot help but see that throughout our state. So there is progress there.

We want to make sure that as we look at reauthorizing this bill that we hear from as many impacted stakeholders as possible, to make sure that we can build consensus, and to make sure that the

next generation of young men and women in our fisheries, whether in Alaska or throughout the country, have opportunities for strong, sustainable fisheries and strong bi-run coastal communities.

So when you look at the witness list, it literally covers the Pacific Northwest, the southeast United States, and every corner of Alaska from southeast, to the interior and Kodiak, and everywhere in between.

We are fortunate today to host a robust group of witnesses representing both geographic diversity and, importantly, a diversity of experiences and perspectives.

In addition, I am eager to hear from our State and regional Federal managers to gain their views on management successes, challenges, and how Congress can provide additional direction or tools to further their mission and enhance State and Federal coordination, which is so, so critical with regard to our fisheries to enable them to thrive for the next generation, whether they are commercial, recreational, charter, or subsistence.

The MSA has successfully Americanized our fisheries and built the fishing industry into Alaska's largest private employer—a lot of people, even in Alaska, do not realize that—more than any other industry. As I constantly and perhaps annoyingly remind my Senate colleagues back in Washington, D.C. Alaska's fisheries are, by far, the largest in the Nation accounting for well over 50 percent of all total domestic landings in the country.

We literally are the super power of seafood and probably considered the best managed fishery—certainly not without its challenges—but the best managed fishery in the United States and probably in the world.

At the same time, we know that we have challenges, and we know that we have opportunities and see them. Even this summer, like most Alaskans, I have been out doing my fair share of fishing this summer. I was on the Yukon River where my wife's family has had a subsistence fish camp for generations. I saw a strong run there. I was out fishing in Seward and saw a lot of opportunities out there. And just yesterday, I was in King Cove and saw a strong fishery there.

In 2017, we saw a near record sockeye run in Bristol Bay. Meanwhile, southeast Alaska is experiencing unprecedented closure of sport and commercial king salmon fisheries, and the sport king fishery in the Upper Copper River was closed this year. As I noted, the Yukon River saw the best king fishery since 2003, while the Kuskokwim saw few kings, but an abundance of reds and chums. The Gulf of Alaska saw an early closure for some groundfish species.

These are just a few observations, some challenges related to management, while others are a function of biology. And I think our witnesses are going to help us understand these better.

The key is providing the greatest overall benefit to the U.S., the entire country, to recreational opportunity and seafood harvest without jeopardizing conservation. And that is the greatest responsibility that Congress has assigned to our fishery managers through the MSA.

This requirement is often a strained balancing act and we recognize that, and it forces tough choices between competing interests.

But again, I think what we are trying to do here is look at ways to achieve consensus.

At a recent hearing in Washington, Chris Oliver, the newly appointed Assistant Administrator for NOAA Fisheries, the Director of the National Marine Fishery Service, NMFS, and I am proud to say the first-ever Alaskan to permanently hold that position, testified as follows: “I believe there are opportunities to have it both ways. To maximize our domestic harvest potential without compromising the long term sustainability of the resources we manage.”

So for many Alaskans and their families, fishing is a way of life. As Congress considers the reauthorization of the MSA, we are focused on seeking the sort of solutions that Chris Oliver has confidence exists. I hope today’s hearing will further guide us toward that goal.

I am committed to ensuring that our Nation’s fisheries management system supports a stable food supply, recreational subsistence opportunities, and plentiful fishing and processing jobs that provide for vibrant coastal communities here in Alaska, but also across the United States.

And with that, I would like to get started and turn to our first panel, which consists mostly of State and Federal officials in the public management bodies that make decisions with regard to our fisheries.

I want to welcome our witnesses, Dan Hull, who is the Chair of the North Pacific Fishery Management Council.

Commissioner Sam Cotten, who is the Commissioner of the Alaska Department of Fish and Game.

Reed Morisky, Member of the Alaska Board of Fisheries.

And Spud Woodward, Director of the Coastal Resources Division, Georgia Department of Natural Resources. Dr. Woodward, I think you might get the award for traveling the furthest. So we want to thank you for being here as well.

Each of you will have 5 minutes to deliver an oral statement. A longer, written statement will be included in the record for this hearing, if you so wish.

That also reminds me, this hearing will be open in terms of the record for 2 weeks and we would encourage any and all—we will leave the contact information for additional testimony from any members of the audience—who would like to submit written testimony that we will look at and read, I promise you, and consider as part of this hearing, even though you were not able to testify as one of the witnesses today.

So each of you, as I mentioned, will have 5 minutes. We look forward to an interesting discussion and again, I want to thank all of the witnesses for being here.

Dan, can you please kick it off?

**STATEMENT OF DAN HULL, CHAIRMAN, NORTH PACIFIC
FISHERY MANAGEMENT COUNCIL**

Mr. HULL. Good afternoon, Chairman Sullivan, Ranking Member Peters, and members of the Committee.

First, thank you for holding this field hearing in Alaska and for the opportunity to testify on the reauthorization of the Magnuson-

Stevens Fishery Conservation and Management Act, or MSA, as we say in shorthand.

My name is Dan Hull and I am Chairman of the North Pacific Fishery Management Council.

Fisheries are extremely important to the economies, coastal communities, and cultures in Alaska and the Pacific Northwest. And we have developed a sustainable fisheries management program in Alaska over the last 40 years.

Thus, the North Pacific Council believes that the current MSA and the ten national standards already provide a very successful framework for the conservation and management of our Nation's fisheries resources.

Nevertheless, we also recognize the potential benefits of increased flexibility in some circumstances to allow regional councils the opportunity to optimize their management programs with the appropriate cautionary notes.

We agree with, and support, the Council Coordinating Committee's consensus positions on MSA reauthorization provided by Dr. John Quinn recently, and I encourage the Committee to take advantage of the collective wisdom of the CCC as work on reauthorization moves ahead.

I want to highlight several issues in particular, beginning with modifications to the ACL requirements, which we believe are the cornerstone of sustainable fisheries management.

The process for setting ACLs through the Council's scientific and statistical committees includes accounting for uncertainty, articulating policies for acceptable risk, and establishing necessary precautionary buffers. We continue to believe that the SSCs are the appropriate gatekeepers for making those determinations.

Any changes to the law providing additional flexibility must continue to ensure that fundamental conservation and management principles are upheld, and should not create incentives or justifications to overlook them for the sake of preserving all economic activity over the short term.

Second, more specific to the North Pacific region, we believe an amendment to remove the August 1, 1996 date from MSA section 306(a)(3)(C) is essential to effective management and enforcement of the fisheries. This would ensure that the delegation of salmon management in the EEZ to the State of Alaska would include vessels not registered with the state.

Mr. Chairman, I also want to correct my written statement on the recusal issue to reflect that continuation of the full attribution policy is a NOAA agency decision and not a decision by NOAA G.C. alone.

Next, incorporating the national Environmental Protection Act requirements into the MSA to achieve a single guiding statute for fisheries management is consistent with the longstanding views of our Council and the CCC.

However, we are concerned that the ultimate result will be contingent upon implementing regulations, and realized benefits could be marginal relative to the creation of new complexities and costs. In our view, this issue certainly deserves closer scrutiny.

Last, we concur with the CCC's concerns regarding the challenges that councils face to meet important new national policy di-

rectives and the adequacy of funding to continue at-sea surveys and stock assessments.

In the North Pacific, the high quality and coverage levels of fishery surveys and stock assessments have been essential in achieving sustainable fisheries for so long. With reductions in surveys and stock assessments, it becomes harder to achieve optimum yield in the fisheries as defined in National Standard 1.

Greater uncertainty in estimates of abundance typically results in more conservative approaches to management and lower harvest levels to buffer against the potential for error and maintain conservation goals.

My written testimony also includes four examples of successful fisheries management in the North Pacific under the existing MSA: Chinook salmon bycatch management in the Bering Sea, the Observer Program and development of electronic monitoring, the management of halibut allocations between the commercial and charter sectors, and the development of ecosystem based fisheries management.

No management program is perfect upon implementation and all of them require review and revision over time. But all of these actions have been possible under the existing structure of the law, and there are several important underlying themes in all of them.

First, the significance of a well-structured national policy framework that provides broad objectives with sound guidance, recognizing regional differences in allowing for the development of regionally based solutions.

Second, is the critical importance of science and analysis, stock surveys, assessments, fisheries dependent data collection and monitoring, and research including social and economic research.

And finally, ensuring accountability in all that we do through monitoring and data collection in the fisheries, review of catch share and other management programs, and broad stakeholder participation.

Chairman Sullivan, thank you again for the opportunity to testify. That concludes my remarks and I will do my best to answer any questions you may have.

[The prepared statement of Mr. Hull follows:]

PREPARED STATEMENT OF DAN HULL, CHAIRMAN,
NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Good afternoon Chairman Sullivan, ranking member Peters, and members of the Committee. Thank you for the opportunity to testify on reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act, or MSA). My name is Dan Hull, and I am the Chairman of the North Pacific Fishery Management Council. I have served as one of Alaska's representatives on the Council for eight years and as Chairman for the last three, and I am honored to participate in this hearing and offer our perspectives on reauthorization.

Because the North Pacific Council has not met in session since receiving the invitation to testify and to provide suggestions for improving the MSA, my comments are confined primarily to previous discussions we've had about issues raised in current and prior draft legislation. My comments also include examples that highlight important elements of the MSA and illustrate the success of the law in the North Pacific as written. As this subcommittee and Congress work to reauthorize the law and request further review and comment from us, we stand ready to share our perspectives independently and in concert with the other Regional Fishery Management Councils to improve and strengthen the MSA.

Fisheries in the North Pacific

The North Pacific Fishery Management Council, through its partnerships with NOAA Fisheries (NMFS) and other agencies, develops regulations for groundfish in the Gulf of Alaska, Bering Sea, and Aleutian Islands. Groundfish include cod, pollock, flatfish, Atka mackerel, sablefish, and rockfish species harvested by trawl, longline, jig, and pot gear. The Council also makes domestic allocation decisions and establishes domestic management programs for halibut, as part of our coordinated management of the halibut resource with the International Pacific Halibut Commission, which sets directed fishery catch limits and season dates, and manages biological aspects of the resource for U.S.-Canada waters. Other large Alaska fisheries such as salmon, crab, scallops and herring are managed jointly with the State of Alaska.

Fisheries are extremely important to the economies, coastal communities and cultures in Alaska and the Pacific Northwest. More than 50 percent of the seafood harvested in the United States comes from Alaska. The fisheries provide tens of thousands of jobs for commercial fishermen, processing workers, sport fishing guides, gear suppliers and other support industries. There are over 1,500 vessels fishing commercially in the federally managed groundfish fisheries, hundreds of other vessels participating in State managed commercial fisheries, another 1,000 or so charter vessels participating in the halibut sport fishery, and a large number of privately owned boats that participate in recreational fisheries for halibut, groundfish, and salmon. The commercial fisheries annually catch is about 3 million metric tons of fish off Alaska, which generates approximately \$2 billion in ex-vessel revenue (the amount paid to fishermen at delivery, prior to value added processing). The groundfish fisheries account for a majority of the catch and value, but the halibut, salmon and crab fisheries also contribute substantially.

The Council recognizes that its management of marine resources in the North Pacific is also critical to subsistence uses of fish, shellfish and marine mammals throughout Alaska's coastal communities, whether directly or indirectly.

We have developed a very successful fisheries management program in the North Pacific, resulting in profitable and sustainable fisheries. For the past 40 years, annual groundfish catches have ranged from 3 to 5 *billion* pounds, with no stocks overfished or undergoing overfishing. There is no question that sustainable, science based conservation and management of the living marine resources in the North Pacific is critically important to the economies and communities in our region.

Views on MSA Reauthorization

The North Pacific Council believes that the current MSA already provides a very successful framework for sustainable fisheries management, and major changes are not necessary at this time. Nevertheless, we also recognize the potential benefits of increased flexibility in some circumstances, and amending the Act to provide for such flexibility could provide all the regional councils additional opportunities to optimize their fishery management programs, with appropriate cautionary notes. In short, any changes to the law providing additional flexibility must continue to ensure that fundamental conservation and management tenets are upheld, and should not create incentives or justifications to overlook them.

We agree with and support the Council Coordinating Committee's consensus positions on issues, which were detailed in the testimony provided by John Quinn at the hearing earlier this month. As your subcommittee and Congress works to reauthorize the MSA, we encourage you to take advantage of the collective wisdom of the Council Coordination Committee, as well as individual Councils, to assess how best to navigate challenging issues. We believe that the CCC is well positioned to review and understand regional differences and complexities in management, and if requested, offer guidance as well potential solutions to new challenges and proposed changes to the MSA. The following are the North Pacific Council's views and comments on some specific issues and provisions raised in various proposed amendments to the MSA, and in separate discussions with NMFS.

Modifications to the ACL requirement

Regarding annual catch limits (ACLs), ACLs have been used in the North Pacific for the past 40 years, and we believe that such limits are a cornerstone of sustainable fisheries management. We also believe there are situations where some flexibility in the establishment of ACLs is warranted, particularly in the case of data poor stocks. Consideration of the economic needs of fishing communities is critical in the ACL setting process, and while the current MSA allows for such consideration, we recognize the desire for a more explicit allowance for these considerations. We must be careful however, not to jeopardize long term fisheries sustainability, and associated community vitality and resiliency, for the sake of short term preser-

vation of all economic activity associated with a fishery. Accounting for uncertainty, articulating policies for acceptable risk, and establishing the necessary precautionary buffers, are all explicit outcomes of the ACL process, and we believe that the Councils' Scientific and Statistical Committees (SSCs) are the appropriate gatekeepers to establish the upper limits of 'safe' fishing mortality, which we believe to be at the Acceptable Biological Catch level. We also believe that authorization for multi-species stock complexes and multiyear ACLs, as well as the provisions regarding ecosystem component species, will also provide the Councils greater flexibility to apply ACLs consistent with other aspects of management for a given species.

Alternative management measures for recreational fisheries (or other fisheries, such as subsistence) such as extraction rates, mortality targets, and harvest control rules could provide additional tools and flexibility to fisheries managers in all U.S. regions. It is unclear, however, whether such alternative measures are intended to be *in lieu of* ACL requirements, or in some other context. This is one example where maintaining accountability to scientific principles is appropriate, and I believe the CCC's comments to this Subcommittee reflect this, stating "ideally such exceptions would be codified in the MSA along with guidance regarding applicable circumstances in National Standard guidelines".

Stock Assessment Science

Stock assessments provide the fundamental information necessary to successfully manage sustainable fisheries. As such, the Council believes the requirements for the Secretary to develop plans and schedules for stock assessment will enhance fisheries management nationally. However, we have some serious concerns with the provision to incorporate information from a wide variety of non-governmental sources, and potentially require that information to be considered 'best information available'. In the North Pacific Council the public has opportunity to provide input into the science and scientific peer review of all issues through testimony and discussions at the SSC and Plan Team meetings, and these bodies regularly hear the views of stakeholder groups, oftentimes in detailed data-based presentations. And we are working to incorporate traditional knowledge into our understanding of the ecosystem. We are concerned that complying with this provision will increase burdens on our staff and our Scientific and Statistical Committee, and invite potential litigation. This makes it especially difficult for the Council to fulfill its responsibilities under MSA. The implementing guidelines for when such information would be utilized will be critical to its veracity and usefulness to managers.

Rebuilding Plans

Regarding potential changes and increased flexibility for stock rebuilding plans, our Council believes that further flexibility, particularly in cases where the 10-year rule does not make sense due to the particular aspects of the stock in question, would appropriately increase the ability to maximize harvest opportunities while still effecting rebuilding of fish stocks. In some cases, the somewhat arbitrary 10-year requirement can result in overly restrictive management measures, with unnecessary, negative economic impacts, with little or no conservation gain. Allowing for rebuilding to occur in as short a time as "practicable", as opposed to as short a time as "possible", appears to be an appropriate mechanism for additional flexibility. The use of alternative rebuilding strategies such as harvest control rules and fishing mortality targets is consistent with this increased flexibility. Finally, allowing the Councils' SSCs to determine whether a rebuilding plan is no longer necessary seems an appropriate role for the SSCs.

Distinguishing between overfished and depleted

When a fish stock abundance drops below a certain threshold, it is deemed 'overfished', regardless of whether or not fishing caused the change in abundance. In the North Pacific the example of Pribilof Island Blue King Crab, a fishery for which there has been no allowable fishing for decades, and a species which is only occasionally taken as bycatch in other fisheries, highlights the need to differentiate stocks for which an "overfished" status has no relation to fishing activities. Replacing the term "overfished" with the term "depleted" may be an effective way to address this problem. Additionally, legislation should consider exempting depleted fisheries from development of a rebuilding plan in cases where fishery management actions would not effect, or substantially affect, stock rebuilding.

Transparency

All decisions made by the Council and its advisory bodies are done through a transparent, open public process. Meeting materials, agenda and schedule, and public comment letters are all posted in advance of the meeting on a "live agenda" on the Council website. During the meeting, this "live agenda" is continuously updated

with minutes that are drafted by the SSC, AP and Committees, motions on which the Council has acted, and new material that is pertinent to the agenda items.

Regarding the requirements to provide website access to audio, video, or written transcripts of all Council and SSC meetings, this is already provided for meetings of the Council, including live webcast (to the extent possible) and full searchable audio transcripts. While SSC meetings are not live webcast or recorded, they are open to all the public and very detailed meeting minutes are developed and are accessible on our website. Requiring live webcast or full audio transcriptions of SSC meetings would impose added costs to the Council, with both monetary and personnel commitments, with minimal benefit to the public. Additionally, our Council meetings are sometimes held in remote Alaska coastal communities that may have less than ideal Internet connectivity necessary for audio (or video) webcasting. The Council agrees with the Council Coordinating Committee recommendation to require the use of webcasts “to the extent practicable” will achieve greater transparency within budget and operational constraints.

In addition to openness and transparency, it is worth noting the evolution of representation on the North Pacific Council and its subsidiary bodies over time. As new challenges arise, management programs become more complex and intertwined, and stakeholder interests broaden, the composition of the North Pacific Council and its subsidiary bodies has arguably become more representative of the diverse commercial, subsistence and recreational fisheries, communities, environmental and other stakeholder interests than in the past.

NEPA Compliance

Incorporating the National Environmental Protection Act (NEPA) requirements into the Magnuson-Stevens Act, and realizing a single guiding statute for fishery management actions, is consistent with long-standing intent of the Council and the Council Coordinating Committee generally. However, we are concerned that the ultimate result will be contingent upon implementing regulations, and the realized benefit could be marginal relative to creation of new complexities and challenges. These new complexities and challenges include the development of potentially complex and contentious regulations, and creation of a new body of litigation relative to fishery management actions. Our specific concerns are as follows:

- Proposed new requirements would not alter the current breadth and scope of environmental, economic, and social impact analysis requirements, so we would not anticipate any decrease in the overall resources necessary to satisfy the new requirements.
- Councils, subject to approval by the Secretary, would be required to “prepare procedures” to comply with the new fishery impact statement requirements—as with many recent MSA amendments, this means development of potentially complex, controversial, interpretive regulations, or at least ‘guidelines’, which would in essence be subject to approval by NMFS and NOAA GC.
- Presently the onus for completion of NEPA requirements technically lies with NMFS (even though our current process attempts to incorporate most of that within the Council process). Under a revised process all of the onus for compliance with the new provisions will lie with the Councils under the MSA process, except for NMFS’ final review and approval authority. Shifting this responsibility could require substantial realignment of resources.
- We have become quite proficient at the NEPA process (albeit cumbersome), and we have an established track record with regard to litigation of fisheries actions under NEPA. While this section could streamline the process in the longer term, it could also create grounds for a new body of litigation and case law on fisheries management actions, based on an as-yet-unwritten set of implementing regulations, and/or attempting to extend previous NEPA case law to the new MSA process.
- To the extent Councils are experiencing timing/delay issues between the time of final Council action and actual transmittal of the package for Secretarial review, incorporating NEPA requirements into the MSA will not directly address or rectify that problem; *i.e.*, the determination of ‘adequacy’ of the amendment package for transmittal will still be determined by the agency.

Catch Share Programs

The North Pacific Council has several catch share programs. Programs for some fisheries were mandated by Congress (American Fisheries Act pollock cooperatives, BSAI Crab fisheries cooperatives) and others were developed and implemented by the Council (Halibut and Sablefish IFQ program, Gulf of Alaska Rockfish Cooperative Program, BSAI Amendment 80 groundfish trawl cooperative program). These

programs were aimed at eliminating the race for fish and minimizing the associated negative impacts to fisheries resources, as well as to the social and economic well-being of the industry and fishing communities. The objectives originally established for all catch share and IFQ programs are largely being met (reduced bycatch and waste, extended the fishing seasons, increased efficiency, increased utilization, improved safety at sea, etc.).

Full program performance reviews for all catch share and IFQ programs are conducted on a regular periodic basis (every 7 years). The Council also annually reviews the performance of the cooperatives, and considers adjustments to the programs as needed to better meet program objectives. As these catch share programs mature and the original social and economic contexts change, these full performance reviews and annual cooperative reports provide the Council with the assessments needed to address new problems and challenges that may not have been initially anticipated, as well as improve our understanding of how additional catch share programs might be structured. This continues to be an area of ongoing work by the Council.

Exempted Fishing Permits

The North Pacific fisheries management program has greatly benefited from the use of exempted fishing permits (EFPs), including multi-year EFPs, to test (under field conditions) solutions to management problems. In recent years, for example, fishermen have successfully tested different trawl gear configurations to allow escapement of salmon in the pollock fishery, tested and quantified reductions in mortality of halibut sorted on deck and discarded alive from vessels trawling for flatfish, and tested the efficiency and effectiveness of different electronic monitoring devices on longline vessels. Each EFP proposal undergoes scientific peer review by the Alaska Fisheries Science Center and the Council's SSC to ensure that it is scientifically sound, and each proposal is also evaluated by the Council prior to approval by NMFS. A multi-year EFP allows testing across seasons to evaluate inter- and intra-annual impacts. A NEPA Categorical Exclusion may be issued in cases where no additional catches are requested. The Council is concerned that language requiring EFP applications to provide information on the economic effects of the EFP "in dollars" and in terms of lost fishing opportunities for all sectors would elevate the analysis to a full Environmental Analysis just to examine the effects on all sectors. This would greatly reduce the industry's ability to get EFPs developed and approved in a timely manner. The Council also believes that multi-year EFPs can be critical to testing some solutions to fishery management problems.

The current EFP process is working well for the Council, with a minimum of paperwork and process requirements, and the Council does not see a need for changes or new requirements. If there are problems with the current EFP process in particular regions of the country, then proposed legislation should be applicable only to those regions.

In addition, it is worth noting significant voluntary efforts by the fishing industry to improve management outside the formal EFP process. These include efforts by the fixed gear pot fleet to conduct EM pilot projects; projects by the GOA trawl fleet and shore-side processors to account for incidentally caught Chinook salmon for sampling by NMFS/AFSC to improve stock of origin data collection and analysis; and halibut bycatch reduction efforts by the Amendment 80 trawl cooperatives to increase harvest levels by the directed longline fleets in the BSAI.

Alaska-Specific Issues

North Pacific Management Clarification

MSA Section 306(a)(3)(C) contains provisions related to State jurisdiction to manage fishing activity in the absence of a Federal fishery management plan. Removal of the August 1, 1996 date in this paragraph would ensure that the delegation of salmon in EEZ to the State of Alaska would include vessels not registered with the State of Alaska. The Council strongly believes this change, thereby allowing regulation of fishing in these areas by the State of Alaska, would better align the Council with its management authorities and responsibilities under MSA and is essential to the responsible and effective management and enforcement of these fisheries.

Limitation on harvest in North Pacific Pollock Fishery

Proposed legislation in the House (HR 200) would provide allowance for the Council to change the pollock harvest cap as stipulated in the American Fisheries Act (currently 17.5 percent), but not to exceed 24 percent. NMFS has raised the issue of whether the Council or NMFS might already have the authority under the American Fisheries Act to revisit the harvest cap. The Council has taken no position on

this provision at this time, but may in the future upon a better understanding of the intent, need, and potential impacts of such action.

Subsistence fishing

The Council believes that providing a definition for subsistence fishing is a proper addition to the MSA to reflect the full range of marine resource uses in the EEZ. Additionally, adding subsistence as an appointment qualification for Council membership is a beneficial clarification to the MSA, with the understanding that it would not require or direct the appointment of a subsistence representative as a Council member.

Arctic Community Development Quota

Proposed legislation in the House (HR200) would require that if the Council establishes annual catch limits for Arctic fishing, a minimum of 10 percent Community Development Quota to be available for coastal villages north and east of the Bering Strait. The Council has no opinion on this issue, but notes that it may be useful to the Council if Congress provided more specificity with regard to eligible villages.

Council member recusal determinations

An area of concern to the North Pacific Council that we bring to your attention, but that has not been discussed in draft legislation to reauthorize MSA, is the process that NOAA General Counsel employs to determine whether Council members have a financial conflict of interest on a particular action and must therefore recuse themselves. We have communicated with NOAA over various aspects of this process in recent years, and have resolved some issues, but question whether the specific interpretations are consistent with the intent of conflict of interest statute and regulations. The current interpretations make it challenging for the Council to fully exercise its collective voice as intended under the MSA.

The MSA was designed to allow people who actively participate in the fisheries to be voting members of regional fishery management councils. To address concerns about members voting to improve their own financial situation, the MSA has long required Council members to disclose financial interests. Prior to 1996, as long as council members disclosed their financial interests, there was no prohibition on voting on any matter. In 1996, Congress added the recusal provision, which required not only disclosure but also that an affected individual not be allowed to vote on council decisions that would have a significant and predictable effect on a member's financial interest. The MSA language left the issues of significant and predictable effect open for interpretation, so NMFS developed a regulation that set a 10 percent threshold for a significant effect, which is the basis for determining whether a recusal is required. The primary problem is the way in which NOAA General Counsel (NOAA GC) calculates a member's financial interests in determining whether the 10 percent thresholds are exceeded. The NMFS policy is to attribute *all* fishing activities of a company—even partially owned by an associated company—in calculating an individual Council member's interests. The North Pacific Council believes that this attribution policy is inconsistent with the intent of the conflict of interest statute and regulations.

The following example helps to explain this issue: Joe Councilman works for Fishing Company A, which owns 50 percent of Fishing Company B, which in turn owns 3 percent of Fishing Company C. NOAA GC uses *ALL* harvesting and processing activity by *ALL three* of these companies in determining whether Joe Councilman exceeds any of the 10 percent thresholds. The North Pacific Council believes that this is an unfair and illogical interpretation of the recusal regulations, and results in unintended recusals of Council members. The North Pacific Council believes that NOAA GC should use only the amount of harvesting or processing activity equivalent to the Council member's percentage of ownership. Using this proportional share approach, NOAA GC would use 100 percent of the harvesting and processing activity of Fishing Company A, 50 percent of the harvesting and processing activity of Fishing Company B, and 1.5 percent of the harvesting and processing activity of Fishing Company C to determine whether Joe Councilman exceeds any of the thresholds. At our request, NOAA GC revisited the attribution policy, but declined to make changes.

The full attribution policy causes particular problems for the North Pacific council members who represent the Community Development Quota groups because they have been prohibited from voting on many very critically important management issues. The MSA established the CDQ program to allocate up to 10.7 percent of fish quotas to the groups, with the intent the groups invest broadly in the fishery. These CDQ groups have been very successful over the past 25 years, and have become full or partial owners of many fishing companies, and participate in virtually all of the

Bering Sea groundfish, halibut, and crab fisheries and sectors. Hence a CDQ representative is very knowledgeable about the fisheries, so their input and vote is extremely important for a fully effective and participatory fishery management program as envisioned by the MSA. Under the full attribution policy however, all of the various ownership structures are additively applied, resulting in NOAA GC determining that the CDQ representative is recused from voting. The CDQ representative on our Council has been recused far more frequently in the last two years than any other Council member, resulting in what we believe is a frustration of Congressional intent for this program.

We have not decided on a specific fix through MSA to suggest and will continue to review the recusal determination process with NOAA General Counsel.

Council Resources

We agree wholeheartedly with the CCC's comments regarding the challenges that Councils face to meet important new NMFS policy directives without adequate resources, and CCC concern over adequate funding to continue at-sea surveys and stock assessments. In the North Pacific, the high quality and coverage levels of fishery independent trawl surveys and stock assessments have been essential to achieving sustainable fisheries for so long. The Alaska Fishery Science Center (AFSC) recently alerted the Council that reductions to the Gulf Of Alaska groundfish survey efforts are planned for 2017, and possibly for the Eastern Bering Sea Slope survey in 2018 as a result of budgetary concerns ("Implications of reducing and eliminating AFSC groundfish survey effort in 2017 and 2018", AFSC, April 7, 2017). Reductions in groundfish surveys increase the uncertainty in stock assessment estimates, diminishes the quantity and quality of data needed to track changing environmental conditions in the ocean and the effects on species abundance and distribution, and affects the quality of information in a variety of documents critical to the Council process, such as EA and EIS documents, Biological Opinions and Fishery Ecosystem Plans. For the Council, a very direct consequence is that it becomes harder to achieve Optimum Yield in the fisheries as defined under National Standard 1, during the annual process of setting harvest specifications. It also introduces greater uncertainty and variability from year to year. Greater uncertainty in the estimates of stock abundance typically result in more conservative approaches to management and lower harvest levels to buffer against the potential for error. There is the potential for real and direct economic losses to the fishing fleets and communities associated with survey reductions over time.

Examples of Management Actions and Programs Relevant to the Success of the MSA

We understand that there are several contentious management issues in other regions that have initiated development of draft legislation to revise MSA. It is our hope that any modifications to the MSA would avoid across the board mandates, designed to address a problem in another region that could negatively affect the successful management program in the North Pacific.

Below is a description of several management programs and actions that illustrate how we have addressed some of these major contentious issues (bycatch, observer monitoring, commercial/sport allocations, and ecosystem-based management) using the existing authorities already provided by the MSA.

Minimizing Bycatch

The Council has worked diligently to minimize bycatch in the groundfish fisheries. With implementation of catch share programs in the Bering Sea, the percent of catch discarded was reduced from 14 percent in 1999 to only 3 percent in 2016. The Council has also made great strides in minimizing the bycatch of halibut and salmon, which are important species taken as subsistence, recreational, and directed commercial fisheries. Halibut bycatch limits for most gear types were recently reduced in the Gulf of Alaska by 15 percent and in the Bering Sea by 25 percent. The Council is currently evaluating ways to index the annual bycatch limits in the Bering Sea and Aleutian Islands based on halibut abundance. Chinook salmon bycatch, which primarily occurs in the pollock fishery, has been greatly reduced since the early 2000s. In the Bering Sea and Aleutian Islands, overall limits and performance standards have been established which provides incentives for each pollock fishery cooperative to minimize its salmon bycatch at all levels of salmon abundance. Limits are further reduced when salmon returns are projected to be low, based on an index of 3-rivers in Western Alaska that support critical subsistence and commercial fisheries for rural coastal communities. Individual vessels and Pollock cooperatives are accountable for maintaining low bycatch levels through Incentive Plan Agreements developed in accordance with objectives established by the Council. The pollock fleet

works cooperatively to avoid salmon by establishing short term closure areas in hotspot areas, and developing and using pollock excluders in the trawl nets.

Amendment 91 which established the Chinook salmon bycatch management program for the pollock fleet in the BSAI is an excellent example of the successful management that is possible through MSA, when the Council, fishing industry, agencies, and other affected stakeholders work together using sound science in an open and transparent process. While reducing Chinook salmon bycatch is the primary goal and the most visible outcome to the public, it is important to highlight other key elements and factors that make this a successful program. It includes a census and strict monitoring of all salmon taken as bycatch in the Pollock fishery. It includes sampling of those salmon by fisheries observers on the Pollock vessels to conduct a genetic stock identification of the composition of bycatch and thus determine the river drainage of origin. It entails assessments of the impact of that bycatch on Chinook populations and on the subsistence and small commercial fisheries in rural western Alaska communities, for whom Chinook salmon is a corner stone of culture and a source of much needed income in a region of very limited economic opportunities. And it requires detailed annual reporting by the Pollock cooperatives on the performance of the IPAs and the effectiveness of incentive measures in terms of Chinook avoided as well as the harvest of Pollock. The Pollock industry's willingness to explore an innovative approach that provides some delegation of accountability and responsibility under strict Council and NMFS guidance, and to effectively apply the Experimental Fishing Permit process (EFP) to test salmon excluders in the field is notable. All of this has been possible under the policy framework of MSA and guidance under the ten National Standards. None of this is possible without the cooperative efforts and trust required from diverse interests in the Council process, including scientists, managers, policy makers, the pollock industry and the subsistence and commercial salmon fishermen. And none of this is possible without adequate funding for the science and research and analyses conducted by the many outstanding members of the AFSC, the ADF&G, Council staff, and other partners in our Council process.

Observer Program

In Alaska, the at-sea observer program is almost entirely funded directly by industry, and for the majority of groundfish fishing activity in Alaska, an observer is onboard the vessel at all times. In 2016, 89 percent of the total groundfish and halibut catch of almost 2.3 million mt was caught on vessels with an observer onboard. In the Gulf of Alaska, there are vessels that are subject to partial coverage observer requirements to accommodate the challenges of deploying observers on thousands of smaller vessels. In 2013, the Council and NMFS restructured this component of the observer program to address sampling issues associated with non-random observer deployment on some vessels and fisheries, and cost inequality among fishery participants. The scientific sampling plans implemented since 2013 result in better spatial and temporal distribution of observer coverage across all fisheries, greatly improving the quality of data collected in Federal fisheries off Alaska and NMFS' ability to estimate catch and bycatch, and to evaluate and improve catch estimation procedures. The Council, with input from the Observer Advisory Committee, continues to work with the NMFS Observer Program to maintain robust coverage levels for all sectors and gear types at a time when fishing industry revenues and thus observer fee funds collected for the partial coverage fleet have decreased. In addition, Observer Program fees collected from industry have also been subject to annual sequestration, which makes achievement of coverage levels more problematic.

In addition, the Alaska fisheries incorporate extensive electronic reporting, and in some fisheries, electronic monitoring (EM) for compliance. The Council and NMFS have also just recently implemented a groundbreaking amendment to allow use of electronic monitoring as an alternative tool for the fixed gear groundfish and halibut fisheries, in which there are operational and logistical challenges deploying human observers on smaller vessels. In these fisheries, the EM data will be used instead of human observers to collect catch and discard information that is critical in accounting for total removals of each species under ACLs and for the purpose of conducting stock assessments. The development of EM for the fixed gear halibut and groundfish fisheries is another excellent example of the collaborative efforts of the fishing industry and agencies within the Council process to address challenging issues. The fixed gear longline and pot fleets in communities across the Gulf of Alaska have initiated pilot projects and secured funding over several years in cooperative research efforts with NMFS Observer Program and EM providers to develop a data collection and fishery monitoring program that is a model for other regions in the Nation.

Allocation of Commercial and Charter Halibut

Halibut is a very important target species for commercial and recreational fisheries. Following a decade of efforts to control catch of halibut taken by the charter fleet, the Council established a limited entry permit program for charter vessels and established a catch sharing plan. The catch sharing plan defines an annual process for allocating halibut between the charter and commercial halibut fisheries in IPHC regulatory Areas 2C and 3A (Eastern and Central GOA), and establishes sector allocations that vary in proportion with changing levels of annual halibut abundance and that balance the differing needs of the charter and commercial halibut fisheries over a wide range of halibut abundance. The catch sharing plan describes a public process by which the Council develops recommendations for charter angler harvest restrictions (annual management measures) that are intended to limit harvest to the annual charter halibut fishery catch limit in each area. Charter permit holders can also lease commercial halibut annual fishing quotas for use by anglers on their boat, thereby compensating the commercial sector for increased harvest in the charter sector. The Council recently approved a Recreational Quota Entity (RQE) program to allow purchase of commercial halibut quota share to increase the entire charter allowance in each area. Under this market-based approach, a Recreational Quota Entity is authorized to purchase and hold a limited amount of commercial halibut quota share on behalf of guided recreational halibut anglers that may result in less restrictive annual harvest measures for guided recreational anglers in times of low halibut abundance. The Council is currently evaluating refinements to the charter halibut permit program.

Ecosystem-based Fishery Management

The North Pacific Council has utilized an ecosystem approach to fisheries management for many years. The Council considers the impacts of its actions to the ecosystem by establishing conservative catch limits; establishing sweeping closures to protect habitat, considering the impacts of fisheries on marine mammals and seabirds, minimizing bycatch, and precluding fishing on forage fish populations that support many species. These ecosystem-based fishery management protections are built into the fishery management plans and periodically evaluated and updated. The Council has articulated an ecosystem vision statement and comprehensive ecosystem-based goals and objectives for the groundfish fishery management plans. These ecosystem considerations are taken into account annually during harvest specifications, and the Council pioneered one of the first Fishery Ecosystem Plans in 2007 for the Aleutian Islands, and is currently developing a Fishery Ecosystem Plan for the Bering Sea that builds on the lessons learned from the first plans and other national experience.

These examples illustrate the variety of successful management programs and approaches that the North Pacific Council has taken to manage fisheries resources within the existing structure of the MSA. This is not to suggest that development of these programs has been easy or non-controversial; on the contrary, each one has gone through periods of contention and controversy. No management program is perfect upon implementation, and all of them require review and revision over time; that is the nature of marine resource management. But they are all working successfully or poised to become effective additions to the North Pacific management system. And I want to highlight several important underlying themes in all of these examples for Congress to keep in mind as it works to reauthorize MSA and considers possible changes:

- A well-structured national policy framework that provides broad objectives with sound guidance, recognizing regional differences and allowing for the development of regionally based solutions.
- The critical importance of science and analysis—in stock surveys, assessments, fisheries dependent data collection and monitoring, research and other aspects—conducted by the many members of the NMFS/AFSC, ADF&G and other partner agencies to conserve and manage marine resources and to provide for sustainable fisheries.
- Ensuring accountability through monitoring and data collection in the fisheries, catch share and other management program reviews, and broad stakeholder participation.
- A process that fosters and encourages the cooperative efforts of diverse and often contentious interests that exist in the North Pacific, as in every region.

General comments

Finally, I would like to reiterate the Council Coordinating Committee's general thoughts regarding the reauthorization process, which were presented to the Senate

Commerce Subcommittee by John Quinn three weeks ago on behalf of all of the regional councils. These represent some general tenets that we believe should be considered relative to any change in the MSA:

- Avoid across the board mandates which could negatively affect one region in order to address a problem in another region. Ensure that we have the ability to develop regional solutions to regional problems. Make provisions region-specific where necessary, or couch them as optional tools in the management toolbox rather than mandates.
- Legislation should allow for flexibility in achieving conservation objectives, but be specific enough to avoid lengthy, complex implementing regulations or “guidelines”.
- Legislation should be in the form of intended outcomes, rather than prescriptive management or scientific parameters.
- Legislation should avoid unrealistic/expensive analytical mandates relative to implementing fishery closures or other management actions.
- Legislation should avoid constraints that limit the flexibility of Councils and NMFS to respond to changing climates and shifting ecosystems.
- Avoid unfunded mandates, and/or ensure that Councils and NMFS have the resources to respond to provisions of legislation.
- Preservation and enhancement of stock assessments and surveys should be among the highest priorities when considering any changes to the Act.

Once again, thank you for the opportunity to provide these comments on behalf of the North Pacific Fishery Management Council, and I look forward to our continued dialogue on reauthorization of the Magnuson-Stevens Fisheries Conservation and Management Act that is so vitally important for our Nation’s marine resources and to the people and communities that depend on them.

Senator SULLIVAN. Great. Thank you, Dan.
Commissioner Cotten.

**STATEMENT OF SAM COTTEN, COMMISSIONER,
ALASKA DEPARTMENT OF FISH AND GAME**

Mr. COTTEN. Thank you, Senator, and thank you to you for holding the hearing here in Alaska. My welcome to the folks here who are visiting.

I will supplement my written comments too, and I will note that, and I am sure you are well aware, that the seafood industry is extremely important to our State’s economy, and especially to the economies of our fishing communities.

Magnuson has worked well here in Alaska for the most part, and we would ask your Committee, and the U.S. Congress, to avoid imposing programs here in Alaska outside the Council process, neither this or other legislation that could result in promoting consolidation, restricting competition in the processing industry, making access to fisheries more difficult for our resident fishermen, or generally having a negative impact on our fishing communities’ economies.

We would ask you to seek the support of the state and our fishing communities before creating any new programs for Alaska.

On the subject of State management of salmon, Tanner crab, ling cod, and some rockfish species in the economic zone. A recent court decision has caused us some concern, and the State of Alaska has appealed a Ninth Circuit Court decision that would require Federal intervention in the management of Alaska salmon fisheries.

One key point in the case is when a Federal plan is required. Both Alaska and NMFS feel the interpretation of the law suggests that a Federal intervention is not needed as the fish are currently

managed by the state. Both Alaska and the Council, and the National Marine Fisheries Service, currently feel that State management of salmon is satisfactory and meets all national standards.

The court interpreted the statute to suggest that you always need a Federal plan if you are in the EEZ. So that is the difference of opinion there.

We think it is not only important here in Alaska for salmon, but as I mentioned, the state also manages Tanner crab in the EEZ, ling cod, and two different species of rockfish. I am told that other states would face similar potential problems—specifically pink shrimp on the West Coast of the U.S. are managed by the states, but occur in the EEZ—and could also be subject to a challenge as we have seen in the salmon here.

Just generally, Cook Inlet salmon management is fairly complicated, always controversial, and difficult to satisfy all 10 or 12 different interest groups in those fish. To add the U.S. Government as a player in that, on that scene, I do not think would be helpful or a positive addition.

On the recusal question my written comments, I think, cover the comments I wanted to make. I am led to believe that it is really a matter of NOAA policy guidance that is guiding those decisions on when members have to be recused. It got a little bit ridiculous at this last meeting when one of the members was required to be recused on an FMP that had to do with essential fish habitat that in no way would have benefited either him or his company personally.

So we think that needs a stronger look and I am not sure if it needs legislation, but I would encourage you and your Committee to work with NOAA on that question.

And finally, not on the subject of Magnuson itself, but on a related topic as far as the Council is concerned. We are looking at some money problems with observer coverage. A lot of programs in State Government and Federal Government, money is an issue.

But it is really important, we feel, to improve and increase the observer coverage, especially in the Gulf of Alaska. Not just because we could get better information, but we would also improve the confidence that people would have in the statistics that we now see as a result of a very low level of coverage in some of our fisheries there.

So I know it is a tough time for everybody as far as money is concerned, but this is a really important one. I wanted to highlight that one area that we could really use some help with funding.

So with that, I will just say that, just on that subject. The Pacific States Marine Fisheries Commission just finished their meeting today and they passed a resolution, supported unanimously by all five states, to also encourage additional funding for observer programs.

So thank you again for being here and thank you.

[The prepared statement of Mr. Cotten follows:]

PREPARED STATEMENT OF SAM COTTON, COMMISSIONER,
ALASKA DEPARTMENT OF FISH AND GAME

Good afternoon Senator Sullivan and thank you for the opportunity to provide comments on the Magnuson Stevens Fishery Conservation and Management Act

(MSA). I am Sam Cotten and am the Commissioner of the Alaska Department of Fish and Game, and am a member of the North Pacific Fishery Management Council. I'd first like to thank you for holding a hearing here in Alaska. While the MSA is the signature piece of legislation governing Federal fisheries throughout the Nation, I'd like to start my comments today by focusing on its connection to the Alaskans who participate in these fisheries here in our local communities. While the Council and the MSA are focused on Federal fisheries, which are managed by National Marine Fisheries Service (NMFS), many of the actions taken by the Council and the provisions within the MSA have a significant impact on Alaskans throughout the State. Here in Alaska it is well known that the commercial fishing industry is the largest private employer in the state. Nearly every coastal community in Alaska, and many inland communities, have some level of participation in Federal fisheries. In addition to the actual boots on deck, there are thousands more Alaskans working in processing plants, gear and net shops, welding shops, and many others businesses that support these fisheries. These same permit holders, crew, and support facilities help Alaska have the Nation's top three ports by volume, and three of the Nation's top five ports by value. These statistics are in large part due to the success of the MSA, the Regional Council process, and underscore the importance of maintaining the core structure of the Act.

However, as we dig into the statistics it becomes apparent that while many Alaskans participate in and enjoy economic benefits from the seafood industry, the vast majority of the groundfish catch volume (83 percent) was made by vessels with primary owners that were not Alaska residents, (economic SAFE report 2016).¹ Alaska waters, state and federal, are open to all U.S. fishermen, as it should be. One of our goals here in Alaska is to enhance opportunity for our resident fishermen and improve the economies of our fishing communities. We would ask that any changes to MSA are given consideration as to the impacts on our fishing families and communities.

Federal v. State Management of Fisheries in the EEZ

Several species of fish and tanner crab are harvested in the Exclusive Economic Zone (EEZ) while being managed by the State of Alaska. These fisheries have been effectively managed by the State of Alaska; this practice should continue. A recent decision by the 9th Circuit Court of Appeals (now under appeal to the U.S. Supreme Court) would require a Fishery Management Plan (FMP) for salmon management and could have implications for other species as well. The state agreed with the NMFS that an FMP is not needed either legally or for proper management of salmon. The result would be a lengthy, difficult, and we feel unnecessary burden for the North Pacific Council. We have concern that the precedent for requiring a FMP may have implications for Tanner crab, ling cod, and some rockfish species.

There is also some concern about unintended consequences such as closures that would not have otherwise occurred. We would ask that the MSA reauthorization provide the North Pacific Council the discretion to develop an FMP for fisheries in the EEZ that are currently managed by the State of Alaska.

Council Recusal Process

Finally, the State of Alaska encourages this committee to examine the recusal process for Council members. Currently, MSA generically outlines when and why a Council member should not vote;² however, there is not accompanying guidance as to how National Oceanic and Atmospheric Administration (NOAA) should determine that a Council member should be recused. Due to this lack of specific direction, NOAA has implemented policy guidance that not only the State of Alaska questions, but that the North Pacific Council recently requested NOAA review.³ The policy relies on an attribution method that attributes all fishing activities of a company, or partially owned companies, to a Council member when considering whether recusal thresholds have been exceeded. The problem with this approach is that it results in recusals that have no logical connection to the directives in MSA. For example, recently a North Pacific Council member was recused from voting on an action to re-designate essential fish (EFH) habitat in the Bering Sea/Aleutian Islands. Re-designating EFH does not change the total amount, timing, or location of harvest, or the distribution of harvest among participants. Given that, it is inconceivable how this action would have a significant and predictable effect on the financial interest of the Council member, as MSA states as a cause for recusal. This current NOAA

¹ <https://www.afsc.noaa.gov/REFM/Docs/2016/economic.pdf>

² MSA Section 302(j)(7)

³ https://www.npfmc.org/wp-content/PDFdocuments/CM/2017/071017/0620_Recusalletter.pdf

policy guidance is particularly troubling, not only due to the apparent lack of linkage to MSA, but also because it weakens the Council process by unnecessarily recusing Council members from voting. Given these issues, the State of Alaska encourages this Committee to work with NOAA to ensure that a thorough review of the conflict of interest regulations, and any subsequent policy interpretations of those regulations, takes place prior to MSA reauthorization.

In conclusion, the State of Alaska supports Congressional reauthorization efforts, and encourages this committee to maintain the core structure of the MSA, while ensuring modifications don't harm or unnecessarily burden existing programs in Alaska.

Senator SULLIVAN. Well, thank you, Commissioner Cotten.
Mr. Morisky.

**STATEMENT OF REED MORISKY, MEMBER,
ALASKA BOARD OF FISHERIES**

Mr. MORISKY. Thank you, Senator and good afternoon, everyone.

Thank you for this opportunity to provide testimony regarding potential improvements to the Magnuson-Stevens Act.

For introduction, my name is Reed Morisky. I am one of seven members of the Alaska Board of Fisheries. I live in Fairbanks, Alaska where I have operated a sport fishing guide service for 34 years. I live almost 400 miles from the nearest saltwater. That makes some people happy; others it gives them concern.

I have a close family member who has been involved in the commercial fishing industry in Alaska for several decades.

The reauthorization of the Magnuson-Stevens Fishery Conservation Act offers an opportunity to address issues that affect Alaskans and others that depend on our fisheries resources.

Questions relating to possible suggestions for how the current management of the MSA could be improved include: will this reauthorization process incorporate provisions for flexibility in the management of the sport fishery?

There is concern that the current management structure is too rigid and does not allow for variables that the industry has requested, while accommodating conservation principles.

Will there be an improvement in conducting comprehensive stock assessments to include real time sport fish catch reporting?

There is consensus in the sport fleet that the initial allocations in many fisheries did not adequately reflect what was being taken by the sport fleets, nor did it account for competition between user groups.

Currently, every region collects different levels of information differently and giving answers is typically voluntary. The provided information is not easily accessible to the average fisherman. Will this be addressed?

Will the current data collection program that would assist in resolving these concerns receive adequate funding?

A great deal of additional information is needed by all user groups in the waters covered by the MSA. Will this reauthorization process address the need for better catch data and the economic value of the sport fisheries, both direct and indirect?

There is a concern that future allocations and dedications of budget, personnel, and management efforts should be made with this economic information available.

If the Federal Government takes over management of the EEZ that—since statehood—has been managed under State law, are they ready to determine the harvest limits for each sector?

How would the differing management standards be coordinated? How would Federal management mesh the national standards with State management? Should the national standards reflect the significant presence of sport fishing and other users?

The National Marine Fisheries Service has found that the Magnuson-Stevens Act's concept of optimum yield is equivalent to the State's sustained yield principle. The State of Alaska mandates the fisheries resources are for the maximum benefit of people. Should the MSA be amended to accommodate multiple users?

Coupled with this issue, should the MSA provide for research for freshwater fisheries? Should the MSA National Standards incorporate the State of Alaska's escapement goal management strategy?

In summary, although they have similar economic impacts, recreational and commercial fishing are fundamentally different activities. Recognizing that the commercial fishing industry is economically important to the U.S. economy, there are over 11 million Americans who enjoy saltwater recreational fishing. The sport contributes over \$63 billion to the Nation's economy annually and supports over 439,000 American jobs.

Thank you again for this opportunity to testify on these important reauthorization issues.

[The prepared statement of Mr. Morisky follows:]

PREPARED STATEMENT OF REED MORISKY, MEMBER, ALASKA BOARD OF FISHERIES

Good afternoon everyone. Thank you for this opportunity to provide testimony regarding potential improvements to the Magnuson-Stevens Act.

For introduction—my name is Reed Morisky. I am one of seven members of the Alaska Board of Fisheries. I live in Fairbanks, Alaska where I have operated a sport fishing guide service for 34 years. I live almost 400 miles from the nearest saltwater. That makes some people happy, others, it gives them concern. I have a close family member that has been involved in commercial fishing in Alaska for several decades.

The reauthorization of the Magnuson Stevens Fishery Conservation Act offers an opportunity to address issues that affect Alaskans and others that depend on our fisheries resources.

Questions relating to possible suggestions for how the current management of the MSA could be improved, include:

- Will this reauthorization process incorporate provisions for flexibility in the management of the sport fishery? There is concern that the current management structure is too rigid and does not allow for variables the industry has requested, while accommodating conservation principles.
- Will there be an improvement in conducting comprehensive stock assessments, to include real time sport fish catch reporting? There is consensus in the sport fleet that the initial allocations in many fisheries did not adequately reflect what was being taken by the sport fleets, nor did it account for competition between user groups. Currently, every region collects different levels of information differently (and giving answers is typically voluntary). The provided information isn't easily accessible to the average fisherman. Will this be addressed?
- Will the current data collection program, (that would assist in resolving these concerns), receive adequate funding?
- Much needed, additional information is needed by all user groups in the waters covered by the MSA. Will this reauthorization process address the need for better catch data and the economic value of the sport fisheries, both direct and indirect? There is a concern that future allocations/dedications of budget, per-

sonnel, and management efforts should be made with this economic information available.

- If the Federal Government takes over management of the EEZ that since statehood has been managed under state law, are they ready to determine the harvest limits for each sector? How would the differing management standards be coordinated? How would Federal management mesh the national standards with state management? Should the national standards reflect the significant presence of sport fishing and personal use users?
- The National Marine Fisheries Service has found that the Magnuson-Stevens Act's concept of optimum yield is equivalent to the State's sustained yield principle. The state of Alaska mandates the fisheries resources are for the maximum benefit of people. Should the MSA be amended to accommodate multiple users? Coupled with this issue, should the MSA provide for research for freshwater fisheries? Should the MSA National Standards incorporate the state of Alaska's escapement goal management strategy?
- Recreational fisheries are open access. Because of this, it is not possible to manage the annual catch down to the last pound caught each year. It is virtually impossible to predict how many anglers will participate in these fisheries in advance. The current management structure that results in rigid catch limits, often based on limited stock assessments, can artificially restrict the sustainability of sport fishing-related businesses and limit the public's access to public trust resources. Will these issues be addressed in the reauthorization process?
- MSA was originally designed to address commercial fishing and has been effective in rebuilding many stocks.
- However, there is a concern that MSA has never properly addressed the importance of other fishing sectors; specifically, the Alaska centric sectors of Subsistence, Personal Use and Sport/Recreational fishing. There is a concern that this has, or will, lead to shortened or even cancelled seasons, reduced bag limits, and unnecessary restrictions.
- Recreational fishing and commercial fishing are two fundamentally different activities needing distinctly different management tools.
- Management strategies are in desperate need of an update and more emphasis needs to be put on recreational fishing.
- Some potential changes to consider when amending the MSA are:
- Require allocation reviews on a regular basis (3–5 years). Develop clear, objective criteria for those reviews to allow the process to be less controversial.
- Allow for the use of alternative management approaches for non-commercial fishing, similar to state-based models that better align with the nature of non-commercial fishing and available data.
- Poundage-based quotas are difficult to implement with anglers and harvesting MSY is not their goal.
- Provide flexibility in rebuilding timelines that are applicable to the biology of the stock and incorporate the needs of the fisheries-rebuilding schedules are not "one size fits all" as is currently mandated with the 10-year timeline.
- Improve recreational fisheries data by considering; supporting and incorporating data from qualified third-party data collection systems, including modern sources such as from smartphones, to provide for improved accuracy and timeliness of harvest information. The time lag in data submission makes timely management decisions difficult.
- *In summary . . .*
- Although they have a similar economic impact, recreational and commercial fishing are fundamentally different activities.
- Recognizing that the commercial fishing industry is economically important to the U.S. economy, over 11 million Americans enjoy saltwater recreational fishing. The sport contributes \$63.4 billion to the Nation's economy annually and supports 439,242 American jobs.
- Thank you again for this opportunity to testify on these important reauthorization issues.

Senator SULLIVAN. Thank you.
Dr. Woodward.

STATEMENT OF A.G. "SPUD" WOODWARD, DIRECTOR, COASTAL RESOURCES DIVISION, GEORGIA DEPARTMENT OF NATURAL RESOURCES

Dr. WOODWARD. Thank you, Chairman Sullivan.

I appreciate the opportunity to be here and it was a long trip, but a pleasant one. Thank you.

I have worked in the field of fisheries management at the State level for 30 years. I have served on the South Atlantic Fishery Management Council and I am currently Georgia's Administrative Commissioner to the Atlantic States Marine Fisheries Commission.

While our state is the largest east of the Mississippi, we have a relatively small coastline, about 100 miles, but it is one rich in natural treasures largely thanks to the visionary leadership of State lawmakers who passed laws in the 1970s to protect our estuaries and our barrier islands.

I would like to comment from a State perspective about another landmark law of the 1970s, the Magnuson-Stevens Act.

I will start by stating the obvious. The Act has accomplished its original intended purpose very well, which was to protect our ocean resources from foreign fishing fleets and unregulated domestic fishing. Amendments in 1996 and 2006 were intended to keep pace with changes in domestic fishing and advances in fishery science and management. As a whole, those changes were positive and there have been notable and measurable successes in the South Atlantic: Black Sea bass, red porgy, king and Spanish mackerel, and protection of long-lived and slow growing deepwater corals.

However, the prescriptive nature of the Act has also created unintended consequences in the southeast. Five years of a red snapper harvest moratorium and a total of 17 days of allowable harvest since 2010 have left our citizens who fish the south Atlantic totally dismayed.

The same can be said for the thousands of Georgians who fish the Gulf of Mexico for red snapper when they learned the Federal waters were only going to be opened for three days in 2017. Fortunately, State and Federal authorities reached an agreement to extend that season.

However as of today, the south Atlantic remains closed to the harvest of red snapper despite a marked increase to the point that discards and now not-harvest is actually the management challenge. Estimates of dead discards, albeit imprecise, have actually exceeded the annual catch limit and perpetuated closures leading to lost fishing opportunities.

Adding to our frustrations, NOAA fisheries closed Federal waters in the south Atlantic to the recreational harvest of Atlantic migratory group cobia this year. This decision was made as a precautionary measure to prevent the recreational harvest from exceeding the annual catch limit of 620,000 pounds. It is important to know that cobia are not overfished.

The cobia fishery in Georgia is almost exclusively in Federal waters and accounts for about 15 percent of the annual recreational catch. By comparison, over 80 percent of the recreational catch of the Atlantic migratory group occurs in the State waters of North Carolina and Virginia, which remained open to harvest.

So the closure through the Magnuson Act was, in essence, a de facto allocation of cobia to those states made in full recognition of the uncertainty associated with recreational catch estimates. So our anglers lost a fishing opportunity without there being a commensurate conservation benefit or need.

The Act, as currently applied, has made it difficult for the regional councils in the southeast to adapt fishery management to the needs of a very diverse recreational fishery. We deal with dozens and dozens of species and mixed populations. Council members need flexibility and alternative management measures in their toolbox.

I predict that you will hear from some that flexibility and alternative management measures are simply ways to avoid making difficult, but necessary, management decisions. I disagree. I think they are necessary tools.

Council members and staff also need more assessments that are both timely and suitable as a basis for management decisions. Stock assessments are the backbone of good fishery management, but it is important to point out that there is one NOAA fishery science center supporting three councils, ICAT, and highly migratory species in the southeast.

Finally, it is time for a realistic acknowledgement that for many species, the Marine Recreational Information Program simply lacks the temporal and special resolution, accuracy, and precision needed for sophisticated stock assessment models and for recreational quota monitoring. We need more advanced tools.

Congress has an opportunity to amend the Act to improve the ability of regional councils to manage the Nation's marine recreational fisheries. We know that you, and your colleagues, have many issues competing for your time and attention. And we very much appreciate those who have introduced and sponsored bills to amend the Magnuson-Stevens Act.

We look forward to working with Congress to see them to fruition.

Thank you for the opportunity to be here.

[The prepared statement of Dr. Woodward follows:]

PREPARED STATEMENT OF A.G. "SPUD" WOODWARD, DIRECTOR, COASTAL RESOURCES DIVISION, GEORGIA DEPARTMENT OF NATURAL RESOURCES

Good afternoon, Chairman Sullivan and Members of the Subcommittee. My name is A. G. "Spud" Woodward, and I am the director of the Coastal Resources Division of the Georgia Department of Natural Resources. I have served in this position since 2009 following eight years as chief of marine fisheries management and fourteen years as a marine fisheries biologist. I am a past member of the South Atlantic Fishery Management Council (SAFMC) and currently serve as Georgia's administrative commissioner on the Atlantic States Marine Fisheries Commission. I appreciate the opportunity to provide testimony about the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and how it has affected the citizens of the State of Georgia.

While it is the largest state east of the Mississippi River, Georgia has a small coastline—100 miles—but one rich in natural treasures. For centuries, the occupants of this area have depended on the estuaries and adjacent Atlantic Ocean for their sustenance. Today, recreational and commercial fishing are economically and socially important aspects of life along our coast generating a half billion dollars of economic impact to the region and contributing to a \$2 billion tourist economy. While the monetary value of our saltwater fishing is small compared to that of our neighbor Florida and certainly when compared to the Pacific Northwest, I think it important to consider that the true value of recreational saltwater fishing cannot

be measured solely in dollars and cents. Instead, the true value must be measured in the currency of fishing stories told and retold, photographs of memorable catches, the fresh seafood meal shared with family and friends, and the excitement that comes with anticipation of a day on the water. This value arises from opportunity and access to public trust waters and resources.

Yet, when we do look at the dollars and cents for our state, they are significant. Recent statistics released by the Outdoor Industry Association indicate that 58 percent of Georgians participate in outdoor recreation each year and that Georgia residents are more likely to participate in fishing than the average American. Outdoor recreation attracts millions of visitors to our state and many come for the fishing opportunities. Ultimately, outdoor recreation accounts for \$27.3 billion in consumer spending, \$8.1 billion in wages and salaries, and \$1.8 billion in state and local revenue. Anything that eliminates or degrades these outdoor recreational opportunities adversely affects both the economy of Georgia and the quality of life of Georgians.

The Georgia Department of Natural Resources (DNR) is the state agency responsible for managing saltwater fishing as part of its mission to promote wise and sustainable human use of living marine resources and their habitats. The citizens of Georgia through their elected officials have done an exemplary job of protecting our coastal environment from the habitat loss and degradation that has occurred in many other Southeastern states. We are proud to say that we have one third of the saltmarsh remaining along the Atlantic Coast. Thanks to this abundance of habitat and proactive conservation measures, our tidal waters provide diverse and satisfying angling opportunities. We currently manage 30 species or species groups of saltwater fishes through state law using a flexible system that allows timely decision making based on sound science and public input. While our fishers are not always happy with the decisions made by our state legislature and board of natural resources, they are more willing to accept them as valid since they understand the process and have easy access to the DNR staff who are collecting and analyzing the data and making the recommendations.

Conversely, our anglers are very frustrated with Federal fishery management. Five years of a red snapper harvest moratorium and this year's unprecedented closure of Federal waters to the harvest of Atlantic migratory group cobia have left those who fish the South Atlantic totally dismayed. Ditto the thousands of Georgians who fish the Gulf of Mexico for red snapper. To them, Federal fishery management has become nonsensical and overly legalistic. Sometimes it seems that way to those of us who work in marine fishery management at the state level. I do not fault the employees of the regional fishery management councils and the NOAA Fisheries as they are charged with managing a multitude of species over wide geographic areas in a fishery management system that is highly prescriptive and appears to put fish ahead of people.

As the committee is well aware, previous efforts to address the unintended consequences of the 2007 revision of the MSA have been unsuccessful. Thus, regional council members and NOAA Fisheries employees remain unable to exhibit the flexibility needed to ensure management decisions properly balance fish stock health and the needs of humans. I would like to offer two specific examples of why the MSA must be amended.

South Atlantic Red Snapper

In the South Atlantic region, the red snapper is an iconic species prized by seafood lovers and targeted by anglers and commercial fishers. For many years, the species was managed through a combination of size and creel limits, and the stock was considered to be in a healthy condition. However, in 2008, an assessment conducted through the Southeastern Data Assessment and Review (SEDAR) process indicated that overfishing was occurring. Reductions in harvest were necessary to end overfishing despite evidence that the stock status was improving in the most recent years of the data series used in the assessment. Management options to reduce fishing effort and rebuild the stock while allowing some level of harvest were identified. However, those options were not available to the SAFMC because they would have resulted in continued overfishing beyond the date mandated by the requirements of the revised MSA. Recreational and commercial fishers vehemently challenged the validity of the stock status determination and the necessity of a total harvest moratorium and possible large-scale area closure of the Atlantic Ocean to all bottom fishing.

A South Atlantic red snapper stock assessment conducted in 2010 confirmed that biomass was increasing due to a strong year class entering the population. The SAFMC was able to avoid the large-scale area closures but still had to reduce harvest with draconian measures in order to comply with the MSA. From 2010 to 2016, NOAA Fisheries allowed 17 days of recreational harvest of red snapper from the

South Atlantic with all harvest of red snapper prohibited in 2010, 2011, 2015, and 2016.

A 2016 assessment of South Atlantic red snapper was conducted through the SEDAR process in an effort to update the status of the stock. Council members and fishers were hopeful the assessment would reveal an improvement in stock status and fishing opportunities could be restored. The analytical model used to assess the red snapper stock relied on estimates of recreational fishing catch and effort—surveys of saltwater fishing guides and head boats and surveys of private recreational anglers through the Marine Recreational Information Program (MRIP). Yet, there had been no legal harvest of red snapper in the South Atlantic since 2014 and minimal harvest since 2010. So, recreational fishing data available as model input was extremely sparse including the estimates of red snapper discards. Yet, these data were used. Although the assessment was impaired by acknowledged data deficiencies it was considered “the best scientific data available” leading to the conclusion that the status of the stock was unchanged—overfished and undergoing overfishing. In fact, the estimates of dead discards were considered to have exceeded the annual catch limit. Thus, NOAA Fisheries prohibited the harvest of South Atlantic red snapper again in 2017 exacerbating the already existing problem of data deficiencies and denying fishing opportunities to the citizens of Georgia for another year.

Since red snapper occur as part of a mixed-species fishery, it is impossible for anglers to avoid incidental catches especially when abundance of the species is increasing. Anglers are perplexed that despite all indications that the South Atlantic red snapper stock has rebounded they still cannot harvest a fish. Rather, they have two choices—discontinue fishing for bottom fish in habitats where red snapper occur or continue to discard an increasing number of incidentally-caught red snapper, a percentage of which will be considered as dead and counted against the annual catch limit. To their credit, an increasing number of anglers are voluntarily using descending devices to reduce the mortality of incidentally-caught red snapper. In fact, the marine industry and management are working collaboratively to increase descending device use and to insure the benefits of those devices are considered during the red snapper stock assessment process. However, these efforts will be for naught as long as we remain trapped in a situation where the SAFMC and NOAA Fisheries are bound by the rigid requirements of the MSA.

If these rigid requirements, especially timelines for ending overfishing and stock rebuilding, had not been in place in 2008, the SAFMC could have recommended a management approach to reduce fishing mortality and start the South Atlantic red snapper stock on the pathway to a more sustainable condition while still allowing some harvest. Instead, they were faced with difficult decisions that have resulted in unnecessary socio-economic costs, an increase in dead discards and associated waste of this valuable public resource, and a loss of confidence in Federal fishery management. The ultimate solution to the South Atlantic red snapper conundrum is a change in the MSA to allow alternative management options for saltwater recreational fishing coupled with a realistic acceptance of the limitations of the data sources available for stock status determinations.

Atlantic Migratory Group Cobia

The cobia is a pelagic migratory species prized for its tenacity when hooked and as table fare. Found along the Atlantic Coast and throughout the Gulf of Mexico, the species is managed cooperatively by the Gulf of Mexico Fishery Management Council and SAFMC. The dividing line between the Gulf migratory group and the Atlantic migratory group is the Georgia/Florida boundary. New York is the northern boundary of the stock. In 2014, an annual catch limit of 620,000 pounds for the recreational sector was established for the Atlantic migratory group. The annual catch limit for the commercial sector is 50,000 pounds. This stock is not considered overfished or undergoing overfishing.

In recent years, MRIP recreational catch estimates for Atlantic migratory group cobia have been increasing and exceeded the annual catch limit in 2015 and 2016 by a wide margin. However, it must be stated that these catch estimates are imprecise due to the fact that cobia are encountered rarely by dockside survey clerks. For example, during the most recent 10-year period DNR creel survey clerks encountered a total of 49 cobia. Harvest estimates for the period ranged from 0 to over 250,000 pounds. Further confounding the situation is the fact that from 2011 through 2015, over 80 percent of the estimated recreational harvest of Atlantic migratory group cobia occurred in the state waters of North Carolina and Virginia.

In 2016, responding to concerns about cobia harvest in state waters, the Atlantic States Marine Fisheries Commission initiated development of an interstate fishery management plan for cobia pursuant to the Atlantic Coastal Fisheries Cooperative

Management Act. As a proactive measure, the states of North Carolina and Virginia took measures to reduce harvest during the 2017. Yet, NOAA Fisheries made a determination that predicted levels of recreational harvest during 2017 would again exceed the annual catch limit. NOAA Fishery Bulletin 17-004, *Atlantic Cobia (Georgia to New York) Recreational Fishing Season is Closed in Federal Waters*, was issued January 25, 2017. This decision was made in full recognition of the high degree of uncertainty associated with the MRIP estimates.

Unlike the states of North Carolina and Virginia, cobia fishing in Georgia is prosecuted almost exclusively in Federal waters. Cobia occur only sporadically in state waters and when caught are typically smaller than the state-law-mandated 33-inch minimum-length limit. Over the past 10 years, Georgia has accounted for 15 percent of the estimated Atlantic migratory group harvest by number, 13 percent by weight and 5 percent of the trips reported to have caught cobia. The Federal fishery management plan for Atlantic migratory group cobia was not intended to allocate the cobia resource in favor of one state over another. However, the 2017 closure did just that in direct conflict with the language of National Standard 4 of the MSA. It is the position of DNR that closing Federal waters was a de facto allocation of the annual catch limit to North Carolina and Virginia where anglers would still be able to catch and harvest cobia from their respective state waters during 2017.

It is also the position of DNR that the closure conflicted with MSA National Standard 8 by creating unnecessary negative economic impacts to the for-hire sector who rely on cobia fishing as a significant portion of their income during late spring. Furthermore, it can be argued that not allowing the harvest of cobia will increase regulatory discard mortality in conflict with National Standard 9 and would thereby “increase substantially the uncertainty concerning total fishing-related mortality.” As the National Standard Guidelines suggest, increasing bycatch mortality “makes it more difficult to assess the status of stocks, to set the appropriate OY and define overfishing levels, and to ensure that OYs are attained and overfishing levels are not exceeded.”

DNR and the Georgia House of Representatives requested NOAA Fisheries reconsider the closure based on aforementioned information. These requests were refused, and Georgia anglers were denied an opportunity to harvest cobia without a commensurate conservation necessity or benefit. The Georgia General Assembly recognizes that fishing is a valued part of our heritage and plays an essential role in the state’s economy. Fishing is so highly valued that the citizens’ right to fish is protected under state law (Official Code of Georgia, Annotated 27-1-1). By closing Federal waters to Georgia fishermen, the actions of NOAA Fisheries violated the rights of Georgia fishermen.

The situation with Atlantic migratory group cobia is illustrative of the fact that annual catch limits for recreational fisheries are impractical. It also illustrates how it is inappropriate to use estimated recreational catches with questionable accuracy and precision to determine compliance with annual catch limits. As this testimony is being prepared, the Atlantic States Marine Fisheries Commission has approved a draft interstate fishery management plan for cobia for public comment. As originally conceived, the intent was for this plan to compliment the Federal plan. However, the commission is now requesting that NOAA Fisheries transfer management authority for Atlantic migratory group cobia to the commission by removing it from the SAFMC Coastal Migratory Pelagics Fishery Management Plan. The commission is requesting this because it realizes that as long as Atlantic migratory group cobia are managed through the MSA as currently written and interpreted there will be the threat of a Federal waters closure when recreational catch estimates exceed the annual catch limit. Given the historic variability of recreational catch estimates, this is likely to occur despite the efforts of states to control harvest. If this transfer were to happen, it would be the responsibility of the commission and not NOAA Fisheries to ensure that state regulations are such that the Atlantic migratory group is harvested at a sustainable level. This is similar to the approach taken for Atlantic-coast red drum, which was formerly managed under the MSA.

Recommendations

Despite our frustrations and those of our citizens, DNR acknowledges that we are better off with the Magnuson-Stevens Act (MSA) than without it. There are notable and measurable successes in the South Atlantic—black sea bass, red porgy, king and Spanish mackerel, and protection of long-lived and slow-growing deep-water corals. There are others where it is difficult to determine success such as the creation of marine protected areas and spawning special management zones. However, in terms of management of recreational fishing, especially red snapper and cobia, we see the MSA as a failure. It is the position of DNR that changes must be made

to improve management of marine recreational fishing through the MSA. I offer some recommendations from a state perspective.

Restoring Flexibility

As evidenced by the examples I have presented, the 2007 MSA reauthorization has made it very difficult and in some cases impossible for the regional councils and NOAA Fisheries to apply the principle of adaptive management in managing fisheries. It has also forced them to set unrealistic goals such as ending overfishing within two years and rebuilding depleted stocks within 10 years. While it is admirable to set goals that are uniform across all federally-managed fisheries, the “one size fits all” approach to managing marine species with widely varying life cycles, habitat requirements, and vulnerability to fishing mortality cannot work when applied from the Western Pacific to the South Atlantic. Rather than set prescriptive goals, the MSA should allow the decision makers to use their best judgement to determine how best to eliminate overfishing and rebuild stocks without eliminating all opportunities for access to the fish. When created by the original MSA, the regional councils were designed for that very purpose. However, under the current version of MSA they cannot fulfill that purpose.

Annual Catch Limits

In theory, annual catch limits are a reasonable way of preventing overfishing and rebuilding stocks that are overfished. However, we now know that using annual catch limits in recreational fisheries is not the best approach. As previously mentioned, MRIP has been improved but still lacks the temporal and spatial resolution and accuracy and precision needed for recreational quota monitoring. MRIP and its predecessor, the Marine Recreational Fisheries Statistics Survey were designed to produce high-level trend information, not data with the resolution needed to monitor harvest with state or regional specificity to the pound and day of catch. Yet, since MRIP is often considered “the best scientific information available” it is used to determine compliance with annual catch limits. We find ourselves in a situation where a fishery may be open one year and severely restricted or closed the next due to wide swings in recreational catch estimates. This is very frustrating to state resource managers and to fishers, especially the commercial and for-hire sectors who depend on predictability when making their business plans. A change in the MSA is needed so alternative management approaches are available that are better suited for managing recreational fisheries.

Stock Assessments

I think we all can agree that fishery management plans should be based upon the best scientific information available. We have a system where sophisticated stock assessments are the benchmark for “best”. However, this “best” is sometimes woefully inadequate when decisions are being made that affect livelihoods and fishing communities. While great strides have been made to improve recreational catch-and-effort data collection, there are still deficiencies that cannot be mitigated by the sophisticated modeling approaches currently favored for stock status determinations in the Southeast. A three-prong approach is needed—continued improvement in recreational data collection through increased funding and methodological advances, more reliance on fishery-independent data sources, and acceptance that sophisticated modeling approaches are not a panacea.

Currently, 75 species are managed by the SAFMC, with 55 in the snapper-grouper complex. However, stock assessment capacity in the Southeast through the SEDAR process is been low when compared to other parts of the country. In fact, there is one NOAA Fisheries Science Center to serve three regional councils in the Southeast—Gulf of Mexico, South Atlantic, and Caribbean. In 2017, only three assessments of SAFMC-managed stocks are scheduled to be completed under the SEDAR process. If we continue using a fishery management system that depends on stock assessment results as a measure of success or failure, then stock assessment capacity in the Southeast must be improved. DNR has one staff person out of the twenty working in marine fisheries management who is knowledgeable about modern fish stock assessment methods. The priority for this person is not to actually do stock assessments but rather to represent Georgia when interstate and Federal fishery management stock assessments are being conducted to ensure that our data and perspectives are considered during the process.

Effecting Change

DNR is encouraged by the efforts of Congress to amend the MSA so that we can manage marine fisheries in a manner that places equal value on people and fish. We commend Congressman Don Young (R-AK) for sponsoring H.R. 200, Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management

Act, which offers the following improvements which are considered priorities by DNR:

- Basing fish stock rebuilding timeframes on biology rather than on an arbitrary, one-size-fits all deadline;
- Providing flexibility in ceasing a rebuilding plan when it is determined to no longer be necessary;
- Giving regional management councils the flexibility to use ecosystem changes and economic needs of fishing communities when setting annual catch limits;
- Exempting certain stocks where annual catch limits may not be appropriate, such as spiny lobster and dolphin;
- Providing flexibility in the management of recreational fisheries, such as fishing mortality rate targets and alternative rebuilding strategies;
- Repealing Section 407(d) because this section is outdated and should be removed given it addresses creation of an Individual Fishing Quota (IFQ) program and catch limits for red snapper. Gulf red snapper has an IFQ program, and catch limits are now addressed elsewhere in the Magnuson Stevens Act. Removal of this section also would allow the Council to consider needed modifications to the red snapper IFQ program without always needing a referendum.
- Increasing public involvement and transparency when scientific data are developed;
- Prioritizing improvements to data collection and stock assessments, particularly in the Southeast;
- Forming a federal-state partnership program to improve data collection for recreational anglers; and
- Adding a definition for “depleted” and requesting NOAA to indicate why a species is depleted, which might not be related to fishing.

In addition to H.R. 200, H.R. 2023, the Modernizing Recreational Fisheries Management Act, has been introduced by Congressmen Graves (R-LA), Green (D-TX), Webster (R-FL), and Wittman (R-VA). The companion S. 1520 has been introduced by Senators Wicker (R-MS), Nelson (D-FL), Blunt (R-MO), Schatz (D-HI), Kennedy (R-LA) and Manchin (D-WV). These include the following reforms of importance to DNR:

- Repealing Section 407(d) of Magnuson and giving Councils the authority to use alternative fishery management measures for recreational fisheries;
- Instituting a moratorium on LAPP for mixed-use fisheries in the Gulf of Mexico and South Atlantic. Basing rebuilding time frames on biology, stock status, and the needs of fishing communities;
- Giving regional fishery councils the flexibility to consider changes in ecosystem and economic needs of communities when setting annual catch limits and removing annual catch limit requirements for certain criteria.
- Including affected states in review of proposed exempted fishing permits to ensure the proposed activity is consistent with management and conservation objectives, and that social and economic impacts are minimal;
- Creating best practices for state-administered recreational data collection programs and providing funding for improvement of state data collection programs;
- Facilitating greater incorporation of data, analysis, stock assessments, and surveys from state agencies and non-governmental sources and following through with recommendations of the NAS for evaluation of whether MRIP use is compatible with current management; and
- Within 90 days of enactment, Secretary of Commerce must enter into agreement with NAS to review if MRIP is compatible with the needs of in-season management of annual catch limits, including whether in-season management of annual catch limits is appropriate for all recreational fisheries.

Conclusion

Throughout my career as a manager of public trust resources, I have tried to adhere to the ethical doctrine of the medical profession, “first, do no harm”. Just as physicians have discovered that, when taken literally, this is an impossible task, so I have discovered that it is impossible to manage a fishery without harm, either perceived or real, to someone. This harm may come in the form of lost wages for a commercial fisher or disappointment on a child’s face when they can’t keep the first fish they catch because of harvest regulations. However, like my peers, I believe that the

harm is far outweighed by the ultimate benefit of sustainable fisheries and fishing opportunities in perpetuity.

DNR believes that the MSA has done more good than harm for the citizens of Georgia and the United States. However, as with all things in life we must learn from our mistakes and make changes. It is our sincere hope that these changes will better align the letter of the law with the spirit of the law and set a new course for managing the Nation's fisheries through the Magnuson-Stevens Act. Mr. Chairman, thank you again for the opportunity to testify.

Senator SULLIVAN. Great. Well, thank you again, Dr. Woodward for traveling all the way from Georgia. I hope you get a little opportunity to go out fishing on the Kenai here.

Dr. WOODWARD. At 5:30 in the morning, I hope.

Senator SULLIVAN. There we go. Good, good.

Well, listen, let me begin with just a very open-ended question, but in many ways, it is the key issue that we are looking at in this hearing. I will just open it up to any or all of the witnesses to begin with.

What do you hope to see in an MSA reauthorization? What issues, in particular, would you see as your top priorities with regard to an MSA reauthorization?

We have heard from different user groups saying, "It is working well. Do no harm." Others have had a very different view in terms of what they want out of this.

So I just really want to open that up to begin with for all the witnesses here today. And again, I want to thank the witnesses for their testimony, and we want to continue to work with all of you as we move forward in this process.

Dr. WOODWARD. I think one of the primary concerns we have is the prescriptive nature in terms of ending overfishing and rebuilding.

The Act, when it was amended in 2006 and reauthorized in 2007, had very good intentions to set measurable goals.

The problem is we are applying those goals across very diverse fish species and fish populations. Sometimes it is simply impossible to rebuild some of these stocks back, especially if they are long-lived species in the period of time allocated and mandated by the law.

And to do that, if it is even feasible, oftentimes comes with socioeconomic costs that are devastating and you still cannot necessarily accomplish your goal, but you are inflicting great harm. And so, I think that is where the flexibility comes in.

Regional councils were created to be a composite body of informed decisionmakers, and they do need flexibility in their ability to do that. I think the Act, for all of its good intentions, has taken away some of that flexibility and keeps them from being able to do the best job they can.

Senator SULLIVAN. So your focus is on more flexibility to the Council in terms of decisionmaking that relates to specific quota allocations?

Dr. WOODWARD. Let us remove annual catch limits when they are not necessarily the appropriate tool. And let us give flexibility to build stocks back over longer periods of time to properly balance the socioeconomic cost with rebuilding.

And then we also need better information. I mean, you have heard from Mr. Cotten about funding. We have one fishery science

center and the states in the southeast have various levels of funding.

We do not have the capacity, necessarily, to produce those kinds of stock assessments, but they are the currency of modern fishery management. So we have got to have that too.

Senator SULLIVAN. Great. Others want to comment on the first question? Dan.

Mr. HULL. Thank you, Senator.

I did touch on one specific issue in my oral comments on the North Pacific Management and clarification related to provisions over State jurisdiction to manage fishing activity in the absence of an official fishery management plan.

We, as a Council, have not met since the invitation to this hearing. So my oral and written comments are based on our previous discussions of Magnuson issues generally, and we have not taken the opportunity to more specifically identify changes that we would offer.

With respect to flexibility and rebuilding plans, we do identify the need to look into that in such a way that, again as I said in my oral testimony, we can provide the regional councils with some of the flexibility that they need to rebuild stocks and to meet the scientific principles surrounding ACLs, but also the social and economic objectives that each region experiences differently. And we have heard that and seen that from other councils with respect to fisheries.

Again, we are noting some caution about how those might be changed. Those are issues generally that we see are worth exploring.

Senator SULLIVAN. Great. Commissioner Cotten.

Mr. COTTEN. Thank you, Senator.

I think I am probably in the camp of working well and do no harm as reflected in a lot of my testimony. But I will take this opportunity to do another pitch on budget items.

In the State of Alaska, as I am sure everybody is aware, we are facing some constraints on revenues and, as a result, all budgets are under close scrutiny. I think the legislature this year has treated our budget fairly well and have come to the recognition that in order for us to do our job, we do need those financial resources. As you take them away, we are less able to do a good job, and the same is true here. And I think the gentleman from Georgia pointed out a similar concern from that part of the country.

So again, appreciate the strong attention to the budget. I know there is a push to make reductions in the Department of Commerce and that will affect us.

So I know you are aware of this, but I just wanted to echo and emphasize our concern for certainly the potential for reductions and, at least in one case, we are interested in additional resources.

Thank you.

Senator SULLIVAN. Well, I can assure you that, at least from my perspective, full funding for NOAA and NMFS and particularly the research and data collection component of what they are doing for our fisheries has been something that I have been advocating for since I got to the Senate.

As you all know, you cannot manage a fishery well if you do not have accurate and robust data. And so, I will continue to press for that, but I appreciate you raising it here.

Mr. MORISKY, do you have any issues, again, with regard to a broader hope to see in an MSA reauthorization and from your perspective, what would be most important?

Mr. MORISKY. I will also confirm budgetary issues in regard to what I am seeing. That on the State level, and hearing also about the Federal level, the lack of funding for science and research, in particular on fish runs, will equate to less accurate management and default to a more conservative management regime. So I am concerned about that as well.

Senator SULLIVAN. Let me turn to another issue that, Mr. Hull, you mentioned, and Commissioner Cotten, you touched on, but there has been a notable uptick on the North Pacific Council's decisionmaking with regard to recusals.

Can you just give the Committee, and others, a sense of how that complicates the work of the Council? You both touched on it. Do you believe that is a NOAA regulatory approach that could address that or is that something you think we need to look at from a legislative perspective, if you think it is a problem at all? We have been hearing, of course, a number of concerns about that.

Mr. HULL. Thank you, Senator.

Yes, there does seem to have been an increase in the recusals specifically, or especially, for the CEQ representatives on our Council.

Senator SULLIVAN. Is it not a bit ironic? Because is it not part of the reason to have the Council put together that you want to choose members who actually are involved in the industry, and involved in fisheries issues, and know a lot about it, which raises the issue of recusal even though it also raises the issue of knowledge?

Mr. HULL. That is correct, Senator. They have been successful over the past 25 years getting involved in all the fisheries. Therefore, they do bring a perspective that is both unique and very broad for the Council. And not allowing them to add their voice to our collective decision making frustrates, we believe, the congressional intent for the program.

Senator SULLIVAN. Yes, Commissioner Cotten.

Mr. COTTEN. Thank you. Yes, I think I really appreciate the fact that you are asking a question on that. It suggests that you are aware of the problems here.

In the past, there have been other people that have been told that they would be required to be recused. What they did to fix that was they shuffled their employment status, removed themselves as an employee, and became a consultant or some other method. It is the same person sitting there with the same financial interests, and they were able to avoid it.

Senator SULLIVAN. And that worked previously?

Mr. COTTEN. That did work.

Senator SULLIVAN. OK.

Mr. COTTEN. And I apologize if I am paraphrasing in a way that might have missed a couple of important points there, but that was my observation at the very least.

CEQ organizations do not have a designated seat on the Council, but somebody from a CEQ organization typically sits on the Council. It is a very important part of the economy in Alaska, and especially to western Alaska.

So that is the person that has most often been recused and it is possible that whoever sits there representing CEQ groups would face the same kind of problem. So it is a very important seat.

Parochially, the original design of the Magnuson Act gave Alaska six votes.

Senator SULLIVAN. Yes.

Mr. COTTEN. Recognizing that out of the 11 votes, that gives Alaska a majority if we all decide to vote the same way that is, but it does not always work out that way.

But by having the CEQ member be the one that is typically recused that threatens Alaska's ability to have a strong voice on these issues.

Senator SULLIVAN. So you certainly want us to look at it, but you think that it is something we should explore whether that be regulatory, or talk to NOAA, or is it something that we need to define more clearly in the statute?

Mr. COTTEN. My recommendation, Senator, would be to continue to push for a NOAA policy guidance change. If that is not successful, then certainly we would support a change to the statute.

Senator SULLIVAN. Thank you.

Let me ask, and this again, could go to either Mr. Hull or Commissioner Cotten. You mentioned western Alaska. I was out in Shishmaref the other day and we did a town hall meeting there.

One of the questions that came up was the broader issue of the closure, or non-fishing, of the Arctic waters that extends north of where they are. And yet, from their perspective, some of the people asked the question, just seeing more migration, more fish. I get this question asked a lot. I am sure all of you do at the Council.

But what kind of data, what kind of information, what kind of process do you need as you continually evaluate more northern waters in Alaska in terms of what the Council would recommend in terms of opportunities or maybe not enough data to understand the ecosystem there in terms of fishing there?

I got a couple of questions on that just two days ago, and I told them I would have the opportunity to ask the experts and that I would pitch the question to you. So over to both of you for that question which, at least for me, comes up quite a lot when I am talking to Alaskans.

Mr. HULL. Thank you, Senator. I will take a crack at it.

I cannot recall offhand what kind of surveys are currently being done in those Arctic waters that are currently closed under our Arctic FMP to better understand what the status of stocks is, what is the abundance, how it has been changing.

Senator SULLIVAN. And they are closed primarily because we just do not think we have the information to make intelligent decisions on any kind of management regime?

Mr. HULL. In essence, yes. And so, until we have that information, and are better able to structure some kind of management program that would satisfy the provisions of Magnuson, the decision has been not to open.

Senator SULLIVAN. But are we not seeing a migration of fish stocks north, or is that just anecdotal?

Mr. HULL. Senator, I apologize. I am not able to answer that specifically.

I would add, however, that the North Pacific Research Board, of which I am Chairman as well, it has initiated an integrated ecosystem research plan for the Arctic waters. Not specifically to address the issue of what is the stock composition and abundance in the Arctic waters, but to understand the process for the production of resources in that region that are particularly important to the people in that area.

So that is a three-year-plus endeavor. It has just begun this year, but that is an example of some of the work that I am aware of that is going on.

Senator SULLIVAN. Commissioner Cotten, do you have any views on this?

Mr. COTTEN. Thank you very much, Senator.

It was a relatively easy decision to close the Arctic. For one reason, nobody was fishing there. So we really did not take anything away from anybody.

But we did say that it could be opened under certain conditions and we would have to show healthy stocks that could be harvested.

One thing about the fishing industry in Alaska is they are seldom shy about advancing proposals, ideas, and applications for experimental fishing permits. So I would expect to hear from industry as far as interest.

They would contribute to the research and do the exploration, I think, if they were allowed and if they had the interest. If there was a good thought that there might be some money to be made in the Arctic.

Senator SULLIVAN. OK. Thank you. Let me ask, Commissioner, one other question.

Are there any changes in the MSA that could benefit the relationship, and Dr. Woodward, this would be to you as well, between State fish and game regulators, and organizations, and NMFS, and NOAA? Do you see that relationship as working well? Do you see any kind of structural issues that might be addressed in the MSA to make that more of a cooperative relationship?

Dr. WOODWARD. Thank you, sir. That is a very good question, Senator, and one that is fundamental to the effectiveness of our fishery management.

As you are aware, there have been efforts in the southeast to extend State jurisdictions out to manage resources in the EEZ with the belief being that the State agencies had a better understanding of those fisheries and an ability to collect the data. That is a slippery slope because that does put a burden back on the states to be able to collect that data.

From a perspective of a state like Georgia, our territorial waters extend out to 3 miles. We have very little bottom fish habitat until you get 20 to 40 miles offshore.

So if we were going to change that relationship to realign jurisdictions, it would be a pretty significant move that would have, obviously, far reaching ramifications for more than just fish.

Senator SULLIVAN. Yes.

Dr. WOODWARD. But at the same time, I can say that, especially in a situation like we are dealing with, with cobia, I have been encouraged that the southeast region has accepted that perhaps it is better for states to manage cobia given the preponderance of the catch that occurs in State waters than to keep it under a Federal system.

And I think that is where the relationship really can benefit the most is a willingness for NOAA to divest itself of management responsibilities when there is a justification for it. We have done it in other species. We have reduced the number of species from being managed under Federal management, which is already stressed for resources, as I have already alluded to.

I do not know that anything particular needs to be put in the Act other than maybe some language that encourages the councils to look critically at what is in their portfolio and to look for opportunities to pass that to the states.

Senator SULLIVAN. Commissioner Cotten, do you have any views on that?

Mr. COTTEN. Just to say generally the State of Alaska has felt that we have worked very well with National Marine Fisheries Service and their representative in Alaska, and now anticipate even a stronger working relationship—

Senator SULLIVAN. Yes, I agree with that.

Mr. COTTEN. With the leadership nationally.

Senator SULLIVAN. Good news.

Mr. COTTEN. And thank you for your support on that.

Senator SULLIVAN. Well, by the way, just so everybody knows, he was supported by every council and every region. So we had a strong Alaskan candidate and I am glad we got him in there.

Mr. COTTEN. And I think many of the other people that have held that office were certainly well-qualified and competent, but I think few have had the experience that Mr. Oliver has had directly, hands on with councils. And so, I think that is really going to be a benefit to not just our Council, but nationally.

Senator SULLIVAN. Yes.

Mr. COTTEN. We have had some areas that we have not agreed on. Typically, with the ESA issues, marine mammals, for example, especially Steller sea lions, we have come to different conclusions on a regular basis on some of those issues. But I still feel overall, I would give high marks on the working relationship between State and National Marine Fisheries Service.

Senator SULLIVAN. Let me ask Mr. Morisky a related question with regard to coordination that exists between the North Pacific Council and the Board of Fish.

Are there ways that that coordination can be improved? I am kind of putting you and Mr. Hull on the spot here. I am sure you are going to say in the testimony that it is all going swimmingly. But if it is not, what would you recommend?

Mr. MORISKY. Well, perhaps more frequent interaction. I have been on the Board four years now and have not had an opportunity to have the Board officially interact with the North Council.

Senator SULLIVAN. Well, I am glad we could bring you guys together today, yes.

Mr. MORISKY. Well, thank you for that. So perhaps a more frequent involvement would benefit both of us, especially with the issues that have been raised here and in other venues.

Senator SULLIVAN. Do you think right now that the management tools the State and the Board of Fish possess are beneficial from the NMFS' and Councils' perspective to have in their toolbox to manage both the Federal and State fisheries?

Obviously in Alaska, more than most states, there is an interaction. There is an overlap. Commissioner Cotten has mentioned a couple of areas where the State manages stocks in Federal waters. Obviously, you also mentioned the Kenai, which has its own very distinctive history in that regard.

Do you think that there are enough proper authorities and tools to enable that relationship to work, particularly at the intersection?

Mr. MORISKY. Well, one of the comments that I have heard from my fellow Board members is that it is interesting that the North Council has their own staff back-up for information gathering, and research, and whatnot.

The Board, although we have access to the Department, it would be nice—and this is not to criticize our state structure here, but I am just relaying something and I have also the same sentiment—that perhaps down the road if we could have more of a staff on the State side for things that we may research that are Board-centric.

Senator SULLIVAN. OK. Good. Thank you.

Let me close with just one final question. I quoted Chris Oliver in his hearing just last month in Washington, D.C. where he talks about, "There are opportunities to have it both ways. Where for additional flexibility in how we apply annual catch limits, subsequent accountability measures, and in those rebuilding plans where we can achieve some flexibility that people are seeking without rolling back our conservation successes in having additional overfished stocks."

He thinks we can achieve that balance, as you mentioned, Commissioner, as someone who comes to that position with a lot of experience.

Is that something that all of you would agree with the new Director of NMFS that we can hit that balance and sweet spot?

I will open this. This is the final question for this panel. So if you want to answer it or have any other comments, please feel free to make them.

Mr. HULL. If I might, first make the comment regarding the State Board of Fisheries and our Council interaction.

Senator SULLIVAN. Sure.

Mr. HULL. We do have a joint protocol committee between the Board of Fisheries and our Council, a subset of each body.

We have not met for, I think, it has been close to seven or eight years now. So we have recognized on our side the need to interact at times, but have not followed through. I think that there is, given certain circumstances now, I think we have discussed that that warrants a joint meeting.

Senator SULLIVAN. Well, maybe that can be one positive outcome of this hearing, since we have two of the key players, actually three of the key players, to do that.

Mr. HULL. We also, our staff does brief the Board of Fish on issues that are going through our Council that are relevant to issues that they have taken up. So there is some interaction that goes on in between.

But with respect to your question on Mr. Oliver's statement, I think that there are potential opportunities for improving that, perhaps the harvest side of the equation.

I do want to say that it does require an increased monitoring of our fisheries, improvements in our stock assessment because the more information we have about the abundance of stocks, their distribution, their life history, the better able we are to make those decisions about harvest levels. The more monitoring we have of the fisheries, the better able we are to understand the consequences of harvest, or the impacts of harvest on those stocks.

So yes, I think that there are some ways to do that, but it will not come easily, I can say that as well, so.

Senator SULLIVAN. Thank you. Any other panelists want to comment on that final question that I posed that quotes the new Director of NMFS on what he thinks we can achieve?

Dr. WOODWARD. I will. Thank you, Senator.

I will, just for the record, let you know that Mr. Oliver's origins were in the southeast. He may be an Alaskan but.

Senator SULLIVAN. Well, I think he claimed Texas initially, but we claim him now, so he has a lot of connections.

Dr. WOODWARD. So we have a little pride of ownership of him too.

Senator SULLIVAN. Good.

Dr. WOODWARD. I do think what he has said is achievable. I think it is going to take a lot of work. I think it is more than just amending the Magnuson Act.

I think it is leadership within NOAA. I think it starts at the regional level and how regional administrators guide their staffs to apply the Magnuson Act and how they interact with the regional fishery management councils. I mean, we see this quite often in our State-Federal agency interactions that, as you move geographically, oftentimes the code of Federal regulations is interpreted differently from place to place.

Senator SULLIVAN. Right.

Dr. WOODWARD. And sometimes that is good, and sometimes it is not so good. I think it is going to take both and it is going to take a commitment of resources.

I mean, we are trying to do very advanced fisheries management in this country, and we have got to support it with the resources necessary to perpetuate the billions of dollars of benefit it brings.

The legislation currently before the Senate and the House, the Modern Fish Act, they have great potential. Obviously, we have got to look at them with close scrutiny, but I do think it is achievable.

I think if the Act is amended to show the states that the National Marine Fisheries Service is extending the olive branch, so to speak, to try to bridge the gap and correct some of these problems. So there is a willingness on both sides.

Senator SULLIVAN. Good. Thank you.

Commissioner Cotten.

Mr. COTTEN. Thank you, Senator.

I just wanted to say I agree with Mr. Hull and Dr. Woodward that that statement reflects something that really is achievable. I think the big difference, and I already mentioned this, is the experience that our new Director has, the leadership and that service is so important.

And while we certainly would not want anybody to abandon a cautionary approach to a lot of fisheries management challenges, that kind of knowledge and base would allow for, I think, a bolder advance on a lot of things that we are all very interested in.

Senator SULLIVAN. Great. Thank you.

Mr. Morisky, I will give you the wrap up, final word here.

Mr. MORISKY. Thank you for conducting this hearing today and giving us all this opportunity to speak. Thank you.

Senator SULLIVAN. Great. Well, listen. How about a round of applause for our first panel?

[Applause.]

Senator SULLIVAN. I want to thank the witnesses again and ask our second panel to please come up to the dais. Thank you.

[Pause.]

Senator SULLIVAN. I really want to thank everybody for being here.

I think the Committee, and people observing this hearing saw a distinguished first panel. Our next two panels are going to be just as distinguished, representing a wide group of stakeholders from different regions, different areas.

And so again, I will ask each of our witnesses that will be recognized for 5 minutes to give an opening statement, and if you have a longer statement, we can submit that for the record. I would like to introduce our panel of witnesses.

First, we have Glenn Reed who is the President of the Pacific Seafood Processors Association.

Ben Speciale is the President of Yamaha Marine Group.

Linda Behnken, who is the President of the Halibut Coalition and the Executive Director of Alaska Longline Fishermen's Association.

Ragnar Alstrom, who is the Executive Director of the Yukon Delta Fisheries Development Association.

And Ben Stevens, the Director of the Hunting and Fishing Task Force for the Tanana Chiefs Conference.

Each of you will have 5 minutes.

Mr. Reed, we will begin with you. Thank you.

**STATEMENT OF GLENN REED, PRESIDENT,
PACIFIC SEAFOOD PROCESSORS ASSOCIATION**

Mr. REED. Thank you, Chairman Sullivan.

On behalf of the member companies of the Pacific Seafood Processors Association, or PSPA as we call ourselves, I would thank you for convening today's hearing on reauthorization of the MSA.

My name is Glenn Reed, and I serve as the President of PSPA. Our nonprofit trade association represents the shared policy interests of nine seafood processing companies active in all major commercial fisheries in Alaska.

PSPA members collectively purchase and send to markets several hundred million pounds of fish landed in Alaska, including

salmon, pollock, crab, cod, halibut, sablefish, and other fisheries that continue to achieve sustainable management under the MSA.

To accomplish this, PSPA members have invested hundreds of millions of dollars in their operations, including 3 at-sea mother-ships, 31 shore-based facilities in 18 Alaska coastal communities, from Ketchikan to Dutch Harbor to Togiak. Our members support local economies, bolster the tax base of rural communities, and provide thousands of jobs and infrastructure in remote locations.

I want to highlight the interdependencies between commercial harvesters and seafood processors, which define our role as key fisheries management stakeholders.

The harvesting sector operates under management measures developed through the regional fishery management council process, and they must be able to sell their fish quickly. PSPA members and other processors develop markets, buy those fish, and turn them into value-added products. Yet, the value of the product largely depends on consumer demand in highly competitive seafood markets around the world.

The influence of global seafood markets on primary processors, including their ability to invest in capacity and in equipment necessary to remain globally competitive, must be understood and considered in management decisions, in order to achieve optimum yield.

Congress defined “optimum yield” as the harvest level that provides the greatest overall benefit to the Nation, and it remains the core tenet of the MSA.

Congress also defined “fishing communities” to include harvesters and processors, and this relationship is critical to realizing the benefits of optimum yield, which are further distributed throughout coastal communities and the Nation.

To sustain this system, PSPA members support management that ensures fisheries’ harvests are sustainable. This is the purpose of the MSA and it has been remarkably effective. The mandate to utilize the best available science ensures that decisions are based on facts and evidence, which drives performance.

Overall, the MSA is achieving its goals in the North Pacific and is not in need of reform. Of course, we recognize there are ways to further update, improve, or streamline the Act. We also recognize there are regional differences that must be addressed and potential benefits of increased flexibility in some circumstances. But any changes should preserve, and only build upon, what already works in the Act.

As PSPA reviews and considers any changes to the Act, we are guided by the following principles and find that any changes should ensure the following.

First, preservation and enhancement of stock assessments and surveys must be maintained or expanded. This serves as the basis for all fishery management plans.

This requires the cooperation from congressional appropriators, and we find it absolutely necessary for realizing optimum yield in all fisheries and responding to changes in stocks and the environment.

New mandates included in any reauthorization should not come at the expense of reduced funding for fundamental stock assessments and survey responsibilities.

Second, data utilized in stock assessments and surveys can, and should, come from many different sources, but they must continue to meet the high scientific standards demanded in any rigorous, peer reviewed process.

The Act, which already requires use of the best available science, should not allow lower quality data to receive the same use in management, because doing so would have the effect of increasing sources of error and uncertainty.

Third, flexibility is necessary for councils to address the unique and changing circumstances that arise between stocks, sectors, economies, environments, fishing communities, and other regional needs. Managers benefit from having more tools in the toolbox and flexible, adaptable options for implementing them.

The North Pacific has several examples of cooperative management programs that have benefited from flexibility, allowing for higher utilization, increased value, lower bycatch, reduced environmental impacts, and more responsive monitoring and management, largely driven by fishery participants in response to Council objectives.

Sustainable fisheries should achieve optimum yield through flexible and adaptable performance-based management, not prescriptive regulation.

Fourth, any rigid mandates directing how management must be conducted should target specific needs without setting broader precedent. Congress should avoid across the board mandates in order to solve a specific problem in one region.

Fifth, management systems and regulatory processes should be streamlined to the greatest extent possible. Any unnecessary duplication of analyses or extra administrative steps that do not add value should be minimized.

Sixth, council management systems should be transparent and promote accountability. Reasonable public access to, and fair representation by, participants that operate in fisheries regulated by the Council is vital for achieving more effective outcomes.

Finally, we find that any changes to MSA should not erode the core tenet of ensuring sustainable harvests. Alaska's fisheries are certified as sustainable through various international benchmarking programs, due in large part to the governance systems at State and national levels.

All U.S. fisheries that have achieved the goal of sustainability must not backtrack, because doing so would not only affect thousands of fishery-dependent businesses, but it would harm consumer confidence that is increasingly important to seafood buyers around the world.

In closing, I am grateful for the opportunity to share our input with you. I applaud your efforts to ensure that the MSA remains the bedrock of sustainable fisheries management.

I look forward to your questions.

[The prepared statement of Mr. Reed follows:]

PREPARED STATEMENT OF GLENN REED, PRESIDENT,
PACIFIC SEAFOOD PROCESSORS ASSOCIATION

Chairman Sullivan, on behalf of member companies of the Pacific Seafood Processors Association, or "PSPA," I thank you for convening today's hearing on reauthorization of the Magnuson-Stevens Act. My name is Glenn Reed, and I serve as President of PSPA. Our non-profit trade association represents the shared policy interests of nine seafood processing companies active in all major commercial fisheries in Alaska.

As you know, Alaska's commercial fisheries harvest more than 60 percent of all U.S. commercial fishery production. The U.S. economic output related to Alaska's seafood industry is about \$14.6 billion, with \$5.9 billion in economic activity in Alaska.

PSPA members collectively purchase and send to markets several hundred million pounds of fish landed in Alaska, including salmon, pollock, crab, cod, halibut, sablefish, and other fisheries that continue to achieve sustainable management under the Magnuson-Stevens Act, or "MSA." To do so, PSPA members have invested hundreds of millions of dollars in their operations, including 3 at-sea motherships and 31 shore-based facilities in 18 Alaskan coastal communities, from Ketchikan to Dutch Harbor. Our members support local economies, bolster the tax base of rural communities, and provide thousands of jobs and infrastructure in remote locations.

As a representative of the seafood processing sector in Alaska, I want to highlight the interdependencies between commercial harvesters and seafood processors, which define our role as key fisheries management stakeholders. The harvesting sector operates under management measures developed through the regional fishery management council process, and they must be able to sell their fish quickly and at a profit. PSPA members and other processors develop markets, buy those fish, and turn them into value-added products, yet the value of the product largely depends on consumer demand in highly competitive seafood markets around the world. The influence of global seafood markets on primary processors, including their ability to invest in capacity and equipment necessary to remain globally competitive, must be understood and considered in management decisions, in order to achieve optimum yield. Congress defined "optimum yield" as the harvest level that provides the greatest overall benefit to the nation, and it remains a core tenet of the MSA. Congress also defined "fishing communities" to include harvesters *and* processors, and this relationship is critical to realizing the benefits of optimum yield, which are further distributed throughout coastal communities and the Nation.

To sustain this system, which delivers healthy and affordable proteins to the world, PSPA members support management that ensures fisheries harvests are sustainable. This is the purpose of the MSA, and it has been remarkably effective. The council process promotes transparency, regionally-based decision-making, and inclusion of vital interests, which drives accountability. The mandate to utilize the best available science ensures that decisions are based on facts and evidence, which drives performance. Overall, the MSA is achieving its goals in the North Pacific and is not in need of reform. Of course, we recognize there are ways to further update, improve, or streamline the Act. We also recognize there are regional differences that must be addressed and potential benefits of increased flexibility in some circumstances. But any changes should preserve and only build upon what already works in the Act.

As PSPA reviews and considers any changes to the Act, we are guided by the following principles and find that any changes should ensure the following:

- First, preservation and enhancement of stock assessments and surveys must be maintained or expanded. This serves as the basis for all fishery management plans. While this requires cooperation from Congressional appropriators, we find it is absolutely necessary for realizing optimum yield in all fisheries and responding to changes in stocks and the environment. New mandates included in any reauthorization should not come at the expense of reduced funding for fundamental stock assessment and survey responsibilities.
- Second, data utilized in stock assessments and surveys can and should come from many different sources, but they must continue to meet the high scientific standards demanded in any rigorous, peer reviewed process. The Act—which already requires use of the best available science—should not allow lower quality data to receive the same use in management, because doing so would have the effect of increasing sources of error and uncertainty.
- Third, flexibility is necessary for councils to address the unique and changing circumstances that arise between stocks, sectors, economies, environments, fishing communities, and other regional needs. Managers benefit from having more

tools in the toolbox, and flexible, adaptable options for implementing them. The North Pacific has several examples of cooperative management programs that have benefitted from flexibility, allowing for higher utilization, increased value, lower bycatch, reduced environmental impacts, and more responsive monitoring and management, largely driven by fishery participants in response to Council objectives. Sustainable fisheries should achieve optimum yield through flexible and adaptable performance-based management, not prescriptive regulation.

- Fourth, any rigid mandates directing how management must be conducted should target specific needs without setting broader precedent. Congress should avoid across-the-board mandates in order to solve a specific problem in one region.
- Fifth, management systems and regulatory processes should be streamlined to the greatest extent possible. Any unnecessary duplication of analyses or extra administrative steps that do not add value should be minimized. Sources of unnecessary cost, delay, and uncertainty must be avoided.
- Sixth, council management systems should be transparent and promote accountability. Reasonable public access to and fair representation by participants that operate in fisheries regulated by the Council is vital for achieving more effective outcomes, as well as maximizing stakeholder support of those outcomes.
- Finally—and by no means the least important—we find that any changes to MSA should not erode the core tenet of ensuring sustainable harvests. Almost all of Alaska’s fisheries are certified as sustainable through various international benchmarking programs, due in large part to the governance systems at state and national levels. All U.S. fisheries that have achieved the goal of sustainability must not backtrack, because doing so would not only affect thousands of fishery-dependent businesses, but it would harm consumer confidence that is increasingly important to seafood buyers around the world.

In closing, I’m grateful for the opportunity to share our input with you, and I applaud your efforts to ensure that the MSA remains the bedrock of sustainable fisheries management. I look forward to your questions.

Senator SULLIVAN. Great. Thank you, Mr. Reed.
Mr. Speciale.

STATEMENT OF BEN SPECIALE, PRESIDENT, YAMAHA MARINE GROUP, YAMAHA MOTOR CORPORATION, USA

Mr. SPECIALE. Good afternoon and thank you so much for allowing us to talk today. We really appreciate the opportunity to share our insights.

Again, my name is Ben Speciale. I am the President of the Yamaha Marine Group.

My thousand team members are responsible for the outboard motor business, as well as five marine manufacturing facilities in the United States. We provide products and services to 120 independent boat companies and 2,000 independent retail dealerships, 19 of which are here in the State of Alaska.

I personally have been in this industry all my life. We bring a unique perspective to fishery conservation as our products are used in commercial, charter, as well as recreational fishing.

Conservation is a key part of our mission as a company. It is also a true passion for us in the marine industry. We support, and are active members, in the American Sportfishing Association, the Coastal Conservation Association, the Recreational Fishing Alliance, the Theodore Roosevelt Conservation Partnership, as well as the Kenai River Sportfishing Association here in Alaska.

Mr. Chairman, Yamaha and our customers continue to advocate for the bill that you and Senator Corey Booker introduced, the Save Our Seas Act. We support these and other initiatives because we

want a lot of fish in the ocean, and we want to ensure healthy fish stocks for future generations of anglers and our children.

Today, I would like to focus on the economic impact of recreational saltwater fishing, underscoring the need to amend the Magnuson-Stevens Act.

According to the data provided by the National Marine Fisheries, in 2015 over 9 million saltwater recreational anglers took over 60 million fishing trips, spending over \$28 billion. These activities directly support 439,000 jobs and contribute \$36 billion to the U.S. GDP.

While impressive, these numbers do not begin to tell the complete story of the marine recreational saltwater economy and its national impact. It is not just coastal. It touches all 50 states.

I am going to give two examples.

One, we operate a foundry in Indianapolis, Indiana where we have 130 Yamaha employees producing 60,000 stainless steel propellers per year, most of which are used in saltwater fishing boats. The waxes used in the investment casting process are supplied out of Cleveland, Ohio. The stainless steel is supplied out of Oil City, Pennsylvania. The minerals used in our alloys are mined in places like Climax, Colorado or Eagle Mine in Michigan's Upper Peninsula.

At our Skeeter boat factory in Kilgore, Texas, we have 280 Yamaha employees manufacturing fishing boats many of which are used in the Gulf of Mexico by recreational anglers for red snapper and other saltwater species.

The gel coats that we use in our resins come out of Kansas City, Missouri. The fuel tanks and live wells that are used in our boats come out of Sparta, Tennessee. The aluminum components used in a boat comes from Lake Zurich, Illinois and the electronic components come out of Arkansas.

The materials and subcomponents used in saltwater recreational fishing boats come from all over our great Nation. This is another reason why it is so important we properly amend MSA so it takes into account the full economic impact of the saltwater recreational fishing economy.

Recreational and commercial fishing are simply two fundamentally different activities needing distinctively different management tools.

The original MSA law was enacted to govern commercial fishing sectors. It has done well there. However, the current one-size-fits-all approach has led to many problems for saltwater anglers that are unnecessarily burdensome, have huge restrictions, and reduced economic output for our industry.

Simply stated, you do not buy a fishing boat and tackle if you cannot go fishing.

The management strategies are in desperate need of an update. Critical improvements in MSA are included in the Senate Bill 1520, the Modern Fish Act, and will allow Federal fisheries managers to use alternative management approaches for recreational fishing, similar to the State-based models that simply much better align with the nature of recreational fishing.

We, all of us, are responsible for protecting the livelihoods of those who depend upon the recreational saltwater fishing economy.

Our laws should be written for the good of the Nation, not necessarily the good of one, single industry.

I hope I have shown that recreational fishing supports a large number of jobs in a wide variety of industries and states.

I want to thank you again for the opportunity today and I really look forward to answering any questions that you may have.

[The prepared statement of Mr. Speciale follows:]

PREPARED STATEMENT OF BEN SPECIALE, PRESIDENT, YAMAHA MARINE GROUP,
YAMAHA MOTOR CORPORATION, USA

Introduction

Good afternoon, Chairman Sullivan and Members of the Subcommittee. I appreciate the opportunity to speak with you today about the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). My name is Ben Speciale, and I am the President of Yamaha Marine Group, a business unit of Yamaha Motor Corporation USA. The marine group is accountable for the management of five marine manufacturing facilities in the United States, and we have more than 1,000 employees. Our company sells, markets, and services Yamaha outboard motors and related parts and accessories through a distribution network of 120 independent boat builders. Those boats, as well as individual motors, are retailed through 2,000 dealers in the United States; 19 dealers are here in Alaska. These individual small businesses in our distribution network employ anywhere from a handful of employees to hundreds, and they have a sizeable footprint in all 50 states.

Conservation is a key part of our mission as a company. We support and are very active with the leadership of the Center for Sportfishing Policy. We are members and supporters of the American Sportfishing Association, the Coastal Conservation Association, the Recreational Fishing Alliance, the Theodore Roosevelt Conservation Partnership and the Kenai River Sportfishing Association here in Alaska. Earlier this year, Yamaha was honored by the International Game Fish Association for our efforts in the area of conservation. Mr. Chairman, I also know you are aware that Yamaha supports and has asked its customers to advocate for the bill that you and Senator Corey Booker introduced, the Save Our Seas Act. Getting plastic debris out of our oceans is very important part of protecting our ocean resources. At Yamaha, we know that our business and the businesses of all boat builders and dealers, rely on a healthy and abundant resource. To summarize, we want a lot of fish in the sea, and we want to ensure healthy fish stocks are protected for generations to come.

I believe I can bring a unique perspective to the fisheries management conversation because Yamaha Marine's products are used by commercial, charter, and recreational fishermen. With this in mind, we are focused on fair and equitable fisheries management policies that bring about the greatest benefit to the Nation.

Today, I would like to focus on the economic impact of recreational salt water fishing and thereby underscore the need for amending the Magnuson-Stevens Act to allow for increased management flexibility for recreational fisheries.

The Impact from a Statistical view

Recreational saltwater fishing contributes greatly to the economy. According to data provided by the National Marine Fisheries Service, the Nation's nine million saltwater recreational anglers took more than 60 million fishing trips in 2015, spending \$28.7 billion. \$24 billion of that was spent on durable goods, such as what we and our boat builder customers produce. Total sales impact was \$63 billion, which supported 439,000 jobs, and contributed \$36 billion to the U.S. gross domestic product. Using NMFS numbers, total contribution to the economy by recreational fishing is about equal to the impact of commercial fishing.

Economic Impact from a Manufacturer's View

While impressive, these numbers don't begin to tell the whole story of the marine economy. There are two points that everyone gathered here may not know. The impact of saltwater fishing isn't just coastal, and it likely touches all fifty states. Let me give you a few examples.

Yamaha owns and operates a foundry in Indianapolis, Indiana, which produces more than 60 thousand stainless steel propellers each year that are used on Yamaha and other outboard motors. More than a third of those props are used in

saltwater boat applications despite the fact that they are manufactured in a land-locked state.

We employ 130 hardworking Americans in Indianapolis. The employees there are skilled and proud of what they do. Many of the jobs involve precise, careful finish work. The propellers they make are of high quality and are in great demand. On average, our production employees make more than other manufacturing employees in the area. They have the very same benefits package and health care options that are available to all Yamaha employees. In short, these are good jobs in a good industry.

However, the economic impact of our propeller plant doesn't end in Indianapolis. Let's take a look at the raw materials that go into those Yamaha propellers. The waxes used in the investment casting process are shipped to Indianapolis from factories in Muskegon, Michigan or Cleveland, Ohio. Stainless steel is shipped to Indianapolis as ingots from Oil City, Pennsylvania and from Muskegon, Michigan. The various minerals used in the alloys are mined in a number of places, including Climax, Colorado, a state not known for saltwater fishing. Nickel used in the alloy likely comes from the Eagle Mine on Michigan's Upper Peninsula. Furthermore, once the propellers have left our Indianapolis plant, they go on to support small businesses in all fifty states through our boat-builder and dealer networks.

We see the extensive impact of saltwater recreational fishing at our Skeeter boat company factory in Kilgore, Texas. While Texas certainly has a lot of coastline, Kilgore is pretty far from it. The city is better known for its contribution to the oil industry in the 1930s, with oil derricks still standing as historic markers. With 281 employees, Skeeter is now the second largest private employer in Kilgore, ranking just behind General Dynamics and just ahead of Halliburton. The brand is known as a manufacturer of high-performance fishing boats, many of which are used in the Gulf of Mexico by a wide variety of customers, including many recreational anglers who use them to fish for red snapper and other salt water species. Most of the resins used in those boats come from a company in Marshall, Texas. Some of the gelcoats are from Kansas City, Missouri. Fuel tanks and livewells come from factories in Bristol, Indiana and Sparta, Tennessee. Aluminum for use in some panels, from Lake Zurich, Illinois. Electronic components are from Conway, Arkansas. Decals and emblems are manufactured in Wichita, Kansas. All boats, not just Skeeter's, use a lot of wiring these days. Many of the wiring harnesses for boats come from Michigan. The truth is that many of the raw materials and semi-finished products used for salt water recreational fishing boat production come from factories, mines and suppliers in the interior of our great nation.

That salt water recreational fishing economy is much more far reaching than we think, and that's why it is so important that we amend the Magnuson-Stevens Act to take into account the needs of the recreational fishing economy. Recreational fishing and commercial fishing are two fundamentally different activities needing distinctly different management tools.

Supporting the Salt Water Recreational Fishing Economy

How do we make sure we maintain the salt water fishing economy that is so important to every state in our nation? The current law has never properly addressed the importance of recreational fishing. The original MSA law was enacted to govern the commercial fishing sector, and the bill has done so with great success over the decades. However, the current one-size-fits-all approach has led to problems for the recreational angler including shortened or even cancelled seasons, reduced bag limits, and unnecessary restrictions. Recreational anglers are very concerned about the process for granting Exempted Fishing Permits, the actual impacts EFPs have on anglers who remain excluded, and the potential impacts EFPs will have on species conservation—as explained in the attachment to this testimony. Management strategies are in desperate need of an update and more emphasis needs to be put on recreational fishing.

We believe that some critical improvements are included in S. 1520, the Modernizing Recreational Fisheries Management Act of 2017, which is currently pending before this committee. If enacted, the provisions of that bill will provide some of the statutory tools needed to better manage recreational anglers.

Specifically, the Modern Fish Act will allow Federal fisheries managers to use alternative management approaches for recreational fishing, similar to state-based models that better align with the nature of recreational fishing and available data. Among other innovations, it will improve recreational fisheries data by considering modern third-party data collection systems, such as from smartphones. These legislative changes take nothing away from other sectors while leveling the playing field for the recreational angler.

Conclusion

At Yamaha, we see the breadth and depth of the salt water recreational fishing economy. We see it in our own facilities and in those of the 120 boat builders and 2,000 dealers we work with every day. Here is an important fact: 70 percent of those who boat, fish. You cannot separate boating from fishing. In many ways, an outboard motor is just a tool for fishing, not unlike the tackle used by our customers. Every element and every bit of material that goes into the boat and everyone who adds value to it is part of the salt water recreational economy. The impacts go beyond manufacturers, suppliers, and retailers; they affect hotels, gas stations, restaurants, travel services, and coastal communities that benefit from recreational saltwater fishing trips every single day of the year.

We, all of us here, are responsible for protecting the livelihood of the many who depend on recreational fishing. Our laws are written for the good of the nation, not the good of a single industry. I hope I have shown that the sport of recreational fishing supports a large number of jobs in a wide variety of industries in states all across our nation: artisans who put the shine in our propellers, technicians who design tooling, miners who bring us our raw materials, painters, laminators, salespeople, marketers, accountants, everyone. Each one of these jobs represents an American family that depends on the sport of recreational fishing for their financial security, and dozens more American families that are able to bond across generations through time together on the water with a fishing rod in their hands.

At Yamaha, we support the Modern Fish Act, and we support the organizations that have worked so hard to get the recreation community this far today. There are others here on this panel today that can do a much better job of defining the specific statutory changes that will be necessary to support the economy that I hope I have helped to illuminate. I look forward to their testimony.

Thank you again for the opportunity to discuss the Magnuson-Stevens Act. I am available to answer questions you may have.

THE FACTS



YAMAHA MARINE GROUP



Yamaha Marine Group

Yamaha Marine Group, based in Kennesaw, Ga., supports its U.S. dealers and OEM (boat builder) partners with marketing, training and parts for Yamaha's full line of marine products.

Yamaha products are sold to a diverse market of boaters and anglers who have one thing in common – love of the water. More than one of every three outboard motors sold in the U.S. is a Yamaha. For models in the range of 100 horsepower and above, nearly one out of every two outboards sold is a Yamaha.

Yamaha strives to be the industry leader in reliability, technology and customer satisfaction. Yamaha Marine is the only outboard brand to have earned the National Marine Manufacturers Association's C.S.I. Customer Satisfaction Index award every year since its inception.

Key Facts

Primary products sold: outboard motors, propellers and related products

Yamaha Marine Group includes:

- Yamaha Marine Group – headquarters and warehouse, Kennesaw, Georgia
- Yamaha Marine Test Facility, Bridgeport, Alabama

THE FACTS



YAMAHA MARINE GROUP

- G3 Boats – makers of aluminum fishing and pontoon boats, Lebanon, Missouri
- Skeeter Products, Co. – makers of bass, bay and walleye boats, Kilgore, Texas
- Precision Propeller Industries, Inc. – makers of boat propellers, Indianapolis, Indiana

Employees: **715**
Dealers: 2,000
Boat builder customers: 127
Exclusive boat builder agreements: 26
Facebook "likes": 226,000
Website: www.yamahaoutboards.com.



For more information contact Martin Peters (martin_peters@yamaha-motor.com) or (770) 420-5829.



YAMAHA MOTOR CORPORATION, U.S.A.
MARINE & WATERCRAFT

Business & Industry Briefing



THROUGH ITS MARINE AND WATERCRAFT GROUPS, YAMAHA IS THE #1 GLOBAL BRAND ON THE WATER TODAY.

YAMAHA COMPANIES:

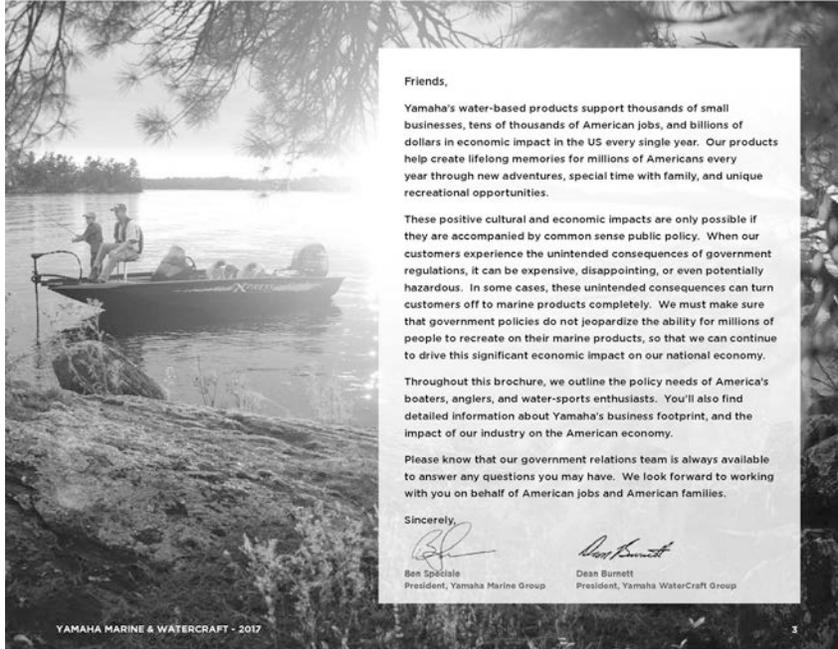
- Yamaha Motor Corporation, U.S.A.
- Yamaha Motor Manufacturing Corporation
- Yamaha Jet Boat Manufacturing Corporation
- Yamaha Marine Precision Propellers
- Skeeter Performance Fishing Boats
- G3 Boats
- Yamaha Dealers and Boat Builder partners in all 50 states

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YAMAHA MARINE & WATERCRAFT - 2017



Friends,

Yamaha's water-based products support thousands of small businesses, tens of thousands of American jobs, and billions of dollars in economic impact in the US every single year. Our products help create lifelong memories for millions of Americans every year through new adventures, special time with family, and unique recreational opportunities.

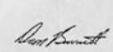
These positive cultural and economic impacts are only possible if they are accompanied by common sense public policy. When our customers experience the unintended consequences of government regulations, it can be expensive, disappointing, or even potentially hazardous. In some cases, these unintended consequences can turn customers off to marine products completely. We must make sure that government policies do not jeopardize the ability for millions of people to recreate on their marine products, so that we can continue to drive this significant economic impact on our national economy.

Throughout this brochure, we outline the policy needs of America's boaters, anglers, and water-sports enthusiasts. You'll also find detailed information about Yamaha's business footprint, and the impact of our industry on the American economy.

Please know that our government relations team is always available to answer any questions you may have. We look forward to working with you on behalf of American jobs and American families.

Sincerely,


 Ben Spiciale
 President, Yamaha Marine Group


 Dean Burnett
 President, Yamaha WaterCraft Group

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U.S. RECREATIONAL BOATING STATISTICS



Boating Type	Percentage
POWERBOATS	83%
PWCs	9%
OTHER	6%
SAILBOATS	2%

TOTAL = 11,867,049 RECREATIONAL BOATERS IN THE UNITED STATES

YAMAHA MARINE & WATERCRAFT - 2017 4

72%
OF BOAT OWNERS HAVE
A HOUSEHOLD INCOME OF
LESS THAN \$100,000



87.3MM
BOATERS TOOK TO
THE WATER IN THE
U.S. IN 2014



TOP 3
MOST POPULAR
BOATING ACTIVITIES

FISHING SWIMMING ENTERTAINING





95%
OF BOATS IN THE U.S.
ARE UNDER 26 FEET
AND TOWABLE



DATA SOURCES: Unless otherwise noted, data is from the NEMMA 2015 Recreational Boating Statistical Abstract. Data for Economic Impact, Jobs and Businesses is taken from the NEMMA 2012 Boating Economic Impact Study. Boating activity and demographic data is taken from NEMMA's 2014 Boat Ownership and Participation Study.

YAMAHA MARINE & WATERCRAFT - 2017 5



MARINE
MANUFACTURING
AROUND THE U.S.

TOTAL ANNUAL ECONOMIC IMPACT*

\$121.5 BILLION

*Includes Direct, Indirect, and Induced Spending

NUMBER OF JOBS

DIRECT: **472,389** INDIRECT: **177,625**



TOTAL: 650,014

NUMBER OF BUSINESSES



TOTAL: 34,833

BOATS SOLD IN U.S.



95% OF BOATS SOLD IN THE U.S. ARE MADE IN THE U.S.

\$35.9
BILLION

TOTAL U.S. EXPENDITURES ON
BOATS, ENGINES, ACCESSORIES
& RELATED COSTS**

**Includes maintenance, storage, fuel,
insurance, taxes and interest

\$17.5
BILLION

ANNUAL RETAIL SALES OF NEW
BOATS, ENGINES & MARINE
ACCESSORIES IN THE U.S.



YAMAHA
Rev your Heart™

YAMAHA MARINE MANUFACTURING IN THE U.S.

- YAMAHA MARINE PRECISION PROPELLERS**
INDIANAPOLIS, IN
- G3 BOATS**
LEBANON, MO
- YAMAHA JET BOAT MANUFACTURING**
VONORE, TN
- YAMAHA MOTOR MANUFACTURING CORPORATION**
NEWMAN, GA
- SKEETER BOATS**
KILGORE, TX
- YAMAHA U.S. HEADQUARTERS**
CYPRESS, CA
KENNESAW, GA

PLUS, DEALERS AND BOAT BUILDER PARTNERS IN ALL 50 STATES

8

YAMAHA MARINE & WATERCRAFT - 2017



YAMAHA BY STATE



ALABAMA



KEY FACTS:

- ▶ Type: Test Facility
- ▶ Location: Bridgeport
- ▶ Employees: 7
- ▶ Size: 19,500 sq ft on 31 acres
- ▶ Facilities:
 - 13,500 sq ft boat storage building
 - 8 garage bays
 - 12 boat slips on the Tennessee River
 - 3,500 sq ft propeller technical center

GEORGIA



KEY FACTS:

- ▶ Type: Warehouse/Regional Offices
- ▶ Location: Kennesaw
- ▶ Employees: 361
- ▶ Size: 471,600 sq ft on 38 acres
- ▶ Warehouse Shipments: 433,000
- ▶ Type: Design & Manufacturing
- ▶ Location: Newnan
- ▶ Employees: 1,525 plus 250 temp. employees
- ▶ Size: 280 acres
- ▶ Annual Production: 175,000 units

TOTAL EMPLOYEES: 1,690

INDIANA



KEY FACTS:

- ▶ Type: Yamaha Marine Precision Propellers - Stainless steel propeller casting
- ▶ Location: Indianapolis
- ▶ Employees: 155
- ▶ Size: 67,000 sq ft on 4.4 acres
- ▶ Annual Production: 60,000 units

YAMAHA MARINE & WATERCRAFT - 2017



MISSOURI	TENNESSEE	TEXAS	WISCONSIN
 <p>KEY FACTS:</p> <ul style="list-style-type: none"> Type: Manufacturing & Headquarters for G3 Boats Location: Lebanon Employees: 291 Size: 160,000 sq ft on 48 acres Annual Production: 5,200 units 	 <p>KEY FACTS:</p> <ul style="list-style-type: none"> Type: Jet Boat Manufacturing Location: Vonore Employees: 452 Size: 42 acres Annual Production: 4,500 units 	 <p>KEY FACTS:</p> <ul style="list-style-type: none"> Type: Manufacturing & Headquarters for Skeeter Boats Location: Kilgore Employees: 269 Size: 170,000 sq ft on 36 acres Annual Production: 2,000 units 	 <p>KEY FACTS:</p> <ul style="list-style-type: none"> Type: Yamaha Warehouse & Training Facility Location: Pleasant Prairie Employees: 40 Size: 174,000 sq ft

YAMAHA MARINE & WATERCRAFT - 2017 11

YAMAHA MARINE GROUP

Yamaha Marine Group, based in Kennesaw, GA, supports its U.S. dealers and Boat Builder partners with marketing, service, training and parts for Yamaha's full line of marine products.

Yamaha products are sold to a diverse market of boaters and anglers who have one thing in common—love of the water.

YAMAHA MARINE HIGHLIGHTS

33%

MORE THAN ONE OF EVERY THREE OUTBOARD MOTORS SOLD IN THE U.S. IS A YAMAHA.

50%

FOR MODELS IN THE RANGE OF 100 HORSEPOWER AND ABOVE, NEARLY ONE OUT OF EVERY TWO OUTBOARDS SOLD IS A YAMAHA.



YAMAHA STRIVES TO BE THE INDUSTRY LEADER IN RELIABILITY, TECHNOLOGY AND CUSTOMER SATISFACTION. YAMAHA MARINE IS THE ONLY OUTBOARD BRAND TO HAVE EARNED THE NATIONAL MARINE MANUFACTURERS ASSOCIATION'S C.S.I. CUSTOMER SATISFACTION INDEX AWARD EVERY YEAR SINCE ITS INCEPTION.

KEY FACTS:

PRIMARY PRODUCTS SOLD:
OUTBOARD MOTORS, PROPELLERS AND RELATED PRODUCTS

YAMAHA MARINE GROUP INCLUDES:

- **YAMAHA MARINE GROUP** - HEADQUARTERS AND WAREHOUSE, KENNESAW, GEORGIA
- **YAMAHA MARINE TEST FACILITY**, BRIDGEPORT, ALABAMA
- **G3 BOATS** - MAKERS OF ALUMINUM FISHING AND PONTOON BOATS, LEBANON, MISSOURI
- **SKEETER PRODUCTS, INC.** - MAKERS OF BASS, BAY AND WALLEYE BOATS, KILGORE, TEXAS
- **PRECISION PROPELLER INDUSTRIES, INC.** - MAKERS OF STAINLESS STEEL MARINE PROPELLERS, INDIANAPOLIS, INDIANA

EMPLOYEES: 800
DEALERS: 2,000
BOAT BUILDER CUSTOMERS: 127
EXCLUSIVE BOAT BUILDER AGREEMENTS: 26
FACEBOOK "LIKES": 256,000



YAMAHA WATERCRAFT GROUP

Yamaha's WaterCraft Group, headquartered in Kennesaw, GA, is responsible for the sales, marketing and distribution of Yamaha WaveRunner® personal watercraft and Yamaha Boats in the United States.

Yamaha WaveRunners are built at Yamaha Motor Manufacturing Corporation in Newnan, GA. Yamaha Boats are manufactured at Yamaha Jet Boat Manufacturing located in Vonore, TN.

WAVERUNNER HIGHLIGHTS

42%

YAMAHA IS GAINING SHARE IN THE PERSONAL WATERCRAFT MARKET FASTER THAN ANY OTHER BRAND, AND CURRENTLY HOLDS APPROX 42% SHARE OF THE MARKET.

#1

YAMAHA'S VX SERIES WAVERUNNER HAS BEEN THE #1 SELLING PERSONAL WATERCRAFT IN THE MARKET SINCE ITS INTRODUCTION IN 2005.

**LAW
LOAN**

YAMAHA'S LAW LOAN PROGRAM HAS MADE TENS OF THOUSANDS OF YAMAHA WAVERUNNERS AVAILABLE TO LOCAL MUNICIPALITIES AND PUBLIC AGENCIES INCLUDING SWIFT WATER RESCUE, LOCAL FIRE, POLICE AND SHERIFF'S DEPARTMENTS, THE U.S. COAST GUARD AND THE ARMY CORPS.



YAMAHA WAVERUNNERS DOMINATED ON THE CLOSED COURSE RACE TRACK, WINNING MORE NATIONAL AND WORLD CHAMPIONSHIP TITLES IN 2015 THAN ANY OTHER BRAND.



YAMAHA WAVERUNNERS CONTINUE TO WIN AWARDS AND PRAISE FROM MEDIA AND DEALERS ALIKE FOR THEIR LEADERSHIP IN FUEL EFFICIENCY, RELIABILITY, PERFORMANCE AND INNOVATION.

YAMAHA BOAT HIGHLIGHTS

#1

YAMAHA'S 24-FOOT BOATS, 21-FOOT BOATS AND 19-FOOT BOATS ARE ALL THE #1 SELLERS IN THEIR CLASSES.

#1

YAMAHA IS THE #1 BRAND OF ALL 16-25-FOOT BOATS IN THE FAMILY RECREATIONAL SEGMENT.

25

YEARS OF JET PROPULSION

YAMAHA IS THE ONLY BOAT/ENGINE MANUFACTURER THAT HAS BEEN DEDICATED TO TESTING, DEVELOPMENT, DESIGN AND CONTINUOUS IMPROVEMENT OF MARINE JET PROPULSION SYSTEMS FOR OVER 25 YEARS.

YAMAHA MARINE & WATERCRAFT - 2017



RECREATIONAL FISHING IMPACT

RECREATIONAL ANGLERS PROVIDE A SIGNIFICANT BOOST TO THE U.S. ECONOMY: AMERICA'S 11 MILLION RECREATIONAL SALTWATER ANGLERS MAKE A COMBINED ECONOMIC CONTRIBUTION OF:

\$70 BILLION ANNUALLY

\$26.5 BILLION SPENT

455,000 AMERICAN JOBS CREATED EACH YEAR

16

YAMAHA MARINE & WATERCRAFT - 2017



ACTIONS FOR LEADERS TO TAKE:

- 1** SUPPORT FUNDING TO GROW RECRUITMENT, RETENTION AND REACTIVATION OF ANGLERS—THE “3 R’S.”
- 2** INTRODUCE LEGISLATION TO MODERNIZE RECREATIONAL SALTWATER FISHING POLICY.

Federal laws, such as Magnuson Stevens Act, have not kept pace with the dramatic changes in the recreational fishing industry.

Consider adjustments to MSA that recognize recreational fishing as a fundamentally different activity than commercial fishing and requires different management tools.

Collect better data related to recreational activity, do not use the same harvest data system for commercial and recreational purposes.
- 3** CREATE A NEW FACCA TO ADVISE THE SECRETARY OF COMMERCE ON RECREATIONAL FISHING MATTERS.

New approaches should reflect:

 - ▶ The reality of demand for recreational access to our marine fishery resources.
 - ▶ The current economic activity associated with recreational access and the scientific data of the minimal impact anglers have on our fishery resources.

RECREATIONAL BOATERS AND ANGLERS ARE AMERICA’S LEADING CONSERVATIONISTS.

-  FISHING LICENSE FEES PAY FOR THE MANAGEMENT AND RESTORATION OF FISH HABITATS.
-  FISHING EQUIPMENT MANUFACTURERS PRODUCE FISHING TACKLE AND BEST PRACTICES THAT REDUCE FISH MORTALITY.
-  BUILDING AND PRESERVING HEALTHY FISH STOCKS IS IN THE BEST INTEREST OF ALL AMERICANS, ESPECIALLY OUR NATION’S ANGLERS.

YAMAHA MARINE & WATERCRAFT - 2017 17

FUEL POLICY



NMMA SUPPORTS RENEWABLE FUELS AND INNOVATION IN THE FUEL SUPPLY, BUT THE RFS IS BROKEN. IT IS FAILING THE AMERICAN CONSUMER, AND ENDANGERING MILLIONS OF BOATERS WHO DEPEND ON A STABLE, SAFE FUEL SUPPLY.

REFORM THE RFS & PRESERVE CONSUMER CHOICE

The **Renewable Fuel Standard (RFS)** was introduced by Congress to help shift the country away from fossil fuels and towards renewable green alternatives. Unfortunately, it has resulted in a broken system that incentivizes the uncontrolled growth in ethanol blended fuels, like E15, which are prohibited for use in marine engines.

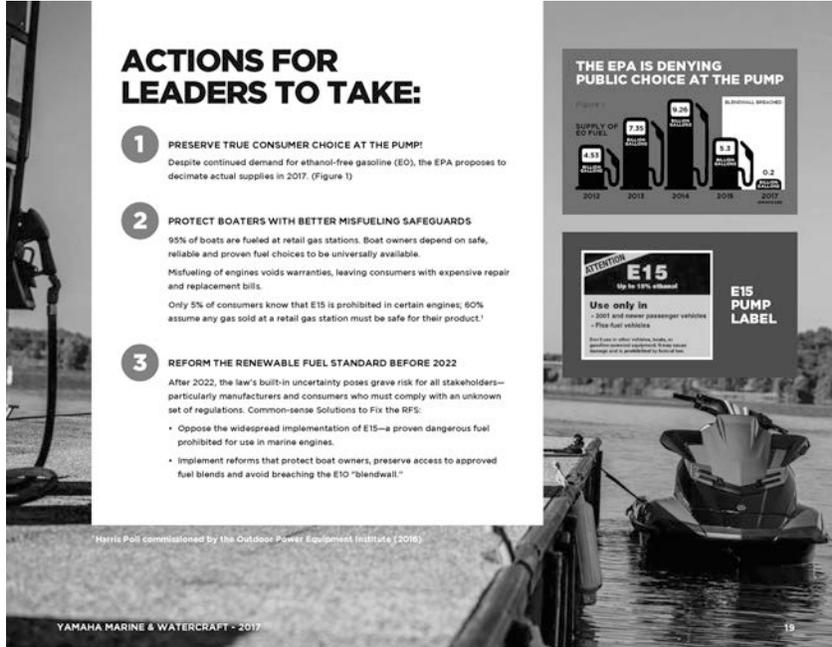
E15 has proven to be a dangerous risk to boater safety and boating performance.



NMMA IS LEADING THE CHARGE IN PROACTIVELY FINDING A WORKABLE SOLUTION TO FIX THE RFS.

- ▶ Partnered with DOE to study the effects of E15 and other renewable fuel blends on small engines.
- ▶ Endorsed and helped market **isobutanol**, an E15 alternative.
- ▶ Supports the “**Look Before You Pump**” campaign to raise public awareness of proper fueling.





ACTIONS FOR LEADERS TO TAKE:

- 1 PRESERVE TRUE CONSUMER CHOICE AT THE PUMP!**

Despite continued demand for ethanol-free gasoline (E0), the EPA proposes to decimate actual supplies in 2017. (Figure 1)
- 2 PROTECT BOATERS WITH BETTER MISFUELING SAFEGUARDS**

95% of boats are fueled at retail gas stations. Boat owners depend on safe, reliable and proven fuel choices to be universally available. Misfueling of engines voids warranties, leaving consumers with expensive repair and replacement bills.

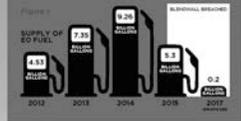
Only 5% of consumers know that E15 is prohibited in certain engines; 60% assume any gas sold at a retail gas station must be safe for their product.¹
- 3 REFORM THE RENEWABLE FUEL STANDARD BEFORE 2022**

After 2022, the law's built-in uncertainty poses grave risk for all stakeholders—particularly manufacturers and consumers who must comply with an unknown set of regulations. Common-sense Solutions to Fix the RFS:

 - Oppose the widespread implementation of E15—a proven dangerous fuel prohibited for use in marine engines.
 - Implement reforms that protect boat owners, preserve access to approved fuel blends and avoid breaching the E10 “blendwall.”

THE EPA IS DENYING PUBLIC CHOICE AT THE PUMP

Figure 1



Year	Supply of E0 Fuel (Billion Gallons)
2012	4.93
2013	7.35
2014	9.26
2015	3.34
2017	0.2

2015 and 2017 are preliminary estimates.

ATTENTION E15
Up to 15% ethanol

Use only in

- 2001 and newer passenger vehicles
- Flex-fuel vehicles

E15 PUMP LABEL

Don't use in other vehicles, boats, or garden equipment. To help protect engine and to comply with federal law.

Harris Poll commissioned by the Outdoor Power Equipment Institute (2016)

YAMAHA MARINE & WATERCRAFT - 2017 19



Yamaha Motor Corporation, U.S.A. (800) 962-7929
 1270 Chestnut Road govrelations@yamaha-motor.com
 Kenosha, WI 53144 yamaha-motor.com




Senator SULLIVAN. Great. Thank you.
Ms. Behnken.

**STATEMENT OF LINDA BEHNKEN, PRESIDENT,
HALIBUT COALITION; AND EXECUTIVE DIRECTOR,
ALASKA LONGLINE FISHERMEN'S ASSOCIATION**

Ms. BEHNKEN. Good afternoon, Chairman Sullivan and thank you for this opportunity to testify.

My name is Linda Behnken. I fish commercially on a 38 foot boat with my family out of Sitka. I am President of the Halibut Coalition, which includes 13 member groups and over 400 individuals who provide halibut to U.S. consumers. I am also the Executive Director of the Alaska Longline Fishermen's Association and represent both groups with my comments today.

Before addressing specific issues, I would state overall that in Alaska and other regions around the country from our perspective, the Act is working. I would ask that any changes be guided by a firm commitment to conservation.

While today I will focus on strengthening the Act to better support coastal fishermen and fishing communities, we believe this goal can only be achieved by maintaining strong conservation requirements across all sectors.

By way of an example in Alaska, we spent 15 years grappling with the conflicts between a rapidly increasing guided sport halibut harvest and a rapidly declining halibut resource. After Alaska's commercial halibut fishermen took up to a 76 percent reduction in their individual quotas, the courts ruled in favor of shared conservation and annual catch limits for both sectors. Halibut stocks are now rebuilding to the benefit of all.

On a national level, rebuilding requirements have contributed to restoring 40 overfished stocks, which increased the value of commercially landed seafood by 18 percent, benefiting not only in fish and fishermen, but also the larger seafood economy: chefs, restaurants, retailers, and consumers.

We are on the right course, but 38 important fish populations remain at unhealthy levels. We respectfully ask that the Committee uphold MSA mandates and hold all sectors accountable for their catch.

Even as we recognize these successes and recommit to healthy fisheries, our coalition believes more must be done to address the challenges faced by coastal fishermen, especially young fishermen. In Alaska as elsewhere, commercial fisheries are a critical and sustainable source of employment, income, and cultural identity.

Commercial fishing uniquely allows self-sufficient people, businesses, and communities to flourish in places where other economic opportunity is scarce. Losing access means losing a way of life, and ultimately, losing community.

Young fishermen today face staggering entry level costs and a level of risk that is equivalent to buying a starter hotel instead of a starter house as your first step in homeownership. These costs, along with a nationwide focus on reducing the size of fishing fleets, has created a crisis in rural fishing communities. In Alaska, the problem is now too few fishermen, not too few fish.

We have found that the conservation and management benefits commonly attributed to limited access can be achieved with limited consolidation of fishing fleets, and that more fishermen making a living is better for our communities.

In addressing the provisions of the Act, we ask that you and the Committee focus on supporting, rather than reducing, fleet size.

Promoting and sustaining the access of community-based fishermen also demands regulations be designed to work for small boats. At-sea catch monitoring provides a prime example.

Small boats do not have room to accommodate an observer, but they can fit electronic monitoring devices, which capture the data needed for fisheries management. In Alaska, we now have an alternative for small boats. Hence, coastal fishermen can comply with at-sea monitoring requirements.

To assist other areas, we have provided recommendations in our written comments, but I would highlight here the importance of developing programs at the regional level with the full engagement of stakeholders to ensure that programs are fleet compatible, cost effective, and designed to meet management objectives specific to that fishery.

To summarize, the MSA created a successful management structure for our Nation's fisheries. We believe the effective and comprehensive application of MSA requirements across all sectors is essential, and we ask the Committee to recommit to these long-term conservation goals.

We also ask that the Committee address the significant challenges faced by young fishermen and the growing impact to rural communities of lost fishing access.

Our communities need relatively large fleets that provide jobs, revenue, and long-term viability. Young fishermen need affordable entry level opportunities and a regulatory system that accommodates the scale of their operations.

We urge that you and the Committee help our communities realize the promise of National Standard 8. Not by compromising resources and health, but providing coastal residents with sustained access to local communities.

I want to thank you for allowing me to testify and also to recognize your leadership in introducing the Young Fishermen's Development Act, and to thank you for that.

[The prepared statement of Ms. Behnken follows:]

PREPARED STATEMENT OF LINDA BEHNKEN, PRESIDENT, HALIBUT COALITION AND EXECUTIVE DIRECTOR, ALASKA LONGLINE FISHERMEN'S ASSOCIATION

Introduction

Good afternoon Chairman Sullivan and members of the Committee. I appreciate this opportunity to speak with you about the reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act, which has enjoyed notable success here in Alaska. I would like to start by thanking Senator Sullivan for his leadership on fisheries and ocean issues. In addition to legislation such as the Save Our Seas Act and the IUU Fishing Enforcement Act, we greatly appreciate his introduction of the Young Fishermen's Development Act (S. 1323).

My name is Linda Behnken and I am the President of the Halibut Coalition which represents thirteen commercial fishing groups and 400 individuals involved with the Alaska halibut fishery. I also serve as one of the three U.S. Commissioners to the International Pacific Halibut Commission (IPHC) and served on the North Pacific Fishery Management Council (Council) for nine years. In addition, I am the Execu-

tive Director of the Alaska Longline Fishermen's Association (ALFA), which is a member of the Halibut Coalition, the Fishing Community Coalition and the Marine Fish Conservation Network. I am representing the Halibut Coalition and ALFA with my testimony today.

I have fished commercially for over 30 years and currently fish with my family out of Sitka. We longline for halibut and black cod and troll for salmon from our 38-foot boat. Commercial fishing supports our family and provides the economic mainstay of Sitka's economy. In 2015, Sitka was ranked 15th of all U.S. fishing ports in terms of dollar value of commercial landings. There are more than 500 commercial fishing vessels in our island community of 9,000 residents, with approximately 1/3 of the population directly involved in catching or processing fish and virtually every business in the community benefitting from commercial fishing.¹

Alaska's commercial groundfish and halibut fisheries are widely considered to be among the best-managed fisheries in the world.² Each year, more than 1,100 vessels ranging in size from small skiffs to 300-foot catcher processors conduct more than 13,000 fishing trips in Alaska to harvest more than 2 million tons of groundfish and halibut. The North Pacific Council and the IPHC have a successful record for responsible stewardship that is founded on scientifically based stock assessments generating annual catch limits. The National Marine Fisheries Service (NMFS) ensures that these fisheries adhere to catch limits by using in-season, fishery dependent data from vessels and processing plants.³ Commercial fleets abide by scientifically established catch limits even when those limits cause short term economic pain. Both fishermen and managers understand that in the long run no one wins if the resource loses. We are proud of this legacy, and committed to further improvement in the fishery management process.

Before I get into specific issues, I would like to give my overall view on the Magnuson-Stevens Act re-authorization process. In Alaska, and in the other regions around the country, the Act is working, and I would suggest that any changes to it be guided by a commitment to conservation. The Halibut Coalition firmly support the conservation provisions in the Act, including rebuilding requirements, bycatch provisions and habitat protections. While with this testimony I will ask that this Committee strengthen the Act and the implementation of the Act to support community-based fishermen, we firmly believe that maintaining productive fisheries through resource conservation is step one in that process.

Maintain Strong Resource Conservation Measures

Alaska's commercial fisheries are a critical and sustainable source of employment, income, and cultural identity. A \$6 billion-dollar industry employing over 30,000 people, fisheries have been the economic engine of Alaska's coastal communities for over a century. Commercial fishing uniquely allows self-sufficient people, businesses, and communities to flourish in places where other economic opportunity is scarce. Alaskans want—and in many places, need—access to sustainable, vibrant fisheries. Once fishing jobs are lost, families must relocate to seek employment elsewhere. Working with fishermen from outside Alaska, I see the same dependence in the rural areas of Maine, Oregon, and North Carolina—in fact, all around our country. Losing access means losing a way of life and, ultimately, losing community. Alaska, and the rest of the country, cannot afford to lose these jobs, these small businesses, or these coastal communities.

And yet, efforts to weaken MSA stock rebuilding requirements do not protect coastal fishing communities in the long run—fishing communities can neither thrive nor survive without fish. Overfishing is not “modern” and “flexibility” should not be code for overfishing. Although rebuilding requirements have imposed a measure of short-term economic pain, the requirements have also contributed to restoring more than 40 overfished stocks to healthy, sustainable levels since 2000. Rebuilding these stocks has had significant ecological and socioeconomic benefit, including an 18 percent increase in the value of commercially landed seafood nation-wide between 2005 and 2014 (adjusted for inflation).⁴ Current language in the Act allows exceptions to the 10 year rebuilding timeline and allows managers to tailor rebuilding plans to a fish stock's specific biological and ecological needs. In practice, the average time

¹ <http://www.ufafish.org/wp-content/uploads/2017/01/28.-Sitka-2015-v6.1.pdf>

² Fissel et al., 2014; <https://www.afsc.noaa.gov/refm/docs/2014/economic.pdf>

³ <http://www.npfmc.org/wp-content/PDFdocuments/resources/SpeciesProfiles2015.pdf>

⁴ NOAA Fisheries, “Fisheries Economics of the United States 2014; <https://www.st.nmfs.noaa.gov/Assets/economics/publications/FEUS/FEUS-2014/Report-and-chapters/FEUS-2014-FINAL-v5.pdf>

period in rebuilding plans is almost 20 years.⁵ In short, the Act provides reasonable flexibility while still prioritizing resource health and we firmly support that balance and mandate.

Rebuilding fish populations benefits not only fish and fishermen, but also those who are part of the larger seafood economy, including the chefs, restaurants, retailers, and other seafood businesses that rely on a steady supply of seafood. As U.S. consumers increasingly demand sustainably managed and caught seafood, the conservation requirements of the MSA are a win for both business owners and their customers. In 2014, U.S. consumers spent an estimated \$91.7 billion for fishery products, \$61.4 billion of which went to restaurant and other food service establishments.⁶

The benefits of ending overfishing and rebuilding overfished populations are far-reaching, and the costs of delaying rebuilding are significant. In 2011, the National Oceanic and Atmospheric Administration (NOAA) estimated that rebuilding all U.S. fish stocks would generate an additional \$31 billion in sales, support an additional 500,000 jobs, and increase the revenue that fishermen receive at the dock by 2.2 billion dollars.⁷

I would emphasize that successful rebuilding of a fishery resource, and sustainable management more generally, demands well-funded stock assessment, accurate catch accounting across all sectors, and a commitment from all sectors to share in conserving the resource. In Alaska, we spent 15 years grappling with the conundrum of a rapidly increasing charter or guided sport halibut harvest juxtaposed on a rapidly declining halibut resource. After Alaska's commercial halibut fishermen took a 50 to 76 percent reduction in their individual quotas, the courts ruled in favor of shared conservation and a rational halibut management plan that bases annual catch limits for both commercial and guided sport sectors on resource abundance. I understand from fishermen in other areas that Alaska is not alone in confronting recreational allocation overages—the Gulf snapper battles are legendary, and in the Gulf of Maine the recreational sector exceeded its cod allocation last year by 92 percent. Again—there is no future for any sector if one sector continues to overfish or exceed resource allocations. All sectors must conserve in times of low abundance. Of course, catch accounting across all sectors must also be accurate and allocation management effective. With this in mind, the Coalition respectfully asks Congress remain committed to sustainable fisheries management that holds all sectors accountable for catch, and that efforts to exempt certain fisheries or sectors from MSA mandates be rejected.

Support Young Fishermen and Community-based Fisheries

Even as we recognize these successes and recommit to healthy fisheries, our Coalition maintains that more needs to be done to address the challenges faced by independent fishermen and coastal fishing communities. Young people face daunting obstacles to entering and being successful in today's fisheries. Limited access programs have raised costs and reduced fleet size, Council analysis quantifies economic returns but struggles to capture social and cultural values, and regulations designed for industrial fisheries are unworkable on small family operations. And yet, fishing is the life blood of coastal Alaska and of coastal communities around the nation, and neither our state nor our Nation can afford to lose these jobs and this economic driver. Strong, resilient and profitable fisheries and fishing communities must be a goal of this reauthorization. Congress has established National Standards and guidelines that highlight the importance of small fishing businesses and coastal communities, but we have not yet realized the promise of these mandates.

Too few fishermen

Prior to the implementation of limited access programs, young people needed a boat, some fishing gear, and a sense of adventure to get started in the fishing business. Today young fishermen face staggering entry level costs and a level of risk that is equivalent to buying a starter hotel, instead of a starter house, as the first step in home-ownership. These costs, along with the nation-wide focus on reducing the size of fishing fleets, has created a crisis in rural fishing communities. Using Alaska as an example: since 1995, when the Alaska halibut/sablefish individual fishing quota program was implemented, the number of vessels participating in Alas-

⁵NRDC, "Bringing Back the Fish," 2013.

⁶NOAA Fisheries, "Fisheries of the United States 2014; <http://www.st.nmfs.noaa.gov/Assets/commercial/fus/fus14/documents/FUS2014.pdf>

⁷Eric Schwaab, Assistant Administrator, National Marine Fisheries Service, "Written Statement on Eight Bills That Would Amend the Magnuson-Stevens Fishery Conservation and Management Act before the House Committee on Natural Resources," December 1, 2011, www.legislative.noaa.gov/Testimony/Schwaab120111.pdf.

ka's halibut and sablefish fisheries has dropped by over 50 percent, with most of that loss coming from rural communities.⁸ Reductions in the Bering Sea crab fleet were even more dramatic and happened far more quickly. Reduced fleet size means less job on boats, less jobs in support sectors and less product delivered to smaller more remote ports—in short, socioeconomic bankruptcy for isolated communities.

Experience has established that the conservation and management benefits associated with limited access can be achieved with limited consolidation of the fleet and limited consolidation of access privileges. With a rational framework for fishing that eliminates the race for fish, a healthy resource can support a relatively large fleet, which in turn supports harvesting and support sector jobs and coastal economies. On a national level, more emphasis needs to be placed on the fishery management goal of healthy fishing fleets supporting thriving fishing communities. From our perspective, the emphasis on reducing fleet size has overshot what is best for our fishing communities and ultimately our Nation. In addressing the Limited Access Provisions in the Act, we ask that the Committee refocus directives on supporting, rather than reducing coastal fishing fleets.

Balancing National Standards

Congress recognized the importance of community-based fishing fleets and fishery dependent communities in National Standard 8 and in the Limited Access Privilege Provisions. When the Act was last reauthorized, Congress added requirements for cumulative socioeconomic impact assessments. In practice, we find that when National Standards 8 or 9 conflict with National Standard 1, the scales are tipped toward National Standard 1 and economic returns rather than toward National Standard 8 and providing for fishery dependent communities. Not surprisingly, the council analytical system is far better at quantifying economic impact than at capturing cultural value and socioeconomic dependence. As a result, these social values do not drive council decision-making.

To provide another example from Alaska, three years ago, the stage was set for the traditional halibut fishermen of the Pribilof Islands to be shut down while groundfish fisheries took all the available halibut resource as bycatch immediately off the coast of these isolated Bering Sea islands. This unacceptable situation was caused by the mismatch of a dramatically declining abundance of halibut in the Bering Sea, generally static trawl bycatch caps, and a management process that awards available halibut resource to bycatch uses as a priority over the directed fishery.⁹ In response, the North Pacific Council initiated action to reduce bycatch caps and launched an analysis. The analysis assumed a bycatch cap reduction would result in forgone groundfish harvest and quantified the potential economic cost, but quantifying the socioeconomic and cultural dependence of Bering Sea communities on the halibut resource was beyond the scope of the analysis and largely missed.

As you know, the Pribilof Islands are surrounded by the Bering Sea; the 75 square miles of land are occupied by less than 600 people and lie approximately 200 sea miles from the closest land. A fisherman who cannot fish has very few alternative economic opportunities, and the family dependent on that fishermen likewise has few options. And yet this extreme dependence, as well as the importance of this fishery to other Bering Sea halibut fishermen, was largely missed in the Council's analysis. The Council adopted a moderate reduction that left the traditional fishermen at great risk. Thanks to the voluntary bycatch reductions achieved by the flatfish trawl fleet, the Pribilof fishermen were able to harvest a modest amount of halibut, but their future is still in jeopardy. The Council is currently considering an abundance-based bycatch management amendment, but we are concerned that this analysis will once again fall short of capturing the cultural importance and socioeconomic dependence of the Bering Sea fishing community on the halibut resource. We believe the management process on a national level would be significantly strengthened by more robust socioeconomic analysis, and that the future of our coastal fishermen depends on it.

In reauthorizing MSA, we request that the Committee emphasize the necessity of collecting robust socioeconomic data and performing comprehensive socioeconomic analysis. We also ask that you provide guidance regarding competing objectives and standards, and that heightened importance be placed on National Standard 8.

⁸ <https://www.npfmc.org/wp-content/PDFdocuments/halibut/IFQProgramReview-ExecSum1216.pdf>

⁹ The IPHC does not control bycatch in the groundfish fisheries, hence estimated or forecast bycatch is annually deducted from the available halibut harvest before catch limits for the directed halibut fisheries are set.

At-sea monitoring and electronic monitoring

Promoting and sustaining the access of community based fishermen also demands regulations be designed to work on small boats. Commercial fishermen operate in a highly-regulated environment, and one that seems increasingly challenging to small businesses. At-sea catch monitoring provides a good example.

The North Pacific has an industry funded observer program that was restructured in 2013. Among other changes, the restructured observer program expanded coverage to include the halibut fleet and sablefish vessels under 60 feet in length. NMFS clarified that the agency's "primary monitoring need" for the halibut/sablefish fleet was "total catch composition and species discards, to complement the existing IPHC dockside monitoring program."¹⁰

Small boats represent 90 percent of the vessels directly regulated under the restructured observer program, and placing human observers on these vessels presents special problems. Living space on small boats is cramped at best. Fishermen, fisher women, and fishing families spend months living in a space that is roughly equivalent in size to a station wagon. Fishing time is weather-dependent, and boats can wait in town for weeks for fishable weather. Few boats have an extra bunk to offer an observer, and almost none can provide privacy. Observers need space for their sampling equipment and room to work both on deck and in cramped living quarters. In sum, human observers impose costs, safety issues, disruptions for small fishing boats and their crews.

In contrast, electronic monitoring systems (EM) collect necessary data without any of these issues. An EM unit sits idle while the boat waits for safe fishing weather, requiring neither a hotel nor food. EM units do not get seasick, they do not need bunk space, nor are they precluded from working on deck by safety concerns during particularly rough weather.¹¹ Vessel owners do not have to buy additional safety equipment or purchase liability insurance for EM units. EM automatically turns on when a boat sets or hauls gear, providing an accurate and re-creatable record of catch. In short, EM is the small boat solution to at-sea monitoring and an essential alternative where at sea monitoring of catch is required.

We suggest that Congress direct NMFS to work with the councils and stakeholders to develop catch monitoring programs that are: (1) cost effective, (2) fleet compatible, and (3) designed to meet management objectives specific to the fishery. Where small boats are involved, we believe an EM alternative is imperative. When EM is incorporated, regions should clarify whether the primary use of the technology is catch accounting or compliance/enforcement. When a program is designed to support catch accounting, EM data storage requirements should not exceed one year. Storage beyond one year is unnecessary for catch accounting purposes, since catch information annually informs the following year's quota setting process, but significantly increases costs. If catch accounting is the primary purpose of the program, then any compliance/enforcement function associated with the program should be designed to occur within the one-year time frame.

Finally, as Councils evaluate how to restructure at-sea monitoring programs and develop options appropriate for coastal fishermen, stable-supplemental funding to assist Councils through the process is critical for success. To facilitate planning, we suggest that each Council develop and submit for review a transition work plan that identifies priority species for at-sea monitoring, target coverage levels, target funding sources, and a timeline for implementation. It should be recognized from the start that evaluating and improving at-sea monitoring is an iterative and evolving process demanding periodic updating to reflect evolving program goals and timelines. Including target coverage levels and potential funding sources will aid in identifying supplemental funding needs. To ensure transparency and stakeholder acceptance, these documents should be developed using the Council process and should not be internal NMFS documents.

All stakeholders benefit from good at-sea monitoring data through improved stock assessments and reliable catch accounting. Given the magnitude of guided sport catch in many parts of the country, the Halibut Coalition recommends the Committee consider extending at-sea monitoring requirements to this segment of the recreational sector. EM systems are likely the appropriate tool to consider for guided sport boats, but a catch monitoring system should be designed with the full engagement of the guided sport operators. As is the case with our small boat sector, cost effectiveness and operational compatibility are critical to securing quality data while minimizing cost.

¹⁰http://alaskafisheries.noaa.gov/npfmc/PDFdocuments/conservation_issues/Observer/311_OACreport.pdf

¹¹<http://www.afsc.noaa.gov/Publications/AFSC-TM/NOAA-TM-AFSC-213.pdf>. See page 54.

Summary

To summarize, the Halibut Coalition recognizes that the MSA created a successful management structure for our Nation's fisheries and that we have benefited from that success in the North Pacific. The heightened emphasis on resource rebuilding that was central to the last reauthorization is still essential to long-term resource health and we ask that Congress recommit to conservation goals. We believe that effective, comprehensive and well supported application of MSA requirements across all sectors is essential. Comprehensive stock assessment, representative catch monitoring and accurate catch accounting across all sectors should be a goal of this reauthorization.

We ask that the Committee also recognize and address the significant challenges faced by young fishermen and the growing impact to rural communities of lost fishing access. Decision-makers would benefit from more robust socioeconomic analysis that captures cultural importance and community dependence on fisheries. Coastal fishing communities need relatively large fleets that provide jobs, revenue and long-term viability. Young fishermen need entry-level opportunities, sustained access, and a regulatory system that accommodates the scale of their operations. We urge the Committee to consider amendments that improve socioeconomic data collection, and direct NMFS to work closely with stakeholders to design cost effective and fleet compatible regulations; for example, including EM as an alternative to observers. Finally, we urge the Committee to help our fishery dependent communities realize the promise of National Standard 8—not by compromising resource health but by heightening the importance of coastal residents' access to local fisheries and effectively providing for that access.

Again, thank you for this opportunity to testify.

Senator SULLIVAN. Sure. Thank you. Well, thank you, Ms. Behnken, for your testimony and I agree one hundred percent with the next generation idea that you were talking about for our fishermen, not only in Alaska, but throughout the country.

Mr. Alstrom.

STATEMENT OF RAGNAR ALSTROM, EXECUTIVE DIRECTOR, YUKON DELTA FISHERIES DEVELOPMENT ASSOCIATION

Mr. ALSTROM. Senator Sullivan, my name is Ragnar Alstrom. I am the Executive Director of the Yukon Delta Fisheries Development Association, a Community Development Quota group. I would like to thank you for inviting me to testify today.

Since its inception, the Community Development Quota program has been successful in delivering benefits and economic development to its communities. And that is whether those communities are in Atka, with Atka Pride Seafoods providing a market and a viable economy to that village, or whether it is in the village, one of my villages, Emmonak, which provides a market for 500 salmon fishermen and 500 employees.

The program is widespread across western Alaska with varying conditions. I think the benefit of the CDQ program has been successful in bringing those benefits offshore onshore.

Western Alaska, as you know, Senator, a lot of the projects in western Alaska have to be subsidized. Maybe subsidized is not the right word. The return on investment is not as great as what we look to offshore.

If it was not for the program, I will speak to the Yukon Delta, there would be nothing there. I mean, it is scary. Not to denigrate or say anything bad about the regional Native corporations, or the village corporations, or the nongovernmental nonprofits there.

The only thing that has been working is the CDQ program. It does not matter if it is in Norton Sound, or if it is in Yukon Delta, or if it is in Bristol Bay. What has been working for the average

person on the street is this program. I can ramble for more than 5 minutes on this.

When I see a young person, they actually get taller because we provide them training, a job, or other benefits there. I can go on forever. There are dire needs out there. We have a very young population out there in any one of those regions.

High poverty rates, social problems leading to suicides. We had two young ladies in the last 6 weeks in Mt. Village, 19 and 23, commit suicide. Another young man in Alakanuk, my village, that committed suicide. Alcoholism rates are high. But when you provide training and you provide jobs, which the CDQ does, we are not addressing all of the problems, but it is the program that is working the best.

How is the Magnuson-Stevens Act working for us? I think one thing the groups can agree on is we would like to see an overall program. We would like to see stability. Now that is not to say there are problems out there. There are some CDQ groups that would like to revisit allocations based on population. Or another might want to revisit allocations based on proximity to the resource.

Yukon Delta, we can hang our hat on that we would like to revisit allocations based on poverty. I think I am the only one in here that we have infrastructure needs in our villages. I am the only one in here that uses a honey bucket, for instance. I know we got good Federal money coming for that, but that is just an example.

But getting back to the reallocation of this, when allocations were set, there were 20 criteria, and to go through and pick one or the other; maybe it is time. It has been 25 years since the program started. Maybe it is time to do that. But maybe the forum is not here. Maybe the forum is at the Western Alaska Community Development Association within that CDQ panel group, there may never be agreement on reallocations. For one, you have to take from someone else and so it is extremely controversial.

I can go on. I see my time is up. Thank you, Senator.

[The prepared statement of Mr. Alstrom follows:]

PREPARED STATEMENT OF RAGNAR ALSTROM, EXECUTIVE DIRECTOR,
YUKON DELTA FISHERIES DEVELOPMENT ASSOCIATION

Mister Chairman:

My name is Ragnar Alstrom, Executive Director of Yukon Delta Fisheries Development Association. Senator Sullivan, I would like to thank you and the members of your committee for inviting me to testify today. I would also like to thank the other five CDQ organizations for allowing me to represent them in this hearing. It is an honor and a privilege.

For the past 25 years, I have been fortunate to witness and participate in the community development quota program from its inception in 1992, when I was one of the founding board members of YDFDA, to its present state today.

The CDQ Program started in the fall of 1992 based on a North Pacific Fishery Management Council motion that created the CDQ Program, State of Alaska emergency regulations and quickly drafted National Marine Fishery Service regulations. The goal was to allow the six newly created CDQ groups to have their new pollock harvesting partners start pollock fishing in December, 1992 such that they could get badly needed cash and start their work doing economic development in their communities. We have come a long way since then.

The premise of the CDQ program is to ensure that Bering Sea coastal communities and their residents should have an opportunity to benefit from the vest Federal fishery resource adjacent to their geographic location. The North Pacific Fish-

eries Management Council, as well as many in Alaska and in Washington, D.C. believed that at least some of the benefits of these Bering Sea fisheries should come onshore to benefit western Alaskans, instead of allowing most of the benefits to flow to fleet owners far from Alaska. The Alaska Congressional delegation advanced the CDQ program into the Magnuson Stevens Act in 1996. We are all formed as IRS 501(c)(3) or 501(c)(4) Alaska non-profit entities.

25 years ago, our communities and their residents lacked the capital to invest in the fishing industry taking place right off their coast. It is different today. The CDQ program has enabled western Alaska communities and their residents to directly participate in the Alaska commercial fishing industry, either individually or through their CDQ organization. Now, on an annual basis, the CDQ program provides more than 5,500 jobs for local residents and over \$60 million in wages and other income. Much more in addition is spent each year providing training and scholarships for vocational and higher education.

The genius of the CDQ program, and its effectiveness in providing real benefits in our region, is that, through the CDQ fishery allocations as set forth in the MSA and our subsequent investments in the fisheries, our communities have actual ownership of the fishery allocations to do with as they saw fit, instead of an outside, top-down imposition of an economic development plan that may not be appropriate for an individual region. That is a huge difference as each groups' board of directors and administration decide how to use the fishery allocation revenue stream instead of being told how to use it.

The CDQ program is also the largest Alaska presence in the BSAI fisheries. While the BSAI fleet is consolidating across the board, from 20 offshore factory trawlers in 2000 to 14 today and from 230 crab vessels in 2001 (pre-rationalization) to only approximately 79 today, the CDQ program represents the primary Alaska ownership in the BSAI fisheries. We bring the revenue from this ownership onshore to Alaska with benefits to our residents in western Alaska, as well as benefits across the state to other employees, suppliers and industry professionals.

We are also embedded in the Seattle fleet as co-owners and co-participants in the fishing industry. We are proud to be a part of the Seattle-based fishing industry and count many good friends there.

However, being big or important is not our goal. Our goal is to make an impact in our 65 communities. The need in our communities is so great. Our poverty measurement statistics are some of the worse in the United States and even exceed the poverty metrics in New Orleans' lower 9th ward. In Alakanuk, where I live, 44.6 percent live below the national poverty level poverty, the median household income is \$32,917, and perhaps most telling, 52 percent of the people over 16 are not in the labor force. (All sources 2015 American Community Survey).

YDFDA's communities are 95 percent Alaska native. Other CDQ groups have a similar makeup. However, unlike Alaska Native Corporations and the tribal entities in our region, the CDQ program is not race based. The CDQ program's benefits are available to all residents of our eligible communities regardless of race. This is an important distinction.

Another important distinction is that the CDQ program's purpose is to provide economic development in our communities, and not to serve as a transfer payment center or an adjunct funding source for local municipalities. With many of our communities growing in population, and with state and Federal funding decreasing, our role has become more central in our communities and perhaps irreplaceable. For example, in 2016 YDFDA provided 615 jobs, and fishing opportunities for 498 fishermen. Overall last year, YDFDA directly impacted 1,493 of our region's 3,200 residents through jobs, training and scholarships, investing \$10,217,706 into our communities and the surrounding region last year. YDFDA is the largest private employer in our region.

YDFDA is doing, and all of the other 5 CDQ groups are doing, exactly what they were intended to do by Congress, provide real economic development opportunities in Western Alaska in a self-directed manner.

On issues of significance to the Magnuson-Stevens Act, we have the following comments:

Program Stability

The MSA is working well for the CDQ program and for the State of Alaska. Through the MSA's Council process, resource and allocation issues are painstakingly analyzed and acted upon with an open and transparent process. Stability is key when participating in a capital intensive and dynamic business like the global fishery market and our stable statutory and regulatory process make it possible for our program and the BSAI fisheries to be productive.

Maintain CDQ Program Structure

This basic structure of the CDQ program, to benefit western Alaska communities from the Aleutians to Cape Prince of Wales that border the Bering Sea and inland fifty miles remains sound. Any change to the structure would weaken the CDQ program's support and potentially jeopardize the program.

Council Recusal Legislation

All six of the CDQ groups are in support of Congressional action to address the fisheries council recusal process. Present regulations and interpretation require that if a Council member's employer has any interest in a fishing company or companies, and those companies represent 10 percent or more of the total harvest or vessels used for a harvest in a fishery that is the subject of an action, he or she is forced to recuse themselves from voting on such an action. In our opinion, this regulatory structure is outdated, not evenly applied and has recently preventing several voting members of the North Pacific Fishery Management Council from voting on important issues such as halibut bycatch.

Recently, the council members affected by these attribution prohibitions are Alaskan and often times they include the Council member that is employed by a CDQ company. Each Council member is appointed to the Council because they have a financial conflict: we want people with relevant experience guiding our fisheries. There are very strong arguments that an employee of a company such as a CDQ group is often less conflicted than other Council member personally invested in a fishery such as IFQ halibut. However, the current regulatory approach is not evenly applied, it effectively serves to exempt from this regulatory oversight certain fishery sectors and positions, such as consultants, while applying to other sectors. We ask that the Congress work with affected parties and NMFS to see if there are meaningful changes to the recusal and conflict regulations that would protect the integrity of the council process while still allowing the input from Alaska that was intended by the MSA when creating the council system.

CDQ Functionality

In 2006, Congress amended the MSA by adding and changing several provisions that govern the CDQ program. One of the most important was the creation of the CDQ Panel also known as the Western Alaska Community Development Association or WACDA. WACDA was empowered to govern all aspects of the CDQ Program not specifically addressed in statute. More broadly, we also intended it to act as the representative body for interaction with Congress, regulatory agencies and the public.

When it was formed, WACDA developed protocols and interpretations of the MSA's statutory requirements. In keeping with our broader goals, WACDA hired executive directors, engaged with State and Federal agencies, partners in the fishing industry, and charitable organizations, and participated heavily on behalf of the CDQ Program with regulatory bodies such as the National Marine Fisheries Service and the North Pacific Fishery Management Council.

Over time, WACDA's unanimous consent requirement in the MSA has proven to be problematic and WACDA has ceased to function in any meaningful way. However, recently, all six groups met and agreed that they had to reestablish WACDA as an effective organization to fulfill the goals set out in the MSA. While the exact methodology for working together has not yet been agreed upon, we are heartened by the desire of all six groups to make WACDA functional again.

Conclusion

Today, the six CDQ organizations serve as owners or joint venture partners in shoreside seafood processing facilities, at-sea catcher processor vessels, large and small shoreside catcher vessels, seafood marketing companies, and a host of other businesses directly related to the commercial fishing industry. In many instances, these investments are located at the community level, where they generate local employment, wages, pay community taxes, and stimulate the local economy. To the extent that investments are outside of the our individual regions, they generate revenue to the CDQ company for overall use within the program and serve to stabilize the CDQ corporation by diversifying investments. They also provide significant employment and career path opportunities for local residents.

None of this would have been possible without the CDQ program. Our main message to you today is that the MSA is working well for us now and we hope that in your reauthorization efforts you will seek to maintain stability in the MSA to allow the CDQ program to continue to do its work in western Alaska.

Thank you again for providing me with the opportunity to testify today.

Senator SULLIVAN. Thank you, Mr. Alstrom.

Mr. Stevens.

STATEMENT OF BEN STEVENS, DIRECTOR, HUNTING AND FISHING TASK FORCE, TANANA CHIEFS CONFERENCE

Mr. STEVENS. Senator Sullivan, thank you very kindly for the opportunity.

My name is Ben Stevens. I am from Stevens Village, Alaska. Stevens Village is north of Fairbanks on the Yukon River. I serve the people of the interior as the Director of the Hunting and Fishing Task Force at Tanana Chiefs. We represent some 37 villages and tribes that also include a little over 40 communities. I also serve on the advisory panel to the North Pacific Fisheries Management Council.

I am what is considered a tribal subsistence fisher person, fisherman. Essentially the way that I see that is just a guy that takes the fish out of the water and puts it on the table for his family. So I am a little different in terms of what I think the Council is used to.

I am here to talk about that perspective being reflected in the new Magnuson-Stevens Act. Last month, we had the privilege, I call it a privilege, to take our families and some tribal members out to our family's fish camp. In fact, I think I ran into you at the Yukon River Bridge. You were going downriver to your camp. I was going upriver to mine. And we saw a whole new picture of the people.

Some of the tribal members we took, like you can probably relate to, are just in a rough way, in a very rough way. And the way that we interact on the land, on the river is something that gives people hope, and that is what we saw, what I saw out there as is normal for me, but it goes beyond that.

Our kids are learning that fish camp culture. They are learning the traditions. I had one kid move from the gutting station to the filleting table. Another kid moved from that filleting table over to the cutting table where we do the salmon strips. These kids are growing. They are 12, 13 years old and they are packing rifles, and they are protecting the camp. So I am seeing so much good and I hear you. We are seeing so much good to that.

Some guy I pulled off the street in Fairbanks. He sat on the bank and enjoyed the peace and the safety of the camp, so far from the hazards of being homeless on the streets of Fairbanks. There are so many more benefits that I can expound upon, but I only have a few seconds here.

We were lucky this year because our family was able to fully participate in the process of harvesting and cutting the fish and drying it. Since, I mean, the past decade, we have had problems. Five families were at our fish camp. They, in turn, took their share and went back to their extended families, and it just multiplied that love of the fish camp, the subsistence fish camp.

I believe that this is a sector itself and I do not think that this sector is adequately represented in Magnuson-Stevens Act. And what I am thinking is that I truly believe that fisheries management could benefit from the indigenous perspective.

First, we have generations of knowledge about the land and the animals that goes beyond our understanding. It is just a matter of us trying to figure out a way to fit that with western science.

Second, we do have a stake in the fisheries. Salmon is a staple of our people, constituting the majority of the subsistence harvest of fish annually. According to the Federal Subsistence Management program, the State's rural residents harvest about 18,000 tons of wild foods a year; so a little under 300 pounds per person, 56 percent of that is fish.

Nowhere else in the United States is there such a heavy reliance upon wild foods. That is putting your hand on the fire. That is one of the reasons why I think that we may be underrepresented.

And my final point is that fish goes far beyond feeding us, far beyond sustenance. I think it touches our wellness as Alaskan Native people because it does get us around the disenfranchisement with the land and the animals.

With that, sir, I thank you for your time.

[The prepared statement of Mr. Stevens follows:]

PREPARED STATEMENT OF BEN STEVENS, DIRECTOR, HUNTING AND FISHING TASK FORCE, TANANA CHIEFS CONFERENCE

Senator Thune, Ranking Member Nelson and members of the Committee, thank you for the opportunity to testify today. My name is Ben Stevens, I am Koyukon Athabascan and a lifelong subsistence fisherman from the community of Stevens Village, on the Upper Yukon River. I grew up spending summers at my family's fish camp 30 miles upriver from Stevens Village and today I spend summers there with my own children, harvesting the winter's supply of fish. Salmon is a deep part of my heritage and culture, and fish camp is an integral part of this, where we live the values of caring for family and community, self-sufficiency, hard work and sharing.

I am speaking from that perspective: that of the subsistence fisherman, taking a fish from the water and putting it on my family's dinner table. I also speak from my role as the Director of the Hunting and Fishing Task Force for Tanana Chiefs Conference, the regional non-profit and tribal consortium for 40 villages, including 37 Tribes of Interior Alaska in the Yukon and Kuskokwim watersheds. I also currently serve on the Advisory Panel to the North Pacific Fishery Management Council, but my comments do not represent the opinion of the AP or Council.

I'm here to ask that you include the Subsistence sector into the new Magnuson-Stevens Act (MSA) and for continued vigilance.

Why include Subsistence and Tribal Interests in the Fishery Management Process?

Subsistence is an economy; it is a sector. There have been attempts to quantify subsistence harvest into economic terms with varying degrees of success; however, it is an economy of immense importance to the people of Alaska. According to the Federal Subsistence Management Program, "Subsistence fishing and hunting provide a large share of the food consumed in rural Alaska. The state's rural residents harvest about 18,000 tons of wild foods each year—and average of 295 pounds per person. Fish makes up about 56 percent of this harvest statewide." Nowhere else in the United States is there such a heavy reliance upon wild foods. This fact itself begs serious consideration for representation at the North Pacific Fisheries Management Council (the Council).

Furthermore, while our region may live far from the ocean, the species we depend on as primary components of our livelihoods are inextricably linked to the productivity and health of our marine environment and fisheries. In Alaska, the Council manages many fisheries including several groundfish fisheries which impact important subsistence species, such as salmon and halibut as bycatch. The fisheries managed by the Council also have significant habitat and ecosystem impacts on important subsistence species, including both fish and marine mammals.

The Council—and the MSA—therefore has direct management impacts on species of importance to tribal subsistence users. However, subsistence is notably absent from the current Act: the word "subsistence" only appears once (in reference to the

West Pacific), and subsistence users are not represented throughout the Council system. While Washington tribes have a designated seat on the Pacific Council, tribes in the North Pacific do not have a designated seat. We recommend that the MSA be amended to include subsistence throughout and provide for tribal/subsistence representation on the North Pacific Council.

This would also provide an opportunity for inclusion of indigenous knowledge throughout the Council process. At a minimum, subsistence interests should be one of the groups Council membership must be balanced between, in addition to commercial and recreational fisheries.

Overall, we support the current MSA; however, we believe that the MSA fishery management system can be strengthened through inclusion of subsistence, subsistence needs and traditional knowledge to supplement and fine-tune the science-based fisheries management.

Science-based Fishery Management Works

Overall, the MSA's framework for science-based fisheries management is working. The current Act has successfully ended overfishing in most American fisheries, and has successfully rebuilt 39 once-overfished stocks. For subsistence communities, long-term sustainability of our resources is critical, and this means using science to set catch limits, and requiring accountability measures to rebuild when needed. Setting catch limits based on science to prevent overfishing, and requiring rebuilding plans to rebuild depleted fish populations are common sense provisions which support healthy ecosystems, communities and fisheries. While this can mean a bit of pain now for communities reliant on fisheries for food and/or income, the long-term benefits of maintaining healthy fisheries are well worth it.

For example, the Chinook salmon in our region have been in decline for over a decade, with record low returns in recent years. While this fishery is managed by the State of Alaska, not under MSA, the principles of rebuilding are well-illustrated here. Our communities have taken huge reductions in our subsistence harvest of Chinook salmon in recent years, with a harvest of zero in some years. Sacrificing our Chinook salmon harvests has been difficult, even painful, as we've lost not only an important source of food, but a key component of our culture as well. The sight of an empty fish camp is truly a tragic sight. Yet for our communities there is no doubt that we had to do this—when the fish aren't there, if you care about the long-term sustainability of the stock you need to give them a chance to recover. This is the heart of the science-based principles of the MSA.

While we wholeheartedly oppose any attempts to weaken Science based Fisheries Management as the backbone of U.S. fisheries management we do believe it can be further strengthened by including the traditional knowledge and community based observations from subsistence users along the river.

Strengthening Requirements to Reduce Bycatch

In our villages, up and down the Yukon River, and in countless places throughout Alaska, our communities depend on salmon. While these salmon fisheries aren't managed under the MSA, the MSA does manage the groundfish fisheries which catch salmon as bycatch. Salmon bycatch in the Bering Sea Pollock fisheries has been a central concern for us for years and the degree to which bycatch played a role in historic declines of Chinook salmon is very much an open question. We are grateful that bycatch has been reduced significantly in recent years—from a high of 124,000 in 2007 to 22,000 in 2016—due in part to a response to a complex set of management regimes put in place by the North Pacific Fishery Management Council, noting the enormous efforts of the Pollock fishery and their attempts to avoid Chinook salmon. However, the high limit on permissible bycatch (up to 47,591 Chinook salmon unless it is a low abundance year, and as high as 60,000 Chinook salmon in 2 out of any 7 years), is still alarmingly high at a time when Chinook salmon stocks throughout Western Alaska are either continuing to rebuild or continue to be at dangerously low levels, as on the Kuskokwim River. While National Standard 9 requires that bycatch be minimized or mortality minimized, the statutory requirements clearly have been strong enough given the high levels of bycatch which have been and are permissible under this standard. This creates a grave inequity in fisheries such as the groundfish fishery where species of tremendous cultural, subsistence, commercial and recreational value such as salmon and halibut are caught as bycatch. Furthermore, the manner in which National Standard 9 is balanced against that of National Standard 1 to achieve optimum yield, results in a situation in which reducing bycatch is never the top priority. The MSA should be strengthened to require and prioritize bycatch reduction.

Conclusion

The North Pacific Fishery Management Council is renowned nationally and internationally as a leader in fisheries management, and we should all be proud of that. Our fisheries resources are a foundation of Alaska's culture and economy, and there is a reason the "Alaska model" of fisheries management was the basis for the 2006 reauthorization. It is critical that the conservation and management provisions of the Act remain strong, and that we retain the commitment to science-based management on which our fisheries management system is based. In Alaska we've shown that science-based Federal fisheries management works, and we should continue as a nation to strive for that standard, rather than lowering the bar.

Any changes in this reauthorization should move towards strengthening the Act, not weakening it further. Including subsistence and subsistence users in the Act will not only integrate an important user group which is currently left out of the Act, but will enhance and improve the current system of management.

Thank you for considering my comments today.

Enclosure: Proposed Amendment to MSA providing subsistence users an opportunity at appointment



FISHING COMMUNITIES COALITION

Provided below is a brief section-by-section description of the FCC's 2017 MSA amendment package.

TITLE 1-MAKING FISHERIES MANAGEMENT EFFICIENT AND ACCOUNTABLE ACT OF 2017

Sec. 101-Short Title: Making Fisheries Management Efficient and Accountable Act of 2017.

Sec. 102-Modernization and Streamlining Fishery Information Systems: This section includes language similar to that proposed by Rep. Huffman last Congress. Specifically, it directs the Commerce Secretary to contract with the U.S. Digital Service to make recommendations to modernize and streamline NMFS fishery data collection, processing, analysis, accessibility and storage systems. At a minimum the contract shall specify that the Secretary is seeking recommendations that promote user-centered data and includes open secure architecture and clear data and performance specifications. Requires Secretary to implement all recommendations made by the Digital Service.

Sec. 103-Council Accountability, Transparency and Public Process: This section incorporates portions of HR 200 including requiring each SSC to develop advice in a transparent manner and allow for public involvement in the process; requiring Council meetings to be on their web site; and requiring Council and SSC meeting notes/audios/transcripts to be maintained by the Council and made available to the public. Lastly, requires that all non-procedural votes at the Council be taken by recorded vote.

Sec. 104-Electronic Monitoring and Storage Requirements: This provision requires Secretary to issue final regulations on EM 12 months after date of enactment; allows Councils to incorporate EM into monitoring requirements for each fishery; clarifies that EM can only apply to a fishery in which the Council or Secretary determines that EM will yield data collection and compliance results that meet a minimum accuracy standard as defined by the Council's SSC (this ensures that EM doesn't have to produce "comparable results"); ensures EM requirements are compatible with operational and size of target fleet; authorizes pilot project; requires EM to be in place in NE and N. Pacific within 18 months; and makes clear that the Secretary is not required to store or maintain any information, video or other data obtained through human observers or EM for a period of more than 1.5 years after date of collection.

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Gulf of Mexico Reef Fish Shareholders Alliance • Half Moon Bay Groundfish Marketing Association • Maine Coast Fishermen's Association



FISHING COMMUNITIES COALITION

Sec. 105-Financing of Fisheries Monitoring Programs: This section expands to all Councils the discretionary authority presently only available to the NPFMC which allows them to establish fees (which may vary from fishery to fishery) to help pay for monitoring costs as part of a fisheries plan. Creates regional fishery observer funds in the Treasury for each council. This section does not amend the current provisions applying only to the NPFMC.

Sec. 106-Recreational Fishing: This section provides Councils with the authority to require permits/fees from both commercial AND recreational fishing vessels. Amends the current regional registry program for recreational fishermen (Sec. 401(g)) fishing in the EEZ by requiring the reporting of catch and landings information on a timely basis. This section also limits the exemption from the registry for State licensing programs to those State programs that require the reporting of catch.

Sec. 108-Forage Fish: This section requires the Councils to develop a list of unmanaged forage fish and prohibit the expansion or development of new commercial or recreational directed fisheries until the Council has had adequate opportunity to assess the scientific information and considered the potential impacts to existing fisheries, fishing communities and the marine ecosystem in order to advance ecosystems approaches to fisheries management. The provision is modeled after the MAFMC Unmanaged Forage Omnibus Amendment.

TITLE II-STRENGTHENING FISHING COMMUNITIES

Sec. 201-Short Title-Strengthening Fishing Communities Act of 2017

Sec. 202 -Strengthening Fishing Communities: This section updates and streamlines the current unsuccessful MSA provisions designed to allow fishing communities to participate in LAPS. Essentially this section sets forth the minimum requirements for a community sustainability plan, allows a community to submit a plan to a Council for approval and requires that when creating any LAPS, a Council must consider the needs of fishing communities and provide a process for communities to participate in the program.

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April xx, 2017

115th CONGRESS
1st SESSION

H.R. ____

To Strengthen the Magnuson-Stevens Fishery Conservation and
Management Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED
STATES

April __, 2017

Mr(s) _____ (for himself/herself and _____)
introduced the following bill, which was read twice and
referred to the Committee(s) on _____

A BILL

To Strengthen the Magnuson-Stevens Fishery Conservation and
Management Act, and for Other Purposes.

1 *Be it enacted by the Senate and the House of Representatives of the*
2 *United States of America in Congress assembled,*

3 **TITLE I- MAKING FISHERIES MANAGEMENT**

4 **EFFICIENT AND ACCOUNTABLE ACT OF 2017**

5 **SECTION 101. SHORT TITLE.**

6 This Act may be cited as “Making Fisheries Management
7 Efficient and Accountable Act of 2017”.

8 **SEC.102. MODERNIZATION AND STREAMLINING**

9 **FISHERY INFORMATION SYSTEMS.**

10 (a) IN GENERAL.—The Secretary of Commerce shall seek to
11 enter into an agreement with the United States Digital Service
12 (Service) within 90 days after the date of the enactment of this Act,
13 under which the Service shall make recommendations to
14 modernize and streamline the fishery data collection, processing,
15 analysis, accessibility and storage systems of the National Marine
16 Fisheries Service. The agreement shall specify that the Secretary
17 is seeking, at a minimum, recommendations that promote user-
18 centered data and includes open, secure architecture and clear data
19 and performance specifications.

20 (b) ACCESS TO DATA SYSTEMS.—Under the agreement,
21 the Secretary shall provide the United States Digital Service with
22 access to all data collection, processing, analysis, management and
23 storage systems of the National Marine Fisheries Service and any
24 other information necessary to enable the development of
25 recommendations that will ensure the optimization and
26 modernization of such systems.

1 (c) IMPLEMENTATION OF RECOMMENDATIONS.
2 The Secretary shall implement any recommendations made by the
3 United States Digital Service.

4
5 **SEC.103. COUNCIL ACCOUNTABILITY, TRANSPARENCY**
6 **AND PUBLIC PROCESS.**

7 (a) ADVICE.—Section 302(g)(1)(B) is amended by adding at
8 the end the following: “Each scientific and statistical committee
9 shall develop such advice in a transparent manner and allow for
10 public involvement in the process.”.

11 (b) MEETINGS.—Section 302(i)(2) is amended by adding at
12 the end the following--

13 “(G) Each Council shall make available on the Internet
14 Web site of the Council—

15 “(i) to the extent practicable, a Webcast, an audio
16 recording, or a live broadcast of each meeting of the
17 Council, and of the Council Coordination Committee
18 established under subsection (l), that is not closed in
19 accordance with paragraph (3); and

20 “(ii) audio, video (if the meeting was in person or
21 by video conference), or a searchable audio or written
22 transcript of each meeting of the Council and of the
23 meetings of committees referred to in section
24 302(g)(1)(B) of the Council by not later than 30 days
25 after the conclusion of the meeting.

26 “(H) The Secretary shall maintain and make available to
27 the public an archive of Council and scientific and statistical

1 committee meeting audios, videos, and transcripts made
2 available under clauses (i) and (ii) of subparagraph (G).”.

3 (c) RECORDED VOTES--Section 302(e)(5) is amended by
4 striking “At the request of any voting member of a Council, the
5 Council shall hold a roll call vote on any matter before the
6 Council.” and inserting in lieu thereof, “Each Council shall hold a
7 recorded vote on all non-procedural matters before the Council.”
8

9 **SEC. 104. ELECTRONIC MONITORING.**

10 Title IV of the Magnuson-Stevens Fishery Conservation and
11 Management Act is amended by renumbering sections 401, 402,
12 403 and 404 as sections 402, 403, 404 and 404 and adding the
13 following new section—

14 “SEC. 401 ELECTRONIC MONITORING AND STORAGE
15 REQUIREMENTS.

16 (a) ELECTRONIC MONITORING.—

17 (1) ISSUANCE OF REGULATIONS.—

18 (A) REQUIREMENT.—The Secretary shall issue
19 final regulations governing the use of electronic
20 monitoring for the purposes of monitoring fisheries that
21 are subject to the Magnuson-Stevens Fishery
22 Conservation and Management Act.

23 (B) CONTENT.—The regulations shall—

1 (i) distinguish between monitoring for data
2 collection and research purposes and monitoring for
3 compliance and enforcement purposes; and

4 (ii) include minimum criteria, objectives, or
5 performance standards for electronic monitoring.

6 (C) PROCESS.—In issuing the regulations the
7 Secretary shall—

8 (i) consult with the Councils and Marine
9 Fisheries Commissions;

10 (ii) publish the proposed regulations; and

11 (iii) provide an opportunity for the submission
12 by the public of comments on the proposed
13 regulations.

14 (2) IMPLEMENTATION OF MONITORING.—

15 (A) IN GENERAL.—Subject to subparagraph (B),
16 and after the issuance of the final regulations, a Council,
17 or the Secretary, for fisheries referred to in section
18 302(a)(3) of the Magnuson-Stevens Fishery
19 Conservation and Management Act, may, in accordance
20 with the regulations, on a fishery-by-fishery basis and
21 consistent with the existing objectives and management
22 goals of a fishery management plan and the Act for a
23 fishery issued by the Council or the Secretary,
24 respectively, amend such plan—

1 (i) to incorporate electronic monitoring as an
2 alternative tool for data collection and monitoring
3 purposes or for compliance and enforcement
4 purposes (or both);

5 (ii) to allow for the replacement of a
6 percentage of on-board observers with electronic
7 monitoring, and

8 (iii) ensure the electronic monitoring
9 requirements are compatible with the operational and size
10 requirements of the target fleet.

11 (B) DATA QUALITY.—Subparagraph (A) shall
12 apply to a fishery only if the Council or Secretary,
13 respectively, determines that such monitoring will yield
14 data collection and compliance results that meet a
15 minimum accuracy standard as defined by a council's
16 Science and Statistical Committee.

17 (3) PILOT PROJECTS.—Before the issuance of final
18 regulations, a Council, or the Secretary for fisheries referred
19 to in section 302(a)(3), may, subject to the requirements of the
20 Magnuson-Stevens Fishery Conservation and Management
21 Act, on a fishery-by-fishery basis, and consistent with the
22 existing objectives and management goals of a fishery
23 management plan for a fishery issued by the Council or the
24 Secretary, respectively, conduct a pilot project for the use of
25 electronic monitoring for the fishery.

26 (4) DEADLINE.—The Secretary shall issue final
27 regulations under this subsection by not later than 12 months
28 after the date of enactment of this Act.

1 (b) NEW ENGLAND AND NORTH PACIFIC COUNCIL REGIONS—

2 No later than 18 months after enactment of this Act, the
 3 Secretary shall ensure that an electronic monitoring program
 4 is fully implemented in the fisheries under the authority of the
 5 New England Fishery Management Council and the North
 6 Pacific Fishery Management Council, consistent with the
 7 monitoring requirements of each Council. In establishing
 8 monitoring requirements, each Council shall ensure the
 9 electronic monitoring requirements are compatible with the
 10 operational and size requirements of the target fleet.

11 (c) STORAGE REQUIREMENTS—Notwithstanding any other
 12 law or regulation, the Secretary is not required to store or
 13 maintain any information, observer report, video or any other
 14 data obtained through human observers or electronic
 15 monitoring pursuant to this Act for a period of more than 18
 16 months from date of collection.

17 **SEC. 105. FINANCING OF FISHERIES MONITORING**
 18 **PROGRAMS**

19 Sec. 302 is amended by adding at the end the following—

20 “(N) FINANCING FISHERIES MONITORING PROGRAMS

21 (a) IN GENERAL—A council may prepare, in consultation
 22 with the Secretary, a fisheries research and monitoring plan
 23 for any fishery under the jurisdiction of that council
 24 which—

25 (1) Requires observers, electronic monitoring or other
 26 monitoring programs be stationed or installed on
 27 fishing vessels fishing for species under the jurisdiction
 28 of that council, for the purpose of collecting data and
 29 information necessary for the conservation,
 30 management and scientific understanding of any fishery
 31 under the jurisdiction of that council;

- 1 (2) allows for the participation of private sector companies
- 2 in providing the observers, electronic monitoring or
- 3 other monitoring programs;
- 4 (3) establishes a system of fees which may vary by fishery,
- 5 management area, observer coverage level or type of
- 6 electronic monitoring systems, to pay for the cost of
- 7 implementing the plan; and,
- 8 (4) requires, on an annual basis, the publication of the full
- 9 accounting of the uses of the fees collected under
- 10 paragraph (3).

11 (b) STANDARDS

- 12 (1) Any plan or plan amendment prepared under this
- 13 section shall be reasonably calculated to –
- 14 (A) Improve the collection of reliable data or
- 15 information by stationing observers, requiring
- 16 electronic monitoring or other monitoring programs
- 17 on all or a statistically reliable sample of fishing
- 18 vessels necessary for the conservation, management
- 19 and scientific understanding of the fisheries covered
- 20 by the plan;
- 21 (B) Be fair and equitable to fishing vessels;
- 22 (C) Take into consideration the operating requirements
- 23 of the fisheries and the safety of the observer and
- 24 fishermen;
- 25 (D) Promote transparency, to the extent possible, of data
- 26 and information collected under the plan or
- 27 amendment; and,
- 28 (E) Allow for fishing vessel owners to engage private
- 29 sector observers, electronic monitoring or other
- 30 private sector monitoring programs to provide the
- 31 necessary data and information.

- 1 (2) Any system of fees established under this section
2 shall—
3 (A) provide that the total amount of fees collected under
4 this section not exceed the combined cost of (i)
5 installing and/or stationing observers, electronic
6 monitoring systems or other monitoring programs
7 on board fishing vessels, (ii) the actual cost of
8 inputting collected data, less any amount received
9 for such purpose from another source or from an
10 existing surplus in the Regional Fishery Observer
11 Fund established in subsection (d) of this section;
12 (B) be fair and equitable to all participants in the
13 fisheries under the jurisdiction of the Council;
14 (C) provide that fees collected not be used to pay any
15 costs of administrative overhead or other costs not
16 directly incurred in carrying out the plan and will
17 only be used for implementing the plan established
18 under this section;
19 (D) not be used to offset amounts authorized under
20 other provisions of law;
21 (F) be expressed as a fixed amount reflecting actual
22 observer or monitoring costs as described in
23 subparagraph (A) or a percentage, not to exceed 2
24 percent, of the unprocessed ex-vessel value of fish
25 and shellfish harvested under the jurisdiction of the
26 Council;
27 (G) be assessed against some or all fishing vessels,
28 including those not required to carry an observer or
29 an electronic monitoring system under the plan,
30 participating in fisheries under the jurisdiction of
31 the Council;

- 1 (H) provide that fees collected will be deposited in the
- 2 appropriate Regional Fishery Observer Fund
- 3 established under subsection (d) of this section;
- 4 (I) provide that fees collected will be credited against
- 5 any fee for stationing observers or electronic
- 6 monitoring systems on board fishing vessels and the
- 7 actual cost of inputting collected data to which a
- 8 fishing vessel is subject under section 1854(d) of
- 9 this title; and
- 10 (J) meet the requirements of section 9701(b) of title 31.

11

12 (c) ACTION BY SECRETARY

- 13 (1) Within 60 days after receiving a plan or plan
- 14 amendment from a Council under this section, the
- 15 Secretary shall review such plan or plan amendment
- 16 and either (A) remand such plan or plan amendment to
- 17 the Council with comments if it does not meet the
- 18 requirements of this section, or (B) publish in the
- 19 Federal Register proposed regulations for implementing
- 20 such plan or plan amendment.
- 21 (2) During the 60-day public comment period, the
- 22 Secretary shall conduct a public hearing in each State
- 23 represented on the Council for the purpose of receiving
- 24 public comments on the proposed regulations.
- 25 (3) Within 45 days of the close of the public comment
- 26 period, the Secretary, in consultation with the Council,
- 27 shall analyze the public comment received and publish
- 28 final regulations for implementing such plan.
- 29 (4) If the Secretary remands a plan or plan amendment to
- 30 the Council for failure to meet the requirements of this
- 31 section, the Council may resubmit such plan or plan

1 amendment at any time after taking action the Council
 2 believes will address the defects identified by the
 3 Secretary. Any plan or plan amendment resubmitted to
 4 the Secretary will be treated as an original plan
 5 submitted to the Secretary under paragraph (1) of this
 6 subsection.

7 (d) REGIONAL FISHERY OBSERVER FUNDS

8 (1) There is established in the Treasury of the United States
 9 the following Funds--

10 (A) New England Fishery Observer Fund;

11 (B) Mid-Atlantic Fishery Observer Fund;

12 (C) South Atlantic Fishery Observer Fund;

13 (D) Caribbean Fishery Observer Fund;

14 (E) Gulf Fishery Observer Fund;

15 (F) Pacific Fishery Observer Fund; and,

16 (G) Western Pacific Fishery Observer Fund.

17 (2) Each Fund shall be available, without appropriation or
 18 fiscal year limitation, only to the Secretary for the
 19 purpose of carrying out the provisions of this section,
 20 subject to the restrictions in subsection (b)(2) of this
 21 section. Each Fund shall consist of all monies deposited
 22 into it (i) in accordance with this section and (ii) all
 23 monies received from any other source. Sums in the
 24 Funds that are not currently needed for the purposes of
 25 this section shall be kept on deposit or invested in
 26 obligations of, or guaranteed by, the United States."

27 **SEC.106. RECREATIONAL FISHING**

28 (a) Section 303(b)(1)(A) is amended by inserting "commercial
 29 or recreational" after "any".

30 (b) Section 401(g) is amended by striking "January 1, 2011"
 31 and substituting "January 1, 2021".

1 (c) Strike all of Section 401(g)(1)(B) and insert the
2 following:
3 “(B) the timely collection and reporting of catch and
4 landings information from fishing in the Exclusive
5 Economic Zone in order to improve annual accounting of
6 catch and landings by recreational fishermen;”
7 (d) Section 401(g) is amended by striking all after “under the
8 laws of a State” and inserting “if the Secretary determines that the
9 State program requires catch reporting and that information
10 provided to the Secretary from that State is sufficient to satisfy the
11 requirements of the registry program required in subsection (1)” .
12

13 **SEC.107. FORAGE FISH**

14 Sec. 302(h) of the Magnuson-Stevens Fishery Conservation
15 and Management Act is amended by adding at the end the
16 following—

17 “(9) develop a list of unmanaged forage fish occurring in
18 the area under its authority and prohibit the expansion or
19 development of new commercial or recreational directed fisheries
20 until the council has had adequate opportunity to assess the
21 scientific information relating to any new or expanded directed
22 fishery and considered the potential impacts to existing fisheries,
23 fishing communities and the marine ecosystem in order to advance
24 ecosystem based fisheries management.”
25

26 **TITLE II-STRENGTHENING FISHING COMMUNITIES**

27 **Sec.201. SHORT TITLE.**

28 This Act may be may be cited at the “Strengthening Fishing
29 Communities Act of 2017”.

30 **Sec. 202. STRENGTHENING FISHING COMMUNITIES**

31 (a) Section 303A(c)(1) is amended by—

- 1 (1) Adding at the end of Sec. 303A(c)(1)(C)(iii) “;
 2 including the participation of fishing communities
 3 in the fishery”, and
 4 (2) Adding at the end of the section the following--
 5 “(L) consider the needs of fishing communities and
 6 provide a process for fishing communities to participate
 7 in the limited access privilege program in accordance
 8 with subsection (c)(3).”
- 9 (b) Section 303A(c)(3)(A)(i) is amended by striking
 10 paragraph “II” and redesignating “III” as “II” and “IV”
 11 as paragraph “III” and striking all after the word
 12 “approval” in renumbered paragraph “III”.
- 13 (c) Section 303A(c)(3)(A)(ii) is amended to read as
 14 follows:
 15 “(ii) COMMUNITY SUSTAINABILITY PLAN
 16 APPROVAL—A community sustainability plan
 17 submitted by a fishing community to a Council for
 18 approval must include, at a minimum, the following
 19 components:
- 20 (I) A description of the Board and
 21 governance for the entity that will
 22 receive the allocation;
 - 23 (II) A description of the quota allocation
 24 process that will be utilized by the
 25 fishing community entity, including
 26 an appeals process within the entity;
 - 27 (III) Provisions for monitoring and
 28 enforcement of the community
 29 sustainability plan;
 - 30 (IV) Goals and objectives for the fishing
 31 community and how the entity will

- 1 use the allocation to meet those goals
- 2 and objectives;
- 3 (V) A description of how the entity will
- 4 sustain the participation of the
- 5 fishing community in the fisheries,
- 6 including providing for new entry
- 7 and/or intergenerational transfer,
- 8 encouraging active participation and
- 9 addressing economic barriers to
- 10 access to the fisheries;
- 11 (VI) A description of how the community
- 12 sustainability plan will address the
- 13 projected economic and social
- 14 impacts associated with the
- 15 implementation of the limited access
- 16 program; including the potential for
- 17 strengthening economic conditions
- 18 in remote fishing communities
- 19 lacking the resources to participate in
- 20 harvesting activities in the fishery;
- 21 and,
- 22 (VII) A description of how the community
- 23 sustainability plan will ensure the
- 24 benefits of participating in the
- 25 limited access privilege program
- 26 accrue to the fishing community and
- 27 participants.”
- 28 (d) Strike all of section 303A(c)(3)(B).
- 29
- 30

Senator SULLIVAN. Thank you, Mr. Stevens. It was good to see you on the Yukon and it is an amazing place, as we all know.

Let me just offer up what I did to the first panel, a very simple, but basic, but important question for the purposes of this hearing and many of you have already touched on it in your testimony.

What would you hope to see in the MSA reauthorization and what are the key issues from your perspective? And I will just open that up to all the panelists.

Mr. SPECIALE. Thank you, Senator.

When we look at it, we think we need recreational fishing needs identified within the MSA law just so it is specific in getting into it.

Senator SULLIVAN. Mr. Speciale, you talked about needs. You also talked a lot about data and that was one of the questions I was going to ask you in particular. So maybe, I will just do it now.

Are the needs mostly based on what you consider as a challenge, which is the lack of data as it relates to sports fishing and that management aspect?

Mr. SPECIALE. Obviously, one part of what we would like to see, that is the third item we would say we would need to have is a more robust data system. I love coming up to Alaska because you guys seem to know everything about the data.

Senator SULLIVAN. Is that true, Commissioner?

[Laughter.]

Mr. SPECIALE. I struggle with a few areas of that part of it. But I think it needs a more robust system of data collection or at least reasonable management approaches because sometimes this concept of the best available data is not really good.

Senator SULLIVAN. Yes.

Mr. SPECIALE. Many times in business you see that happen, and you can over study things, and they come up with the data as opposed to having real information.

We would like to see a fairer allocation methodology based off the economic output. The recreational fishing industry is a big, big industry. It is good for the economy of the United States. That does not take away from any other industries. It just needs to be identified because it is so different.

I would like the word that the gentleman down here used about stability. We need consistency. A guy that buys a boat wants to go fishing. He does not want to know one year he is going to have a 3-day season, the next year he is going to have a 22-day season, and it is not going to be around in the fall. He wants to see some consistency in it.

So I think that is the type of stuff we want to see is just identifying that recreational fishing is serious. Allow alternative management structures, allow for better data collection, and use more modern tools because we all have smartphones today. A fairer allocation based off of economics and avoid the peaks and valleys.

Senator SULLIVAN. Great. Others?

Ms. Behnken.

Ms. BEHNKEN. Thank you for that question, Senator.

First off, our perspective is that the most important part of reauthorization has to be to maintain the strong conservation underpinnings of the Act.

Senator SULLIVAN. Yes.

Ms. BEHNKEN. Nobody wins if the fish lose, whether you are a recreational fishermen, a subsistence fishermen, or a commercial fishermen. So that above all.

And that as we talk about flexibility or alternative tools that that is not code for a Modern Fishing Act. There is nothing modern about overfishing and alternatives should not mean overfishing.

I guess I would just point out that the average length in rebuilding plans right now is 20 years. There has been quite a bit of flexibility allowed to make those plans specific to the fish in question.

So in looking at that aspect of the Act, I would certainly caution against allowing flexibility to compromise conservation.

I think next, for us, relative to maintaining a great fisheries management system is adequate stock assessment. Stock assessment that is well-funded, monitoring of all fisheries, all sectors so that we know what is coming out of the resource, and doing that in a way that fits the fleets that are being managed. There are certainly tools, smartphones that were not around when we designed the existing monitoring systems that can be used with far less burden to the users.

So we are seeing, as I think Mr. Cotten mentioned, a real need up here for additional funding for our observer program, for electronic monitoring as we get that program back to where it needs to be in terms of coverage levels. So those are very important pieces, to me, of this reauthorization process.

And the last piece of that I would mention would be the need for stronger socioeconomic data collection.

Senator SULLIVAN. Yes.

Ms. BEHNKEN. That really gets at this issue of dependency in small communities on the resource, whether you are a subsistence fishermen, a commercial fishermen, or a CDQ fishermen. In those communities, I do not feel like we are capturing that.

As result, decisions are far too often driven by straight economics. And that very important culture and social dependence on the resource is not driving decisions to the extent it needs to do to keep our communities and those jobs in those communities healthy and viable.

Senator SULLIVAN. Great. Thank you.

Mr. Reed.

Mr. REED. Thank you, Senator. I am also going to talk about stock assessments, and surveys, and echo a few people before me.

I think that in my career in seafood and from most peoples from Alaska wherever you go, you hear about how well-managed Alaska's fisheries are. Sometimes it seems like we might be talking to ourselves and it is bouncing back. But I think for the most part, it is everyone else we are talking to as well. And the reason for that is that we have strong scientific data and backup.

I think the job of the agency is to manage fisheries and there are lots of other things that you can do with the money that you have available to you, but nothing is more important than stock assessments and surveys.

Historically we have had situations where sometimes a politician steps in and is prescriptive in where money should be spent when

not enough money is going to areas like stock assessments and surveys.

We are supportive enough of those issues to stand up conservation, and to stand up our fisheries, and to make sure that the fish come first. That that is a good idea in our minds, I believe.

I think I would agree that relative to rebuilding plans, there could be more flexibility than just the ten year plan. There needs to be more flexibility in rebuilding plans in general, but I think that in adding flexibility with rebuilding, you still have to put the health of the resource first.

If there comes a time or comes years when fishing is curtailed or reduced, regardless of the user group, still put the fish first. Suck it up and take the hit so you have a resource in the future for those fishermen and their children.

Senator SULLIVAN. Mr. Alstrom.

Mr. ALSTROM. Thank you, Senator.

What we would like to see in the reauthorization as it relates to stability with the CDQ program. We would like to see the hardened performance caps in the pollock fishery, which seems to be working, but we would like to see a periodic review of the Yukon River's rebuilding as far as snook returns. But there seems to be a problem on the Kuskokwim. And ditto with the halibut bycatch limits.

We are hearing from villages along the coast that halibut seem to be moving offshore because of maybe warming waters or other factors. We would hate to see that halibut bycatch increase. It needs to be continually monitored.

We would like to see the pollock and crab sock assessments continue at a robust level. We would hate to see those testing mechanisms reduced.

Specific to the CDQ program, stability would also include keeping that program as-is. The program was envisioned and written up to include only those villages which are in 50 nautical miles that rely on the Bering Sea. Sometimes when you have a good program, you expand it, and then what you have is a weakened program for everyone. We would like to see that program as-is.

And one last final note is that we would like to see the Western Alaska Community Development Association reinvigorated so it can, I think, do what Senator Stevens envisioned it would do, oversee the CDQ program.

Senator SULLIVAN. Great.

Mr. ALSTROM. The CDQ implementation committee that was, I believe you directed, I think that is the road I will take in addressing that too. Thank you.

Senator SULLIVAN. Great. Thank you.

Mr. Stevens, any thoughts just on the overview question, priorities, and what you see as your priorities on MSA reauthorization?

Mr. STEVENS. Thanks, Senator.

I think it is imperative that we include increased travel representation. When I first got to the North Pacific Council room, I realized right off the bat that it was very thin in terms of tribal DNA. There is very, very little. I say that with all due respect to the hardworking folks that run the operation. But it is what it is.

And that is what I think that we would like to see. That and continued vigilance in terms of balancing sustainability and the needs

of the world. And, of course, continued vigilance surrounding by-catch.

Senator SULLIVAN. Good. Thank you.

Let me get a little more specific. Mr. Reed, you were listening to the last panel. There was a lot of discussion on data. As a matter of fact, I think, we are seeing one area of consensus, data. Sustainability, very, very focused on accurate stock assessments as critical no matter what user group you are looking at.

Let me ask you more specifically. You talked about, and in your written testimony, talked about provisions related to transparency and use of data included in any MSA reauthorization.

There is also, I think, opportunities, but I would like your, or any of the witnesses' views to look at cooperative research programs that utilize State, or university, or other data. So the Feds are not the sole repositories of wisdom on the data.

How do we integrate with other data, make it transparent, but also make sure it is reliable? So it has to be good data and good science, but to look at opportunities to expand it. There are tremendous research institutions that are not the Federal Government.

What is the balance there? What would you like to see? And if anyone else has a view on that, I think we are seeing consensus on one issue, data funding, which I fully support. But also can we cast a broader net on better data that helps us all that is not just driven purely by NOAA and NMFS?

Mr. REED. Thank you, Senator.

What I was trying to get at with my comments on that point, which I think is a very important point, is that there be transparency in the robustness of the data that you are using.

Senator SULLIVAN. So that is Federal Government transparency? Or if an agency, State or Federal, is making the decision based on data, you want to know what that data was?

Mr. REED. Yes, sir.

Senator SULLIVAN. Is that what you mean by transparency?

Mr. REED. It is, exactly.

I want to know, is it a peer reviewed data set? Is it grey literature from an interest group? I think traditionally and historically, we look at who funded a study and make conclusions without ever reading the study, a lot of times.

Senator SULLIVAN. Yes.

Mr. REED. And I think that is unfortunate, but I think it is true. I think if it is a peer reviewed study, as opposed to non-peer reviewed or grey literature, that makes a difference, and all of those things should be right out in the open regardless of whether it is the Government promoting the use of that data to back up their program—

Senator SULLIVAN. Yes.

Mr. REED.—or whether it is someone from an interested sector coming forth and testifying and saying, “Here is what you should do and here is the data that I am using to back it up.”

I think we need to know as much as we can about that when we are using it and I think we need to stratify the value of that in a consistent way.

Senator SULLIVAN. And do you think the current law or regulations do not emphasize that transparency enough?

Mr. REED. I think the current law emphasizes that.

I understand there are some initiatives and some interest in changing that a little bit, and maybe putting more value and less transparency on using data that is not peer reviewed necessarily or that is coming from sources that are not necessarily required to be revealed.

I think that what we should do is the opposite of that. We should just require the revelation of where it is coming from, how it was gathered, what the process was, and then we can fit it into the strata of robustness at the very least.

Senator SULLIVAN. Let me ask a related question for Mr. Speciale. How do you think that Congress can help improve angler harvest data, which I know is an issue that you have raised?

Mr. SPECIALE. We think there is an issue with the data, as I say, the output of the decisions and I hear the comments.

I am not an expert on the legislative policy and regulatory processes that is involved with that. But we see the very poor output of the information or very weak information being used to make decisions. This concept of best available data and maybe allowing the standard deviation or allowing the error factor to be way, way too large and they are making decisions on it.

Those decisions directly affect people who go boating and enjoy the livelihoods of their work and we need to get that more robustly built up.

Senator SULLIVAN. Do you think particularly from the recreational industry side, that that is an issue that depends on the state? Is that something where the data is more State-driven or is it a combination? We believe that the data here is not perfect, but it is pretty strong. Is that driven by different state approaches?

Mr. SPECIALE. I think your State agencies tend to do a better job at it than from the Federal level. What we see through the State agencies is they tend to manage the information better because they are directly communicating with the angler.

The challenge you have with direct fishing is that there are millions and millions of people and it is ones, and twos, and threes, and fours versus commercial where you can measure it and really track it at a much higher level, which is wonderful.

There are so many assumptions in the process that we come up with these crazy policies that pop out and that limit fishing. But you are going, "The fish are really there. They are everywhere. You can see them."

Senator SULLIVAN. OK. Any other witnesses want to comment on just the issue of data sufficiency and collection opportunities?

Ms. BEHNKEN. If I could just briefly, Senator, I would, I think, refer back to Dan Hull's comment about the SSE has to remain the screen for data.

As Mr. Reed pointed out, we need to know what the sources of that data are and how appropriate the data is. Ultimately, the SSE is qualified to review the information and to feed that information into the management process as being data to be trusted or data that is possibly not up to the usual standards for our management system.

Senator SULLIVAN. Great. Mr. Alstrom.

Mr. ALSTROM. Thank you, Senator.

As far as data and data collection, it starts with data collection. I will just give you an example, and this is probably true of all the groups.

The Yukon Delta, we are fully funding a NOAA study on salmon out migrations at the mouth of the Yukon, a quarter of a million dollars there. In the past, we have worked with EDF and others to personally fund it, but this year it is fully funded. Then on the State level, at State cutbacks, we spent another quarter million on testnet for the summer and fall management strategy.

It is not only Yukon Delta in this raw gathering of data. It is Norton Sound is the same thing. You start digging into it.

So as Federal and State monies get cutback for one reason or another, they are looking for groups to step in. And a lot of times the groups that do step in are the CDQ groups.

Senator SULLIVAN. Yes. Any others?

Mr. STEVENS, any thoughts on that?

Mr. STEVENS. Just briefly. We too are very interested in solid data. It may not pertain to exactly what we are talking about here, but we are trying to make sure that the information that the regulatory agencies are using to make these huge decisions, that they are using good, solid data.

Down those lines, we are trying to work with the Yukon River Fish Commission to make sure that we are collecting good, solid data from each community along the River when it comes to the Chinook salmon so the agencies can have the best possible data that we could give them being on the ground.

Senator SULLIVAN. Yes.

Mr. STEVENS. Yes. We do agree that data is critical especially when it has such huge implications to big decisions.

Senator SULLIVAN. Let me ask a question, Ms. Behnken, on your issue. It is an issue that I have been very focused on, the issue of electronic monitoring.

I am assuming you saw that NOAA published regulations to integrate the electronic monitoring into the North Pacific observer program that came out, actually, just this month. I am not sure if you have reviewed them, but I know you care about this issue a lot.

Are you satisfied with those regulations or are you thinking that it is a step in a right direction? And is that something we need to take on? We have been pressing the agencies to do a much better and faster approach to that, as you have been advocating for, given some of our challenges here.

What is your sense of the progress and satisfaction with that, particularly given that NOAA just promulgated new regulations on that?

Ms. BEHNKEN. Thank you, Senator.

We are really pleased to see the progress in the North Pacific. It has been a long process to get to this point of really having an alternative for small boats. It is a place we probably would not be without support from our delegation, and also the supplemental grant funding from the National Fish and Wildlife Foundation.

I think I would just emphasize that we are not quite there. This startup phase with electronic monitoring is the most expensive part of getting E.M. out there. It is when the equipment needs to be

purchased. It needs to be installed on boats, and we really do need supplemental funding as we move to the point where it is fully funded by the fleet.

Senator SULLIVAN. Yes.

Ms. BEHNKEN. If you look at the numbers, and you amortize the cost of that equipment over the 5-years that will be its lifespan, E.M. is functioning at about half the cost of an observer, but the upfront costs are fairly significant. So it is certainly important to have supplemental funding during this time.

I think the other aspects of getting E.M. out on the water that we have found to be particularly critical are involving stakeholders in development of the program initially, but also in guiding what the research and development is for the E.M. programs of the future.

Senator SULLIVAN. Yes.

Ms. BEHNKEN. And making sure that future E.M. systems are compatible with the fleet that they are being designed for. That they are cost effective and not some grand scheme of what a "Star Wars" E.M. might be at some point. So to have them be practical, to be fleet compatible.

Then the last point I would make, E.M. quickly becomes not cost effective if data storage requirements become excessive.

Senator SULLIVAN. Yes.

Ms. BEHNKEN. We have seen an interest from enforcement in being able to store that data for 5 years for the opportunity to maybe mine the data at some point in the future for enforcement purposes.

Where E.M. is primarily implemented for catch accounting purposes or support catch and bycatch information, our view is that E.M. data storage needs to be one year. At the end of a year, you use that information to inform your stock assessment process, but that to require storage much beyond that quickly makes a program that was very effective, cost effective, and fleet compatible become unworkable.

So we would look for some guidance from you on limiting that data storage requirement.

Senator SULLIVAN. Well, I appreciate the comment and we certainly want to continue to work with you, and others, on this.

We think, and I think you know, we have been pressing NOAA on this for at least a couple of years and we want to continue to work with everybody here on that issue as it is being implemented. But I think there are some important advancements on that. So I appreciate that comment.

Let me turn to Mr. Alstrom. I wanted to dig down a little bit on two issues that you raised and that came up in the previous panel. I know in some ways you are impacted by it, so I want to give you the opportunity to mention it.

Are there any aspects, and I appreciated your very constructive participation in that recent broader meeting we had with different CDQ groups, which I thought went quite well. But are there elements to the program, the CDQ program, that you think are in need of an update or revision?

Second, what is your view on the recusal issue? Particularly because a lot of times that has seemed to become the focus on CDQ-related council members, and I think that is a problem.

Mr. ALSTROM. Senator, I will start with the easy one first.

We support Commissioner Cotten's remarks on the recusal issue. Well, I will just read right from my written. We believe the regulatory structure is outdated, not evenly applied, and has recently prevented several voting members in the North Pacific District Management Council from voting on important issues, such as halibut bycatch.

We ask that the Congress work with the affected parties and NMFS to see if there are meaningful changes to recusal and conflict regulations that would protect the integrity of the Council process, while still allowing the input from Alaska that was intended by the MSA when creating the Council system. There needs to be a change.

Senator SULLIVAN. Yes.

Mr. ALSTROM. Senator, if I remember your first question correctly, you wanted to know if there was a way in MSA that we can—"we," the CDQ program—can make it more functional or easy-going.

I think within the CDQ panel—which at least Yukon Delta identifies as the Western Alaska Community Development Association—the panel that was supposed to take over for the day-to-day oversight from the State and from the Federal oversight teams. I think there needs to be a change where that process does not need full unanimous support.

I think a super majority of five out of six of the CDQ groups voting to move a rule forward, I think that would really help to make issues within the CDQ program that are controversial, at least we will continue to move forward.

The program is so important. I feel amiss that I have not emphasized how important it is to western Alaskans this program.

Senator SULLIVAN. Yes.

Mr. ALSTROM. But I think that would be a change we need.

Senator SULLIVAN. Let me ask Mr. Stevens, you mentioned, and I appreciate your focus on the tribal and subsistence needs and emphasis for our Alaska Native population.

Have you thought about looking at ways? MSA obviously applies nationally and lot of the different Councils do not have such a large population and the issues that we have in this state on those kind of issues, subsistence and otherwise.

Have you thought about how, if we are looking at amending the Act in ways that relate to those issues? You could do it in a way that recognizes that it is a still a national law and in a lot of regions, those are not the prominent issues that are being raised.

Mr. STEVENS. Well, I do believe that it is of such significance that we cannot turn away from it.

As I mentioned, the importance of subsistence is monumental to the Alaska Native people, the rural Alaskans. Considering the fact that we are basically the last in the Nation to be so heavily reliant upon this, I believe, begs some consideration.

Senator SULLIVAN. Yes, I appreciate that. Any other thoughts on that just in terms of the way in which that would be more strongly

influenced in a reauthorization, highlighted? Is there language or issues that you have or could recommend to us?

Mr. STEVENS. In our written testimony, we have an addendum with some language on it.

Senator SULLIVAN. Great. Thank you.

I will just open it up. Are there any final comments from any of the panelists as we turn to our third panel members; any last rounds that you want to mention? I want to give everybody a chance. I want to be respectful of our next panel, but to briefly just emphasize any final issues.

Mr. Reed.

Mr. REED. Thank you, Senator.

I just wanted to mention, on the issue of the electronic monitoring, the closely associated issue of observer coverage. I would like to state some support for observer funding in the North Pacific.

We have paid our own way in the North Pacific in the fisheries that are observed and have been observed for many years. And it would be nice to have some of that paid, as in some areas of the country 100 percent of it is being paid by the Federal Government.

Senator SULLIVAN. Yes, I know. It is an important issue. I am glad you raised that because it does seem uneven in different regions.

Mr. REED. Yes, I agree. And we would appreciate it.

On the electronic side, I think that the future has a good helping of electronic monitoring in all of our fisheries for cost reasons and for the data needs that we have. And so I think that some funding may be transitioned in that regard. So we appreciate your consideration of that.

I would also like to thank you again for having us here today and for doing the hearing. Thanks so much.

Senator SULLIVAN. Anyone else? Mr. Alstrom.

Mr. ALSTROM. Senator, thank you.

We do reach out to non-CDQ villages. We have workers, about 100 of them from 18 non-CDQ villages, Upper Yukon and north of us, so all the groups try to reach out, outside of the regions to provide benefits. I did not want to imply this. We are reaching out.

Thank you.

Senator SULLIVAN. Mr. Stevens.

Mr. STEVENS. We are good. Thank you.

Senator SULLIVAN. Thank you. Just real quick.

Mr. SPECIALE. I would like to say thank you so much.

We are very concerned about the next draft of MSA and how it goes through because we are watching what comes from the economic output of it. Of course, we want great conservation as a company. That is what we want. That is what our lifeblood is in this whole thing and the millions of communities that are affected by this. You have to keep that awareness.

We are not as large as what we were pre-recession and we think this has been a big driver that has kept our middle markets from coming back to the saltwater area. So we would really like to see some positive outcome as we have outlined. So I want to thank you so very much for this time, again.

Senator SULLIVAN. Sure, absolutely.

Ms. Behnken, you have the final word.

Ms. BEHNKEN. I will just close by saying thank you. I really appreciate the opportunity. I think it has been a really great discussion.

Senator SULLIVAN. Great. OK. Well, how about a round of applause for our second panel here?

[Applause.]

Senator SULLIVAN. We will ask the third and final panel to please come up to the dais. Thank you.

[Pause.]

Senator SULLIVAN. I want to begin our third and final panel. Thank you for being so patient. Again, we have a very distinguished panel representing several different stakeholder groups. We want to hear from all of you on your views on this important topic.

The final panel of witnesses consists of Shannon Carroll. He is the Deputy Director of the Alaska Marine Conservation Council.

Julie Bonney, the Executive Director of the Alaska Groundfish Data Bank.

Lori Swanson, Executive Director of the Marine Conservation Alliance.

Duncan Fields, Gulf of Alaska Coastal Communities Coalition.

And Liz Ogilvie, Chief Marketing Officer of the American Sportfishing Association.

So Mr. Carroll, why not begin with you? You have 5 minutes and if you have a longer written statement, that will be included in the record of this Senate hearing.

**STATEMENT OF SHANNON CARROLL, DEPUTY DIRECTOR,
ALASKA MARINE CONSERVATION COUNCIL**

Mr. CARROLL. Thank you, Mr. Chairman.

I will assume “best for last” for being put on panel three. Thank you for the opportunity to testify. My name is Shannon Carroll. I am a former commercial fisherman and Deputy Director of the Alaska Marine Conservation Council.

Our mission is to promote healthy fisheries, fishing dependent communities through sustainable fishing practices, and local stewardship. We are also a member of the Fishing Community Coalition, which is a national association of community based and small boat commercial fishing groups.

Collectively, we support the MSA and respectfully offer the following comments on reauthorization.

Before I do so, however, I want to thank you, Mr. Chairman, for hearing from stakeholders at the outset of reauthorization. I think stakeholders are essential to the fisheries management process, and I appreciate the Committee for acknowledging that fact.

I also want to thank you for your leadership on fisheries and oceans issues. In particular, we greatly appreciate your support and introduction of the Young Fishermen’s Development Act.

AMCC urges the Committee to take a “do no harm” approach to reauthorization. We continue to believe that many of the issues plaguing various fisheries across the country could be addressed by investing in better and more frequent stock assessments, data, research, and accountability measures.

Alaska has demonstrated that such measures are, indeed, the cornerstone of effective fisheries management and I think the numbers speak for themselves. North Pacific fisherman harvest between 5 and 6 billion pounds of seafood annually supporting about 9,800 vessels, about 100 processing plants, and generating \$14.6 billion in economic output.

Recognizing this success, Congress amended the Magnuson Act to bring the Alaska model to the rest of the country. And of the 41 stocks that were listed as subject to overfishing at that time, only 14 remain in such condition. Today, we enjoy the lowest number of overfished stocks in history while landing revenue is up 18 percent since 2005.

We certainly recognize that fisheries in other regions have struggled under these provisions, but before considering ways to weaken the Act, we ask that the Committee consider that in most cases, the root of the problem in these regions is poor data and poor accountability. Adding additional flexibility to annual catch limits may increase those limits in the short term, but it does not address the underlying issues in those fisheries and is therefore not a viable, long term solution.

Rather than lower the bar, we urge the Committee to consider changes that raise the bar for all fisheries by strengthening the foundation upon which sustainable fisheries management rests: accountability and timely and accurate data.

Here in the North Pacific, as elsewhere, that foundation is being threatened. Next year, for example, NOAA may be reducing the number of survey vessels in the Gulf and the Bering Sea, as well as the number of fishing vessels carrying observers due the declining or stagnant funding levels.

This loss, among other things, will result in greater uncertainty in the data driving management decisions, potentially leading to more precautionary catch limits and less economic benefit from our fisheries.

Congress can help fishermen and processors, coastal communities, and the thousands of small businesses that depend on wild caught American seafood by investing in the science that allows fisherman to harvest optimum yields on a continuing basis.

I also understand the Committee has heard a lot from recreational fishermen, how the MSA is not working for them based on the premise that recreational and commercial fishing are fundamentally different.

Well, we may agree that they have different objectives. The end result of both sectors is really the same: it is the harvesting of a public resource.

So I would urge this Committee to ensure that sound science and individual accountability are the foundation of any new proposals. We do not believe that the Modernizing Recreational Fisheries Management Act accomplishes this goal to provide sport fishermen with more fish.

It allows fishery managers to use alternative management measures. But, unfortunately, these measures ignore precautionary principles for data for stocks. They stymie research and innovation by making experimental and exemptive fishing permit processes unworkable, and undermine the 10-year stock rebuilding process.

Last, I would like to highlight some of the challenges facing the next generation of commercial fishermen. They face daunting challenges including high cost of entry, limited entry opportunities, and declining opportunities for mentorship and training.

In Alaska, these challenges are reflected in the declining number of young people entering the industry and the ongoing attrition of fishing rates from Alaska's fishing communities.

Not long ago, the agricultural industry faced similar challenges and worked with Congress to create the Beginning Farmers and Ranchers Development Program. The Young Fishermen's Development Act is modeled after this successful concept and aims to create a national program exclusively dedicated to assisting, educating, and training the next generation of commercial fishermen.

This bill would ensure America's fishing communities continue to thrive for future generations by supporting economic opportunity, jobs, and food security while preserving a proud heritage and a way of life.

We want to thank you again for introducing this bill and I am happy to answer any questions.

[The prepared statement of Mr. Carroll follows:]

PREPARED STATEMENT OF SHANNON CARROLL, DEPUTY DIRECTOR,
ALASKA MARINE CONSERVATION COUNCIL

Thank you for your invitation to testify on the successes and challenges of the Magnuson-Stevens Act (MSA or the Act). I am Shannon Carroll, a former commercial fisherman and current Deputy Director for the Alaska Marine Conservation Council (AMCC). AMCC's mission is to protect the integrity of Alaska's marine ecosystems and promote healthy, ocean-dependent coastal communities through sustainable fishing practices, habitat protection, and local stewardship. AMCC is also a member of the Fishing Communities Coalition (FCC), an association of community-based, small-boat commercial fishing groups. The FCC represents more than 1,000 independent fishermen and business owners from Maine to Alaska who share a commitment to the sustainable management of America's fishery resources. Because the FCC was formed to strengthen and unify the individual voices of our member organizations, my testimony today is endorsed by the FCC. Collectively, we strongly support the MSA and respectfully offer the following comments on reauthorization.

Before I do so, however, I want to commend this Committee's process in moving forward towards reauthorization. Implicit, if not explicit, in the structure of the MSA, is the concept that stakeholders are best suited to effectively manage their regional fisheries. Past reauthorization efforts have also reflected this belief, with this Committee holding field hearings with stakeholders to inform reauthorization efforts. To that end, I appreciate the fact that this Committee is hearing from stakeholders at the outset of the reauthorization effort.

I also want to thank the Chairman, Senator Sullivan, for his leadership on fisheries and ocean issues. In addition to legislation such as the Save Our Seas Act and the IUU Fishing Enforcement Act, we greatly appreciate his support for and introduction of the Young Fishermen's Development Act (S. 1323). As you know, the FCC and its member organizations—including AMCC and the Alaska Longline Fishermen's Association—have worked for nearly two years in designing a national program to help young and beginning fishermen. Some of the key components of the legislation are modeled after what we have done and are doing in Alaska. In fact, this state has done more to help and train young fishermen than any other state, but, as you know, much more needs to be done around the country to ensure that the next generation of commercial fishermen not only exists, but prospers.

Raising the Bar for All Fisheries

AMCC urges Committee to take a "do no harm" approach to reauthorization. We continue to believe that many of the issues plaguing various fisheries across the country could be addressed by investing in better and/or more frequent stock assessments, data, research, and accountability measures—all under the existing framework of the MSA. We believe this because for over forty years, Alaska has dem-

onstrated that science-based annual catch limits, robust stock assessments and fisheries data, effective accountability measures, and a transparent public review process are the cornerstone of effective fisheries management. The numbers speak for themselves: North Pacific fishermen sustainably harvest between 5–6 billion pounds of seafood annually, which supports about 9,800 vessels and about 100 processing plants in coastal communities, and generates \$14.6 billion in economic output (including direct and multiplier impacts). These figures do not include the thousands of jobs in other regions connected to our seafood production.

Recognizing this success, Congress amended the MSA to bring the “Alaska Model” to the rest of the country, dramatically improving the overall health of our fisheries. Indeed, of the forty-one stocks listed as subject to overfishing, only fourteen remain in such condition. Today we enjoy the lowest number of overfished stocks in history and landings revenue is up eighteen percent since 2005. Rebuilding these stocks required the hard work and sacrifice of fishermen and fishing communities, and the dedication of fishery management councils and agency staff. These rebuilt fisheries have led to greater stability, opportunities for diversification, and new entrants into the industry, all of which directly benefits fishing communities.

Reauthorization should not put that hard-earned progress at risk by weakening the core science-based management provisions of the Act. I recognize that certain fisheries and regions have struggled under these provisions. But before considering ways to weaken the Act, I ask that the Committee consider that in most cases the root of the problem in these regions and fisheries is poor data and accountability. Adding additional flexibility¹ to annual catch limits may increase those limits in the short-term, but it does not address the underlying issue in those fisheries and therefore is not a viable long-term solution.

Rather than lower the bar to fisheries with the poorest data or weakest accountability measures, I urge the Committee to consider changes that raise the bar for all fisheries by strengthening the foundation upon which sustainable fisheries management rests: accountability, timely and accurate data, sound scientific research, and transparency. Here in the North Pacific, as elsewhere, that foundation is being threatened. Next year, for example, NOAA may be reducing the number of survey vessels in the Gulf of Alaska and the Bering Sea, as well as the number of fishing vessels carrying observers due to stagnant or declining funding levels. This loss will result in greater uncertainty in the data driving management decisions, potentially leading to more precautionary catch limits and less economic benefit from our fisheries.

Congress can help fishermen, processors, coastal communities, and the thousands of small businesses that depend on wild caught, American seafood by investing in the science that allows fishermen to harvest optimum yield on a continuing basis. We support the move toward more robust annual stock assessments, effective accountability measures, and accurate and precise monitoring and reporting. Science-based catch limits and rebuilding timelines have been proven to work but we must do more to support this management framework and the resulting management decisions by mandating and funding better data collection and accountability measures.

With that in mind, the remainder of my remarks highlight opportunities to promote and strengthen science-based decision making, to improve fishery data collection and accountability, and to better protect our vital commercial fishing communities. My comments also come directly from the MSA legislative package crafted and approved by the members of the FCC, with the full support of AMCC. With your permission, Mr. Chairman, I would like to submit this legislative package for the record.

Council Accountability, Transparency and Public Process

The FCC MSA legislative package includes portions of HR 200—sponsored by Congressman Don Young—including requiring each Scientific and Statistical Committee (SSC) to develop advice in a manner that is both fully transparent and also allows for public involvement. Additionally, in the name of transparency, we would require Council meetings to be posted online and require Council and SCC meeting

¹I also ask the Committee to consider the high level of flexibility already provided for under the Act. Councils can presently consider the needs of fishermen and fishing communities in setting annual catch limits. The ten-year rebuilding timeline is based on the finding that most stocks can be rebuilt in five years, thus allowing for consideration of social and economic considerations. The revised National Standard 1 guidelines have also created additional flexibility in the annual catch limit and stock rebuilding requirements. Lastly, the current language in the Act allows exceptions to the ten-year rebuilding timeline and allows managers to tailor rebuilding plans to a fish stock’s specific biological and ecological needs. In practice, the average time period in rebuilding plans to date is almost twenty years.

notes and transcripts to be maintained by the Council and made available to the public. To increase accountability of all Council members we would require all non-procedural votes at the Council be taken by recorded vote.

Financing of Fisheries Monitoring Programs

We propose to expand to all Councils the discretionary authority to impose fees presently only available to the North Pacific Fishery Management Council (NPFMC). This important tool has allowed the NPFMC to establish fees—the amounts vary from fishery to fishery—as part of a fisheries plan in order to partially offset monitoring costs. The program has been a great success in the North Pacific region by providing more comprehensive observer coverage at a lower cost to individual fishermen. Our legislative package would also create a dedicated regional fishery observer fund in the Treasury for each Council. Taking these steps should help strengthen important monitoring and data collection measures without increasing the cost to the Federal Government.

Recreational Fishing

Mr. Chairman, I understand your Subcommittee has heard a lot from recreational fishermen and boat and engine manufacturers about how the MSA is not working for them. AMCC and the FCC recognize and appreciate the attention Congress has devoted to finding a way to manage recreational fishing that is effective and fair but that does not undo the successes the MSA has had to date. Community-based commercial fishermen are sympathetic to the challenges and management dilemmas faced today by recreational fishermen. We have struggled through similar situations that have resulted in fewer fishing opportunities, stringent quotas, and the loss of fishing jobs and families. By fighting through those obstacles and working through the MSA and Council process, we have rebuilt many stocks, created healthy fishing businesses and sustainably harvested new and underutilized species. I would urge the recreational sector to work with the MSA process, rather than weakening it by working around it.

The Modernizing Recreational Fisheries Management Act of 2017 (S. 1534), sponsored by Senator Wicker, is based on the premise that recreational and commercial fishing are fundamentally different activities and therefore require different management approaches. To provide sport fishermen greater access—*i.e.*, more fish—to our Nation's marine fisheries, the bill allows fishery managers to use alternative management measures for recreational fisheries. Unfortunately, these measures weaken the science-based conservation standards and approach of the MSA. In weakening these standards, the bill ignores the precautionary principle for data-poor stocks; stymies research and innovation by making the exempted fishing permit process unworkable and burdensome; undermines the 10-year stock rebuilding requirement, and; establishes a moratorium on new catch share programs, thus taking away from the Councils an important tool from the management toolbox.

Additionally, as the commercial sector has learned, greater access—more fish—brings with it greater responsibility and accountability. The commercial sector is subject to a high degree of accountability measures including licenses, permits, mandatory catch reporting, at-sea observers, electronic monitoring, vessel tracking devices, mandatory notification of fishing trips, and more. While S. 1534 does include beneficial mandates for cooperative data collection, it does not address the fundamental challenge of tracking recreational catch and holding the recreational sector accountable for its catch.

While we may agree with Sen. Wicker and others that recreational fishing and commercial fishing are different activities with different objectives, the end result of both sectors is the same: the harvesting of a public resource. I would urge this Committee to ensure that sound science and individual accountability are the foundation of any new proposal for best management practices for recreational fishing.

Mr. Chairman, as you are aware the biggest challenge in managing the recreational sector is knowing how much fish is caught on a timely basis and when fishing should stop to avoid exceeding the allocation. To address this problem the FCC MSA legislative package includes a section that provides Councils the discretionary authority to require permits and catch reports from both commercial and recreational fishing vessels. Today, Councils can only require permits for commercial vessels fishing within the EEZ.

In 2006, Congress attempted to address the lack of data from the recreational sector by requiring the Secretary to establish regional registries for recreational fishermen. While well-intentioned, these provisions (Sec. 401 (g)) lacked the essential requirement of catch reporting and provided for broad exemptions. We propose to amend the current regional registry program for recreational fishermen fishing in the EEZ by requiring the reporting of catch and landings information on a timely

basis. This section also limits the exemption from the registry for State licensing programs to those State programs that require the reporting of catch.

Forage Fish

Having enough forage fish in the water is essential to maintaining healthy fisheries and ecosystems. Our legislative package requires the Councils to develop a list of unmanaged forage fish and prohibit the expansion or development of new commercial or recreational directed fisheries until the Council has had adequate opportunity to assess the scientific information and considered the potential impacts to existing fisheries, fishing communities, and the marine ecosystem. Science and data for new and emerging fisheries is vital, especially in light of shifting and mitigating fish stocks. Additionally, management plans need to be in place before any new fishery is opened in order to advance ecosystems approaches to fisheries management. The provision is modeled after the Mid-Atlantic Council's Unmanaged Forage Omnibus Amendment.

Strengthening Fishing Communities

When Congress reauthorized the MSA in 2006, it included a new section focused on limited access privilege programs (LAPPs). This section—303A—included provisions designed to allow fishing communities to participate in those programs. Unfortunately, after more than a decade, not one fishing community has been able to use these provisions to secure an allocation of fish. In response to this problem, our legislative package proposes to update and streamline the current, unsuccessful MSA provisions. This is an extremely important issue not only to fishing communities in Alaska but also in New England and other rural fishing communities on every U.S. coast. For example, in Alaska, the number of rural Alaskans holding local fishing permits in state fisheries has declined by 30 percent since 1975. Some regions like Bristol Bay have lost over 50 percent of their locally held permits. The same story is found at the Federal level as well: small, rural communities in the Gulf of Alaska have experienced a 53 percent decline in halibut quota holdings. We have learned the hard way that once fishing permits and quota migrate away from our fishing communities, they are gone forever.

To improve the likelihood that fishing communities can actually participate in limited access privilege programs, we suggest establishing national standards for the minimum requirements of a community sustainability plan, allowing a community to submit a plan to the Council for approval, and requiring that when a community creates a new LAPP, it must consider the needs of fishing communities and provide a process for communities to participate in the program.

Next Generation

Lastly, I would like to highlight the challenges facing the next generation of commercial fishermen. Despite the important role our industry plays in our Nation's economy, there is not a single Federal program devoted to supporting and developing entry-level commercial fishermen. And the time for such a program has never been greater. With the average age of U.S. commercial fishermen increasing, we are deeply concerned that the graying of America's fleet poses a substantial and growing threat to the future of our industry.

The next generation faces daunting challenges, including high cost of entry, financial risks, and limited entry-level opportunities. In Alaska, these challenges are reflected in the declining number of young people entering the industry and the ongoing attrition of fishing rights from remote fishing communities. As I mentioned earlier, rural Alaskan communities have experienced significant loss of access to local fisheries, at both the state and Federal level. With the loss of local access comes the loss of local opportunity.

Not long ago, the agriculture industry faced similar challenges and worked with Congress to create the Beginning Farmers and Ranchers Development Program. The Young Fishermen's Development Act (S. 1323), championed by Chairman Sullivan, is modeled after this successful program and aims to create a national program exclusively dedicated to assisting, educating, and training the next generation of commercial fishermen. Specifically, this innovative program would provide competitive grants to foster collaborative state, tribal, regional and local partnerships; promote mentorship opportunities for retiring fishermen and vessel owners; and provide support for regional training and education programs focused on accountable, sustainable fishing and sound business practices.

This bill is an important part of ensuring fishermen in Alaska and other regions have the tools and education they need to enter into a successful and fulfilling career. It would also ensure American's fishing communities continue to thrive for future generations by supporting economic opportunity, jobs, and food security while preserving a proud heritage and way of life. I want to thank Chairman Sullivan

again for introducing and championing this effort, and I would urge the Subcommittee to give its full consideration to this bill.

* * *

In closing, I would again like to sincerely thank the Chairman and this Subcommittee for holding this field hearing as well as for your goal to improve upon an already successful law. I am happy to answer any questions or provide more information or clarification, and look forward to working with the Members of this Committee and your staff on MSA reauthorization.

Senator SULLIVAN. Great. Thank you.
Ms. Bonney.

**STATEMENT OF JULIE BONNEY, EXECUTIVE DIRECTOR,
ALASKA GROUND FISH DATA BANK**

Ms. BONNEY. Senator Sullivan, thank you for the invitation to testify on the reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act.

My name is Julie Bonney and I am testifying on behalf of the trawl catcher vessels and shore-based processors who are members of the Alaska Groundfish Data Bank.

For forty years, the Magnuson-Stevens Act has worked well for Alaska and for my home town, Kodiak, America's second largest port by volume and the third largest by value.

The Act and its ten National Standards in their current form appropriately guide council decisionmaking. We do not support any changes, or any additions to the standards, or any major changes to the Act.

The entire U.S. fishing industry has benefited from the flexibility of the Act. The North Pacific Management Council has solved many regional fishery management issues through its transparent, public, and science-based decisionmaking process.

The best and most creative solutions to management problems have typically come from fishery participants working with a Council that understands and values the fisheries they regulate. Council makeup is, therefore, a key component of successful fishery management.

Councils should include diverse representation with fisheries expertise and backgrounds. Stakeholders from a spectrum of fishing communities, fishermen, and processors affected by the fisheries regulated by the Council should all be represented.

It is easy to name examples of management programs developed under the Act that benefit communities across Alaska. The Community Quota Entity program and the allocation of Fixed Gear Cod licenses were developed by representatives of small rural communities in the Gulf of Alaska.

The highly successful Community Development Quota program benefits coastal communities in the Bering Sea and the Aleutian Islands. Regional delivery requirements were developed to keep rockfish coming across the docks in Kodiak and crab coming across the docks in the Pribilof Islands.

In Alaska, we have benefited from catch share programs in several of our fisheries. These programs have greatly improved fishery data, helping our Alaskan fleets to self-fund over 50 percent of the Nation's observer days.

Alaska Groundfish Data Bank presently manages seven shore-based harvesting cooperatives in the Central Gulf of Alaska rockfish fishery. That catch share program stopped the race for fish, brought community benefits to Kodiak, reduced bycatch, increased harvest efficiencies, and increased fishery monitoring. Our catch share fishery has enjoyed 11 successful years.

We agree with the Council Coordination Committee that catch share management needs to remain in the Councils' toolbox. Catch share programs are certainly not appropriate for every fishery, so the discretionary nature of the catch share management makes sense.

A major theme of the August 1, 2017 MSA hearing was sustainably increasing wild harvests for our fisheries to provide greater benefits to the Nation. My members believe that the fishing industry can achieve this goal. However, care needs to be taken to make sure that the flexibility is not used to erode conservation objectives.

Flexibility to address rebuilding timelines for overfished stocks, to allow harvests of choke species that impede harvests of other fish stocks, and relaxing management measures for data poor stocks are some of the concepts being promoted.

NMFS revised the National Standard 1 guidelines just last year to provide tools to increase flexibility in rebuilding plans, better define ecosystem component species, and phase-in changes to catch levels. Whether these new flexibilities strike the right balance should be evaluated before amending the Act.

AGDB members are well versed on the highly controversial, complicated, and polarizing topic of fisheries bycatch. All fisheries have bycatch; it is unavoidable. Regulating bycatch is important for equity and conservation, but we need to distinguish actions that achieve conservation objectives from those that are largely allocative.

Actions that provide little or no benefit to stocks or competing fisheries—but reduce net benefits to the Nation—and prevent achieving optimum yield or increases costs to fishing fleets should be avoided.

The 2006 reauthorization of the Magnuson-Stevens Act was an endorsement of the Alaska model. Some small tweaks may be necessary for other regions during this reauthorization process, but in general, it is working well in Alaska.

Thank you for the opportunity to comment. I will be happy to answer any questions.

Thank you.

[The prepared statement of Ms. Bonney follows:]

PREPARED STATEMENT OF JULIE BONNEY, EXECUTIVE DIRECTOR,
ALASKA GROUND FISH DATA BANK

Senator Sullivan,

Thank you for inviting me to testify on the reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). My name is Julie Bonney and I am testifying on behalf of the trawl catcher vessels and shore-based processors who are members of Alaska Groundfish Data Bank (AGDB). For 40 years, the MSA has worked well for Alaska and for my home town, Kodiak—America's second largest port by volume and the third largest by value. The Act and its ten National Standards in their current form appropriately guide council decision making. We do

not support any changes or additions to the standards or any major changes to the Act.

The entire U.S. fishing industry has benefited from flexibility of the Act. The North Pacific Council has solved many regional fishery management issues through its transparent, public and science based decision making process. The best and most creative solutions to management problems have typically come from fishery participants working with a council that understands and values the fisheries they regulate. Council make up is therefore a key component of successful fishery management. Councils should include diverse representation with fisheries expertise and backgrounds. Stakeholders from the spectrum of fishing communities, fishermen, and processors affected by the fisheries regulated by the Council should all be represented.

It is easy to name examples of management programs developed under the Act that benefit communities across Alaska. The community quota entity program and the allocation of fixed gear cod licenses were developed by representatives of small rural communities in the Gulf of Alaska. The highly successful Community Development Quota program benefits coastal communities in the Bering Sea. Regional delivery requirements were developed to keep rockfish coming across the docks in Kodiak and crab coming across the docks in the Pribilof Islands.

In Alaska, we have had benefited from catch share programs in several of our fisheries. These programs have greatly improved fisheries data, helping our Alaskan fleets to self-fund over 50 percent of the Nation's observer days. Alaska Groundfish Data Bank presently manages seven shore-based harvesting cooperatives in the Central Gulf of Alaska rockfish fishery. That catch share program stopped the race for fish, brought community benefits to Kodiak, reduced bycatch, increased harvest efficiencies and increased fishery monitoring. Our catch share fishery has enjoyed eleven successful years. We agree with the Council Coordination Committee that catch share management needs to remain in the Councils' tool box. Catch share programs are certainly not appropriate for every fishery, so the discretionary nature of catch share management makes sense.

A major theme of the August 1st MSA hearing was sustainably increasing wild harvests from our fisheries to provide greater benefits to the Nation. My members believe that the fishing industry can achieve this goal. However, care needs to be taken to make sure that the flexibility is not used to erode conservation objectives. Flexibility to address rebuilding time lines for overfished stocks, to allow harvests of choke species that impede harvests of other fish stocks, and relaxed management measures for data poor stocks are some of the concepts being promoted. NMFS revised the national standard one guidelines just last year to provide tools to increase flexibility in rebuilding plans, better define ecosystem component species, and phase-in changes to catch levels. Whether these new flexibilities strike the right balance should be evaluated before amending the Act.

AGDB members are well versed on the highly controversial, complicated and polarizing topic of fisheries bycatch. All fisheries have bycatch; it is unavoidable. Regulating bycatch is important for equity and conservation, but we need to distinguish actions that achieve conservation objectives from those that are largely allocative. Actions that provide little or no benefit to stocks or competing fisheries but reduce net benefits to the Nation, prevent achieving optimum yield, or increases costs to fishing fleets should be avoided.

The 2006 reauthorization of the MSA was an endorsement of the "Alaska model". Some small tweaks may be necessary for other regions during this reauthorization process but in general, it is working well in Alaska.

Thank you for the opportunity to comment. I will be happy to answer any questions.

Senator SULLIVAN. Great. Thank you, Ms. Bonney.
Ms. Swanson.

**STATEMENT OF LORI SWANSON, EXECUTIVE DIRECTOR,
MARINE CONSERVATION ALLIANCE**

Ms. SWANSON. Chairman Sullivan, thank you for the opportunity to testify today on the Magnuson-Stevens Fishery Conservation and Management Act.

My name is Lori Swanson. I am the Executive Director of the Marine Conservation Alliance, also known as MCA. Our organization is comprised of harvesters, processors, and fishing dependent

coastal communities with interests in the Bering Sea, Aleutian Islands, and Gulf of Alaska. MCA is committed to supporting sound, science-based fisheries management in the North Pacific to promote sustainable fisheries and a healthy environment.

I am here to talk about how the current Magnuson-Stevens Act has supported these goals and allowed a sustainable annual harvest of over 2 million metric tons of seafood in the Federal fisheries for decades.

The MSA is built on ten National Standards which have inherent conflicts. This tension drives the balancing act that preserves the health of our fisheries and the environment that supports them.

The hallmark of the MSA is the regional fisheries management council system, which recognizes that one size does not fit all and allows for solutions that are tailored to the specific problems encountered locally.

MCA does not believe there are any systemic issues in the Act that needs to be addressed. It appears that most of the concerns that exist are regional in nature, so maintaining and expanding regional flexibility provides the best solution.

For example, catch shares are very successful in the North Pacific, reducing bycatch, increasing monitoring levels, and allowing fine-scale catch management. The performance of these programs is reviewed regularly and modifications are made as necessary through a public process informed by detailed analyses. While we recognize the success of catch share programs in the North Pacific, we also acknowledge that catch shares may not be suitable for fisheries in all regions.

Environmental concerns are also addressed at the regional level. The North Pacific Council has established numerous areas where fisheries or gear types are restricted or prohibited. These areas serve a variety of purposes, from protecting sensitive habitats to providing exclusive access to local fishery-dependent communities. The recent review of Essential Fish Habitat in our region determined that the impact from fisheries on habitat is less than 2 percent region wide.

The North Pacific Council has been refining the practice of Ecosystem-Based Fishery Management, or EBFM, since the first committee was formed in 1996. Annual stock assessments update ecosystem components, and Allowable Biological Catches incorporate ecosystem considerations. The Council developed a Fishery Ecosystem Plan for the Aleutian Islands and is developing a similar plan for the Bering Sea.

These plans require adequate data and a sound scientific base, are extremely time consuming, and are subject to numerous public and scientific reviews. Adding new mandates for FEPs may make the process untenable by putting management in front of science.

We believe the development of FEPs, and their content, should both remain discretionary. EBFM will continue to be a critical component of our fisheries management.

I would also like to comment on the use of best available science in fishery management. Sound science is the bedrock of sustainable fisheries. There are times when what is presented as "the best science available," may be anecdotal, biased, or untested. It is very important to understand this information prior to using it. Any re-

search, from any source, should be subject to intense scrutiny before being used in management decisions.

Finally, while I recognize this hearing is not focused on scientific funding, I encourage you to maintain adequate funding for scientific research in the North Pacific. Our fisheries are supported by surveys which are conducted annually in many cases, but at least every third year, and annual stock assessments. It is impossible to overstate the importance of this work.

Historic survey data provide a long term view of the effects of years of warm and cold water, changes in the amount of ice cover, and other factors which help scientists understand and predict future challenges. With increased water temperatures, fishers are moving between areas and depths, and current survey information is even more critical.

Continued funding supports a decades-long database of oceanographic conditions in a region faced with climate change. Further, uncertainty requires more conservative catch limits and reduced harvest levels to ensure the stock is protected. Regular surveys provide increased certainty in the status of our stocks.

In summary, the Magnuson-Stevens Act has worked well for over 40 years, and we believe that success must be recognized and protected. I encourage you to refrain from sweeping national changes, and to maintain the flexibility for each region to develop and improve upon management programs tailored to their specific needs.

Thank you for the opportunity to comment, and I will be happy to take any questions.

[The prepared statement of Ms. Swanson follows:]

PREPARED STATEMENT OF LORI SWANSON, EXECUTIVE DIRECTOR,
MARINE CONSERVATION ALLIANCE

Chairman Sullivan,

Thank you for the opportunity to testify today on the Magnuson-Stevens Fishery Conservation and Management Act. My name is Lori Swanson, and I am the Executive Director of the Marine Conservation Alliance, also known as MCA. Our organization is comprised of harvesters, processors, and fishing dependent coastal communities with interests in the Bering Sea, Aleutian Islands, and Gulf of Alaska. MCA is committed to supporting sound, science-based fisheries management in the North Pacific to promote sustainable fisheries and a healthy environment. I am here to talk about how the current Magnuson-Stevens Act (MSA) has supported these goals and allowed a sustainable annual harvest of over two million metric tons of seafood from our region for decades.

The MSA is built on 10 national standards which have inherent conflicts. This tension drives the balancing act that preserves the health of our fisheries and the environment that supports them. The hallmark of the MSA is the regional fishery management council system, which recognizes one size does not fit all and allows for solutions that are tailored to the specific problems encountered locally. MCA does not believe there are any systemic issues in the Act that need to be addressed. It appears that most of the concerns that exist are regional in nature, so maintaining and expanding regional flexibility provides the best solution.

For example, catch shares are very successful in the North Pacific, reducing by-catch, increasing monitoring levels, and allowing fine-scale catch management. The performance of these programs is reviewed regularly and modifications are made as necessary, through a public process informed by detailed analyses. While recognizing the success of catch share programs in the North Pacific, we also acknowledge that catch shares may not be suitable for all fisheries or regions.

Environmental concerns are also addressed at the regional level. The North Pacific Council has established numerous areas where fisheries or gear types are restricted or prohibited. These areas serve a variety of purposes, from protecting sensitive habitats to providing exclusive access to local fishery-dependent communities.

The recent review of Essential Fish Habitat in our region determined that the impact from fisheries on habitat is less than 2 percent region-wide.

The North Pacific Council has been refining the practice of Ecosystem-Based Fishery Management (EBFM) since the first EBFM committee was formed in 1996. Annual stock assessments update ecosystem components, and Allowable Biological Catches incorporate ecosystem considerations. The Council developed a Fishery Ecosystem Plan (FEP) for the Aleutian Islands and is developing a similar plan for the Bering Sea. These plans require adequate data and a sound scientific base, are extremely time consuming, and are subject to numerous public and scientific reviews. Adding new mandates for FEPs may make the process untenable by putting management in front of science. We believe the development of FEP's, and their content, should remain discretionary. EBFM will continue to be a critical component of our fisheries management.

I would also like to comment on the use of "Best Available Science" in fishery management. Sound science is the bedrock of sustainable fisheries. There are times when what's presented as the 'best' science available may be anecdotal, biased, or untested. It is very important to understand this information prior to using it. Any research, from any source, should be subject to intense scrutiny before being used in management decisions.

Finally, while I recognize this hearing is not focused on scientific funding, I encourage you to maintain adequate funding for scientific research in the North Pacific. Our fisheries are supported by surveys which are conducted annually in many cases but at least every third year, and annual stock assessments. It is impossible to overstate the importance of this work. Historic survey data provide a long-term view of the effects of years of warm and cold water, changes in the amount of ice cover, and other factors which help scientists understand and predict future challenges. With increased water temperatures, fish are moving between areas and depths and current survey information is even more critical. Continued funding supports a decades-long database of oceanographic conditions in a region faced with climate change. Further, uncertainty requires more conservative catch limits and reduced harvest levels to ensure the stock is protected. Regular surveys provide increased certainty in the status of our stocks.

In summary, the Magnuson Stevens Act has worked well for over 40 years, and we believe that success must be recognized and protected. I encourage you to refrain from sweeping national changes, and to maintain the flexibility for each region to develop and improve upon management programs tailored to their specific needs.

Thank you for the opportunity to comment, and I will be happy to take any questions.

Senator SULLIVAN. Well, thank you, for your testimony.

And you raised a good point, which is although the hearing is not focused on the issue of Federal funding, I can tell you I am hearing that issue loud and clear from all the panelists. So thank you for emphasizing that as others have.

Mr. Fields, the floor is yours.

STATEMENT OF DUNCAN FIELDS, GULF OF ALASKA COASTAL COMMUNITIES COALITION

Mr. FIELDS. Thank you, Senator.

Thank you for the opportunity to testify. I have worked for about 30 years with the Gulf of Alaska small and rural communities. We define these communities as less than 1,500 people without road access. These are truly fishing communities. That is the only economy in the communities.

I was picking fish Monday morning. Lots of fish in the nets and I thought, "Why am I coming to this hearing?" Well, we were running Yamaha 2-stroke Enduros. They are great engines.

[Laughter.]

Mr. FIELDS. Why am I coming to this hearing? I am coming because I feel Magnuson has failed the smaller, rural fishery dependent communities in Alaska. And this is despite the great National Standard for providing for the sustained participation of the com-

munities and to mitigate the economic harm to the communities. We see in the smaller communities in the Gulf of Alaska increased and continued separation from the Federal fisheries.

We saw that initially in 1995 when the halibut and sablefish IFQ program came into effect. By 2000, we had already accumulated enough information, sociological and economic information, to see the halibut is migrating from rural communities.

The Council acted. They enacted something called the CQE program, or the Community Quota Entity program, to provide opportunities for approximately 45 of these smaller, isolated communities to buy halibut and sablefish quota shares. Of those 45 eligible communities, only 3 have been able to buy halibut shares and only a few shares at that.

This program largely has been a failure, not because of anything the Council could have done, but because once quota share is issued, it is almost impossible for a rural community to catch up in terms of buying that quota share and paying the debt service based on the return from fishing the quota share.

So I think if we have anything to add to the discussion, Senator, is that at the outset of any kind of Limited Access Privilege program, if you are going to protect communities, particularly rural communities, those communities are going to need to be awarded quota. And I think we have the CDQ program in western Alaska as an example of that paradigm and the need for the work quota.

So when we go back to Magnuson-Stevens, and we look at the community protection provisions under the LAP Program, we have two primary provisions. One is for communities to develop a community sustainability plan. The second provision is a regional fishing association.

Both of those provisions, from our experience, are flawed so that they are not workable. In fact, the last ten years, I am not aware of any Council anywhere in the country that has been able to use those provisions to protect those communities.

So just very briefly, there are three aspects of those provisions that need to be revised. One is the burden used to be on the Council to show when they developed or initiated a LAP program, how that program is going to provide for the sustained participation of that community and the economic protection of that community.

In the provisions of the LAP program, there are 11 provisions. There needs to be something that says something to the effect of: how is this program going to protect communities?

In addition to that, when you develop a community sustainability plan, there is Council-approved criteria that is supposed to be approved by the Secretary and published in the *Federal Register*. They are available to the communities. I am not aware of any council that has developed this criteria.

There needs to be a mandate in this provision to say, "Before you have a LAP program, a Council will develop these communities or these criteria so that the community knows the nature and tribe that is going to be judged."

Then finally, there is a contingent liability built into the current provision so that the Secretary may withhold or revoke quota share being fished by an individual that is owned by the community, and

may or may not give it back either to the individual, but it does specify to the community.

As I have talked to investors and NGOs that are interested in helping communities by quota share, they say, "That is a showstopper. We cannot invest in quota that can be revoked and may or may not come back to the community."

So those are the three specific provisions that would help in the community protections.

And then finally in my last 30 seconds, Mr. Chairman, the rural communities in the Gulf of Alaska are very concerned about the amount of discards that are continuing.

We have Magnuson-Stevens and National Standards. We want to reduce bycatch. We want to reduce mortality by bycatch. But we are still throwing away tens of millions of pounds of dead fish that could enter the stream of commerce. And that is a violation, in my judgment, of National Standard 1 of optimum yield. In Alaska generally, we throw over 10 million pounds of halibut annually. We throw that away.

This is fundamentally in conflict with the values of our rural communities. Why waste food? And so, Mr. Chairman, I have a number of other reasons that is a matter of national policy. We need to focus on the reduction of discards.

The European community, by the way, is light years ahead of the United States on this and they have very strict guidelines or goals set for the reduction of regulatory and economic discards, Mr. Chairman.

That concludes the testimony of the Gulf of Alaska Coastal Communities Coalition. Thank you.

[The prepared statement of Mr. Fields follows:]

PREPARED STATEMENT OF DUNCAN FIELDS,
GULF OF ALASKA COASTAL COMMUNITIES COALITION

Chairman Thune, Distinguished Members of the Committee:

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) is good legislation, perhaps even great legislation. We are all aware of the many successful conservation and management accomplishments that the Act has enabled. Because of its success, many believe that the current reauthorization of Magnuson-Stevens should mostly maintain the status quo. Why change what is working? While it feels like a "safe harbor" to keep Magnuson essentially the same, I cannot support a status quo MSA reauthorization. Here's why: America's fishery-dependent communities, especially the smaller rural communities in the Gulf of Alaska, are being excluded from the Federal fisheries. This is happening despite MSA's National Standard 8 that directs management Council to "take into account the importance of fishery resources to fishing communities by utilizing economic and social data . . . in order to (A) provide for the sustained participation of such communities, and (b) to the extent practicable, minimize economic impacts on such communities." To be more specific, the Limited Access Privilege (LAP) provisions [Section 303(A)(c)] for community protection, the Community Sustainability Plan and the Regional Fishery Association are unworkable. *Action must be taken during this reauthorization of the MSA to strengthen the community protections provisions of the act. Also, Alaska's smaller gulf communities believe that as a matter of National Policy, National Standard 9 should be expanded to encourage the reduction of discarded fish / bycatch.*

Under the Requirements for Limited Access Privilege Programs (LAPs) [Section 303(A)] *I am suggesting three changes that will better protect fishery dependent communities:*

1. Strengthen policy language to encourage management councils to initially allocate Limited Access Privileges to fishery-dependent communities and clearly

- identify criteria for Fishing Communities' community sustainability plans [303(A)(c)(1)(F) and 303(A)(c)(3)(A)(i)(IV)].
2. Limit the risks of losing LAP privileges/quota for Fishing Communities operating under a community sustainability plan and for Regional Fishery Associations. [303(A)(c)(3)(A)(ii) and 303(A)(c)(4)(B)].
 3. Revise the Regional Fishery Association definition so that it can include a larger group of stakeholders and also be considered for initial allocations of Limited Access Privileges. [303(A)(c)(4)(A)(iv)].

In addition, I am suggesting the Committee consider expanding National Standard 9, "to the extent practicable (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch", to include a provision that when bycatch occurs and mortality from the bycatch cannot be avoided, to minimize the regulatory discarding of dead fish to the extent practicable. [301(a)(9)]

For the past 30 years I have worked on behalf rural Alaska fishermen from smaller fishery-dependent Alaska communities in the Gulf of Alaska. These communities formed the Gulf of Alaska Coastal Communities Coalition which identifies as communities of less than 1,500 people without road access that have a fishing history, sometimes for thousands of years. The economy in each of these communities is almost exclusively based on fisheries: subsistence, commercial, sport and charter. *Regulatory programs enacted under Magnuson-Stevens, particularly the Halibut/Sablefish IFQ program and the Bering Sea Crab program, have negatively impacted these communities.* The North Pacific Fisheries Management Council has attempted to mitigate some of these adverse impacts by creating the Community Quota Entity program that allows communities in the Gulf of Alaska to purchase halibut and sablefish Individual Fishing Quota IFQs). However, the Community Quota Entity program has been largely unsuccessful because it is nearly impossible to purchase quota and pay the debt service *AFTER* the initial issuance of the quota. Only 3 of 45 eligible communities have been able to purchase even a small amount of quota. Communities, with limited resources and without other fishery revenue, just can't catch up by purchasing quota. *In short, if trends continue, residents of most of these communities will be completely excluded from Federal fisheries within a generation.*

A reauthorized Magnuson-Stevens Fishery Conservation and Management Act must increase the emphasis for each of the eight regional management councils to consider smaller or isolated fishery-dependent communities as stakeholders at the outset of any Limited Access Privilege (LAP) program. Councils should use current sociological and economic studies, as referenced in National Standard 8, regarding impacts from past management programs to assess probable community impacts from any new LAP programs. Here in Alaska, virtually all of the social and economic assessments illustrate that Limited Access Privilege programs have had negative impacts on smaller Alaska communities. The reauthorized MSA should also encourage Councils to re-consider impacts on fishery-dependent communities whenever limited access privilege programs are reviewed and/or renewed and as part of the review, when needed, allocate Limited Access Privileges to fishery dependent communities to mitigate further harm.

The eight Regional Management Councils have primarily assessed a vessel owner's historical participation in the fishery when awarding Limited Access Privileges. While vessel owners are clearly stakeholders, parallel stakeholders have often been overlooked. Councils must be encouraged to fully assess the community support structures that enable vessel owner participation in the fishery as well as the community fabric of fishing jobs and fishery opportunity that the fishery provides. Rural residents in many Gulf of Alaska communities cannot compete economically for quota especially when there are no "owner on board" or "active participation" requirements for quota holders. *Experience has shown that the primary way to continue community engagement in the fishery is through the awarding of Limited Access Privileges to the community at the outset of a LAP program.* See, for example, the Community Development Quota program in the Bering Sea.

Under the Limited Access Privilege Program provisions for fishing communities, section 303(A)(c)(3) of MSA, the requirement of an approved community "sustainability plan" creates a classic "catch 22" situation for fishery dependent communities wanting to be awarded LAP privileges. Communities appear to be expected to develop the community sustainability plans without fully knowing a regional Council's criteria for plan approval and/or whether the Secretary will approve the criteria. Our experience with the NPFMC's consideration of a LAP program for the Gulf of Alaska indicated that the Council was hesitant to consider LAP privilege/community quota allocation without a community sustainability plan but it was difficult for Gulf of Alaska fishery dependent communities to develop a sustainability plan without first having Secretary approved Council criteria for the community sustain-

ability plan. (We recognize that part B lists participation criteria but the list is not exhaustive nor is it adopted or approved by any Council.) *Regional Councils must be directed to develop Fishing Community sustainability plan criteria BEFORE considering a LAP program.*

Even with an approved Community Sustainability Plan and either the initial allocation or community purchase of quota, fishery-dependent communities are not protected. Under sub paragraph (ii) the secretary may deny or revoke “privileges granted under this section for any person”. This language presents three problems. First, the privilege (quota) is revoked from an *individual* who is fishing the Community’s privilege or allocation. Second, the Community may have little or no immediate control over that individual or the individual’s fishing practices yet it is held responsible for the individual’s misconduct. The quota is apparently removed from the individual *AND* the fishing community. Third, the removed quota “may” but also *MAY NOT* be reallocated to another *individual* eligible within the fishing community. There are two issues here: the quota can be entirely lost to the Regional Fisheries Association if it is not reallocated and the quota is reallocated to another *individual* and not back to the Community Fisheries Association. *Several financial institutions and lenders have indicated that the deny/revoke provision creates too much “risk” for lending to a fishery dependent community to acquire LAP privileges/quota—even with an approved Community Sustainability Plan.*

Three changes to Magnusson-Stevens’ LAP provisions for Fishing Communities could help further the National Standard 8 goal of protecting fishery dependent communities.

1. The LAP provisions outline eleven requirements (A–K) for implementation of a LAP program. Under section (F) the act requires a Council to “specify the goals of the program.” The following language should be added: *“including but not limited to goals for protecting fishery-dependent communities located within the management area of the relevant Council and whether or not initially awarding LAP privileges to the community will further those goals.”*
2. A new LAP requirement (L) should track with the Fishing Communities section (3) of the LAP provision and require each Council to develop secretary-approved Community Sustainability Plan criteria BEFORE considering a LAP program. The following language should be added: (L) *“Each regional management council shall develop secretary-approved community sustainability plan criteria before initiation of a LAP program.”*
3. Under (3)(ii), any quota denied or revoked by the Secretary for an individual’s failure to comply with the Community Sustainability Plan must be retained by the community entity. The following language should be inserted: Sec 303A(c)(3)(A)(ii) *“The secretary shall deny or revoke limited access privileges granted under this section for any person who fails to comply with the requirements of the community sustainability plan. Any limited access privileges denied or revoked under this section shall be retained by the eligible fishing community.”*

Moreover, the Magnuson-Stevens Act’s parallel community support concept, the Regional Fishery Association, is similarly flawed. Regional Fishery Associations are expected to find capital and obtain quota shares *after* a LAP program is implemented. Membership is limited to those that already have acquired quota and any quota acquired by the Association may be “at risk” by seizure. Simply stated, as currently outlined in MSA, the Community Fishery Association is an ineffective tool.

Three changes to current MSA provisions for Regional Fisheries Associations would make them an effective tool for fishery-dependent community protection.

1. The MSA currently specifies that Regional Fishing Associations are NOT eligible to receive initial allocation of a limited access privilege. *The provision should read that Regional Fisheries Associations ARE eligible to receive an initial allocation of a limited access privileges.*
2. Regional Fishery Associations are limited to individuals or entities that already have LAP privileges/quota. This seems nonsensical, given the participation criteria to be considered by the Council in section (C). Regional Fishery Association participation criteria includes “traditional fishing or processing,” “cultural and social framework relevant to the fishery” and “the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or sub region.” Given the participation criteria, why exclude crewmen, active fishermen hoping to obtain quota and stakeholder communities or processors that are not awarded quota? *The regional Councils should have the option to include*

all significant stakeholders in a Regional Fishery Association. Adding the following language at the end of Sec 303(A)(c)(4)(A)(iv) would allow the Councils to qualify all individuals and entities that meet the section (C) participation criteria: A regional fishery association shall “consist of participants in the fishery who hold quota shares that are designated for use in the specific region or sub region covered by the regional fishery association, including commercial or recreational fishing, processing, fishery-dependent support businesses, or fishing communities *and/or individuals, businesses and communities who are active participants in the fishery.*”

Section 3 (Definitions)

The term “active participants” means individuals who are physically present on a fishing vessel during the prosecution of a fishery and who are paid compensation for their fishery participation, a business that derives revenue directly from the sale of the fish captured in the fishery, or a community economically and/or culturally dependent on the fishery.

3. The Regional Fisheries Association Language also enables the possible loss of quota by the Association because of an individual’s misconduct. As indicated above, this type of contingent liability puts the Regional Fisheries Association “at risk” and the association is unlikely to attract capital to obtain quota. Again, the fix is to require that any Regional Fisheries Association quota denied or revoked by the Secretary be retained by the RFA.

*In summary, the three changes suggested for Community Sustainability Plans as well as the three changes suggested for Regional Fishery Association **do NOT mandate** that fishery-dependent communities be given Limited Access Privileges. However, they do provide workable options that the regional Councils can consider when working to ensure the sustainability of fishery dependent communities.*

The final consideration for revising the Magnusson-Stevens Fishery Conservation and Management Act is, perhaps, one of the most important conservation and public policy issues of our day. *As a matter of policy the United States needs to reduce the amount of discards (dead fish thrown overboard) in MSA managed fisheries.* Large amounts of fish are caught in MSA fisheries, killed, and then discarded because they are not the right size, lack market value or are “prohibited” based on a particular gear type in a specific time and place. Although bycatch has been reduced under MSA, discarding of bycatch remains a significant management and conservation concern. In fact, the European Union had jumped ahead of the United States and set strict time frames for eliminating regulatory discards.

To illustrate, in fisheries managed by the North Pacific Fisheries Management Council 5,487 metric tons (12,181,140#) of halibut are annually allocated as bycatch. Not all of the bycatch is used but, on average, about 90 percent or 10 million pounds is actually caught and discarded as dead halibut. A substantial portion of discarded halibut, estimates range from 50–70 percent by weight, could be of commercial value and processed into food for human consumption. Halibut, of course, is just one species and across the Nation several species should be assessed for discard limitations. *The goal for American Fisheries should be: If you catch it and it's dead, you keep it!* This is the logical next step to the policy progression of National Standard nine.

Alaska’s smaller fishery-dependent communities are impacted by regulatory discards in several ways. First, discarding good food is in conflict with basic aboriginal and cultural values that teach it’s against nature to waste what the sea provides. Second, it often creates a false economy in that a vessel will be fishing for a directed catch worth pennies per pound while discarding bycatch worth several dollars per pound. Third, the American consumer has reduced access to quality marine protein that could easily be retained and enter the stream of commerce. Fourth, it may limit fish available to all other users and appears as a capricious disposition of a shared resource because, when quotas are set, halibut bycatch “comes off the top” ahead of sport, ahead of charter and ahead of all commercial users. Finally, the impacts on the eco-system from long term large scale fishery discards is unknown. Some have speculated that the rise of arrowtooth flounder in the Gulf of Alaska may have been, in part, due to the extent of fishery discards in the late 80 and 90s (scavenger fish like arrowtooth flounder need something to eat.)

*I would encourage the Committee to expand our Nation’s policy regarding conservation of our marine resources and add a third priority to National standard 9, Sec. 301(a)(9), “Conservation and management measures shall, to the extent practicable, (a) minimize bycatch and (b) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.” And (c) **to the extent that mortality cannot be avoided, minimize regulatory and economic discards.***

Thank you for considering Alaska's Gulf of Alaska Coastal Communities' suggestions for revisions to the Magnuson Stevens Fishery Conservation and Management Act. The MSA is solid legislation but needs revisions to help protect fishery dependent communities. In summary, community allocation of Limited Access Privileges should be strengthened and each management council, at the outset of any LAP program, should specifically recognize fishery dependent communities as stakeholders and provide criteria for development of community sustainability plans. Quota obtained under a community sustainability plan must stay with the community. A Community Fisheries Association, if approved by a Council, should also be eligible for initial allocation of quota. Several Community Fishery Association provisions seem to be in conflict with the stated programmatic goals and should be modified. Membership should be expanded and liabilities reduced. Finally, it's time, as a matter of public policy, to incorporate the reduction of regulatory discards, to the extent practicable, into our national standards.

Senator SULLIVAN. Great. Thank you, Mr. Fields.
Ms. Ogilvie.

**STATEMENT OF LIZ OGILVIE, CHIEF MARKETING OFFICER,
AMERICAN SPORTFISHING ASSOCIATION**

Ms. OGILVIE. Chairman Sullivan, thank you for the opportunity to testify on the Magnuson-Stevens Fishery Conservation and Management Act.

As Chief Marketing Officer of the American Sportfishing Association, I hope my perspective as someone who is involved in a variety of national efforts focused on the future of recreational fishing, can be of value to the Subcommittee. And as such, I will focus broadly on trends of the sport as a whole, and how Federal marine fisheries management fits in.

The American Sportfishing Association, or ASA, is the national trade association representing over 800 fishing tackle manufacturers, distributors, retailers, media, and other components of the industry who service the 47 million Americans who recreationally fish each year.

We are involved in a wide variety of policy and legislative issues affecting the future of the sport, but devote a significant portion of our advocacy efforts on Federal marine fisheries management.

Considering that 82 percent of all fishing trips occur in freshwater, it may seem counterintuitive to focus so much attention on marine fisheries. However, the industry sees tremendous growth opportunities in the saltwater fishing market.

The average cost of a saltwater trip is twice that of a freshwater trip. Offshore trips must be taken from a boat, and these boats tend to be larger, consume more fuel, and are outfitted with higher-end gear. Substantial economic opportunities for our industry, and associated industries, exist with offshore recreational fishing, but we are confronted with a management system that, for years, has been limiting that opportunity.

In contrast, ASA believes that freshwater fisheries management has largely been figured out. Both the State fish and wildlife agencies, and the Federal land management agencies, have a symbiotic relationship with the recreational fishing community.

They go above and beyond to communicate with anglers, solicit input, and work together to ensure anglers are satisfied with their experiences on the water. As a result, they are seen as partners in conservation and participation.

Conversely, NOAA fisheries are viewed by many in the recreational fishing community as an adversary. While efforts have been made in recent years to improve the dialogue between the agency and anglers, we have seen little change in the agency's actions and how they translate to fishing opportunities.

Fairly or unfairly, the general perception among anglers is that NOAA fisheries only understands and cares about commercial fishing.

While overfishing is now at an all time low in many fisheries, that has not translated into improved fishing access for recreational fishermen. This is believed to be a result of a management system that fails to recognize that commercial and recreational fishing are different activities.

Without question, commercial fishing is tremendously important to the Nation by creating jobs and providing a sustainable supply of seafood across our country. My comments are not intended to diminish the importance of commercial fishing, but to recognize that the benefits of recreational fishing are also important, and can no longer be an afterthought in the way our Federal marine fisheries are managed.

As a community comprised of thousands of businesses and the millions of customers they serve, we want modern management approaches, science, and technology to guide decisionmaking.

Since its original passage in 1976 and through subsequent reauthorizations, the Magnuson-Stevens Act has never focused specifically on addressing the unique challenges of Federal saltwater recreational fisheries management.

We hope Congress will use the current reauthorization process as an opportunity to address this historic inequity. And ASA believes passage of Senate Bill 1520, the Modernizing Recreational Fisheries Management Act, would be a tremendous step toward this goal.

By recognizing recreational fishing as an important and distinct activity, Congress and NOAA fisheries can go a long way toward creating an environment in which saltwater recreational fishing's many benefits to the Nation are fully realized.

Thank you.

[The prepared statement of Ms. Ogilvie follows:]

PREPARED STATEMENT OF LIZ OGILVIE, CHIEF MARKETING OFFICER,
AMERICAN SPORTFISHING ASSOCIATION

Chairman Sullivan and members of the subcommittee, thank you for the opportunity to testify on the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). It is an honor to provide input on this important topic. While I'm not an expert on the nuances of the Magnuson-Stevens Act, I hope my perspective as someone who has been part of the recreational fishing industry for fifteen years and who is involved in a variety of national efforts focused on the future of the sport can be of value to the subcommittee. I expect many of the other comments provided today will be focused on important fisheries science and management challenges related to the Magnuson-Stevens Act. However, I will focus broadly on trends in recreational fishing as a whole and how Federal marine fisheries management fits in.

Federal Marine Fisheries in Context

The American Sportfishing Association (ASA) is the national trade association representing over 800 fishing tackle manufacturers, distributors, retailers, media and other components of the industry who service the 47 million Americans who

recreationally fish each year. We are involved in a wide variety of policy and legislative issues affecting the future of the sport, but devote a significant portion of our advocacy efforts on Federal marine fisheries management. Considering that 82 percent of all fishing trips occur in freshwater, and of the 18 percent that occur in saltwater, only roughly one tenth occur in Federal waters, it may seem counterintuitive to focus so much attention on Federal marine fisheries management.

However, the industry sees tremendous growth opportunities in the saltwater fishing market. According to data from the U.S. Fish and Wildlife Service, the average cost of a saltwater trip (\$134.88) is approximately twice that of a freshwater trip (\$69.05). While specific estimates are not available comparing offshore to inshore trips, given that offshore trips must be taken from a boat, and that these boats tend to be larger and outfitted with higher-end gear, clearly the economic value of offshore trips is significant compared to other types of fishing. Substantial economic opportunities for our industry and associated industries exist with offshore recreational fishing, but we are confronted with a management system that for years has been limiting that opportunity.

In contrast, ASA believes that freshwater fisheries management in the U.S. has largely been figured out. While some challenges to freshwater fisheries conservation and access persist—such as invasive species; water quality and quantity; and habitat degradation—from a purely management standpoint, states are generally doing an excellent job of ensuring anglers have reasonable access to healthy fish stocks.

States and the recreational fishing community have a symbiotic relationship, due in part to the states' funding model. Most—and in some cases, all—of the funding for states' fisheries management activities come from anglers in the form of license fees and the excise tax on fishing equipment and motorboat fuel. But the relationship between states and the recreational fishing community is far from just transactionary. States go above and beyond to communicate with anglers, solicit input and work together to ensure anglers are satisfied with their experiences on the water.

Similar close connections exist between the recreational fishing community and many of the Federal land management agencies, such as the U.S. Forest Service, the U.S. Fish and Wildlife Service, the Bureau of Land Management and the National Park Service. Despite the occasional disagreement over policy and management issues, in general these agencies are viewed by recreational fishermen as partners working to ensure the conservation of fisheries resources for the use and enjoyment of the public. Unlike state fish and wildlife agencies, these Federal land management agencies do not receive direct funding from anglers; yet are still viewed as partners in conservation.

Conversely, NOAA Fisheries is viewed by many in the recreational fishing community as an adversary. While efforts have been made in recent years to improve the dialogue between the agency and anglers and to better understand how to address concerns, anglers have seen little change in the agency's actions and how they translate to fishing opportunities. Fairly or unfairly, the general perception among anglers is that NOAA Fisheries only understands and cares about commercial fishing, dating back to its roots as the Bureau of Commercial Fisheries.

While overfishing is now at an all-time low, in many fisheries (such as the snapper-grouper complex in the southeastern U.S.) that has not translated into improved fishing access for recreational fishermen. This is believed to be a result of a management system that focuses on commercial fisheries management and attempts to apply the same approaches to recreational fishing, without recognizing that these are two fundamentally different activities.

Without question, commercial fishing is tremendously important to the Nation by creating jobs and providing a sustainable supply of seafood. My comments and suggestions are not intended to diminish the importance of commercial fishing, but to recognize that recreational fishing is also important, and can no longer be an afterthought in the way our Federal marine fisheries are managed.

Nationwide Focus on R3

In recent years, the recreational fishing community has redoubled efforts to increase participation in recreational fishing nationally. For decades, up until the 1990s, the sport experienced steady growth in participation. However, a variety of societal and demographic changes in the Nation have contributed to a generally flat level of participation for the last two decades, despite an increase in the overall U.S. population. Given the social, conservation and economic benefits that recreational fishing provides to the nation, this lack of growth in the sport is a major cause for concern among industry, organizations and fisheries agencies.

Focusing on new and innovative ways to recruit, retain and reactivate (R3) anglers is one of the top priorities of ASA and many partner organizations such as

the Recreational Boating and Fishing Foundation, the Association of State Fish and Wildlife Agencies, and many others. The state fish and wildlife agencies are a key partner in this endeavor, as are many of the Federal land management agencies, particularly the U.S. Forest Service.

An opportunity exists to include NOAA Fisheries in this effort, but it will require a major shift in how the agency has historically viewed, treated and managed recreational fishing. Early indications from this Administration, including extending the Gulf of Mexico red snapper season and selecting quality recreational fishing representatives for the regional fishery management councils are reason for optimism, but much more work remains to be done. While some of this responsibility is under the agency's control, ASA believes that changes are also needed to the Magnuson-Stevens Act to facilitate better management of marine recreational fisheries and improved opportunities for fishing access.

The Modern Fish Act

The recreational fishing community has articulated the changes it would like to see to the Magnuson-Stevens Act through legislation that has already been introduced in this Congress. On July 10, Senators Roger Wicker (R-Miss.), Bill Nelson (D-Fla.), Roy Blunt (R-Mo.), Brian Schatz (D-Hawaii), John Kennedy (R-La.) and Joe Manchin (D-W.Va.) introduced S. 1520, the "Modernizing Recreational Fisheries Management Act of 2017" (Modern Fish Act), which ASA strongly supports. A companion bill, H.R. 2023, was introduced in the U.S. House of Representatives on April 6, by Congressmen Garret Graves (R-La.), Gene Green (D-Texas), Daniel Webster (R-Fla.) and Rob Wittman (R-Va.).

The bipartisan Modern Fish Act addresses many of the challenges faced by recreational anglers, including allowing alternative management approaches for recreational fishing, reexamining fisheries allocations, smartly rebuilding fish stocks and improving recreational data collection. The bill would benefit recreational fishing access and conservation. As a community, comprised of thousands of businesses and the millions of customers they serve, we want modern management approaches, science and technology to guide decision-making.

Since its original passage in 1976 and through subsequent reauthorizations, the Magnuson-Stevens Act has never focused specifically on addressing the unique challenges of Federal saltwater recreational fisheries management. We hope Congress will use the current reauthorization process as an opportunity to address this historic inequity. By making the necessary policy and statutory changes that recognize saltwater recreational fishing as an important and distinct activity, Congress and NOAA Fisheries can go a long way toward creating an environment in which saltwater recreational fishing's many benefits to the Nation are fully realized.

Senator SULLIVAN. Great. Well, thank you. And thank you, again, to all the witnesses.

I will begin with the same question I asked the other two panels, and I know you have highlighted it already in your testimony, but just to get a strong statement for the record.

What do you hope to see in terms of your priorities with regard to any MSA reauthorization? I will just open that up to everybody beginning with Mr. Fields.

Mr. FIELDS. Thank you, Mr. Chairman.

Really, two things from the perspective of the gulf coastal communities. One is to make the provisions under the LAP, Limited Access Privilege, part of the Act and workable for communities. They are not complex changes, not difficult changes, but make those provisions workable so that a community wanting to participating in a LAP program can develop a community sustainability plan, understand the rules relative to that plan, receive quota, and functionally work with the quota they receive.

The second aspect is to look at the amount of regulatory and economic discards all across the country, and recognize that times have changed. Look at what Europe is doing. Track the logical progression up to the extent practicable and everything is qualified to the extent practical.

Reduce bycatch, reduce mortality from bycatch, and I would like to add, and if mortality and bycatch are not reused, do not throw-away dead fish to the extent practicable. Utilize what is otherwise discarded.

Thank you, Mr. Chairman.

Senator SULLIVAN. Great. Thank you.

Mr. Carroll.

Mr. CARROLL. Thank you, Mr. Chairman.

I think at the outset, and several times you noted, that you are looking for consensus. And I think after hearing three panels, the consensus seems to really be that ways to improve data and accountability are the best ways forward. So that is certainly something that MCC would like to see in the fishing communities coalition.

To that end, we have submitted an Amendment package that we think addresses a lot of the accountability and data needs in the MSA. They are small, minor tweaks, but we think that they could go a long way forward toward furthering the objectives of the Magnuson Act.

I would also like to agree with Mr. Fields. We also submitted an Amendment that is largely similar to, I think, what he is discussing under 303a, which is just streamlining and improving the LAP provisions so that coastal communities understand what is needed, so that they can apply to receive allocations under the LAP program.

Finally, I do think, again, that there is an opportunity to address through non-regulatory means, through the Young Fishermen's Development Act and some opportunities for next generation fishermen. I think because the Federal Government does manage the fisheries as a public trust that is a real obligation that they have to see for it.

So thank you.

Senator SULLIVAN. Good, great. Others?

Ms. Swanson.

Ms. SWANSON. Thank you, Mr. Chairman.

I echo a lot of what other people have said that the bones of the Act are good. Do not change what is working already. I do not want to repeat what everyone has already said.

One specific issue that I would address is the use of the term "overfishing" and "overfished". I think there should be a better way to express a stock that is depressed from fishing versus a stock that is depressed from an environmental or other factor.

Senator SULLIVAN. Yes.

Ms. SWANSON. And what the mandated response is in those situations.

We have a blue king crab stock in the Pribilof that is overfished, even though no fishing occurs on it and it has not for years. It is unlikely to recover, but there are still mandated recovery plans. That type of structure, it does not make sense. I think it is misleading to the public as well.

Senator SULLIVAN. Yes. Great. Thank you.

Ms. Bonney.

Ms. BONNEY. Just to follow on, I have two things. One is the definition of overfishing and the rebuilding plans based on a 10-year rebuilding.

I do think that the 10-year rebuilding timeline is arbitrary and so I think that there might be some room to look at additional flexibility without opening the barn doors, so to speak.

Senator SULLIVAN. Yes.

Ms. BONNEY. And also in terms of the issue that Lori just raised, which is the blue king crab, the stocks in the Pribilof. It is an environmental problem and yet the only thing that the Council can regulate is the fishing activity.

So we are restricting fishing and creating a lot of economic impact to the fishing fleet, and there is going to be no net benefit for that stock. So if there would be some kind of way to have maybe the SSC or the science community define a fish that is in that category that you would not have to go through the rigorous rebuilding plan. I think that would be beneficial.

Senator SULLIVAN. Great. Ms. Ogilvie.

Ms. OGILVIE. Yes, from the recreational fishing communities' point of view, the two main tenets for reauthorization of Magnuson-Stevens really is the confidence, gaining back the confidence in that data collection.

And then recognizing, again, that recreational and commercial fishing are different activities and should be managed so.

Senator SULLIVAN. Right. Let me dig down into a couple more specific questions related to some of the interests and expertise of the different panelists.

Mr. Carroll, I know that your organization played an important role in the Alaska Young Fishermen's Network. Can you describe a brief description of the network and what you are trying to do in terms of the successes?

As we are looking at this legislation, as I mentioned in my opening statement, the idea of making sure the next generation is able to take advantage, to thrive, to have opportunities, I think, is one of the most important things we could do. I am very pleased you are on the panel to represent that group, an important interest group.

Can you talk a little bit more to that and what you have done?

Mr. CARROLL. Yes, thank you for the question, Mr. Chairman.

Yes, I will point out there is at least one member of the Young Fishermen's Network in the audience today.

Senator SULLIVAN. Good.

Mr. CARROLL. We helped create the Young Fishermen's Network largely for the same reasons that I discussed and my support for the Young Fisherman's Development Act. And that is it.

We certainly recognize that there are many barriers to entry for next generation fishermen, for beginning fishermen and largely those are involving access to capital and financial. But in speaking to a lot of our members and fishermen, we really recognize that there is also sort of a networking, and mentorship, and education gap that are missing. In part, that is due to the outmigration of permits, and that loss of institutional knowledge in communities, and that sort of feedback loop that you get. But it was a major gap.

And as a lot of fishermen now look to make half a million to \$1 million investments in their future, a lot of concerns revolved around not knowing how to fix the refrigeration system on their boat.

Senator SULLIVAN. Yes.

Mr. CARROLL. And not knowing how to properly pay their taxes. So to that end, we started the Young Fishermen's Network as a way to informally improve networking and education among fishermen. We have seen some really great success, and just one anecdotal story.

One of my friends who is a member of the Network was out. It was her first season running a boat. It was her first time towing in really rough weather. She called up a few people that she had met through the Network and they talked her through some strategies to successfully fish, and she ended up having a good day on the waters.

Senator SULLIVAN. Good. Let me ask a related question and this is for you, or Ms. Bonney, or Mr. Fields.

There is a lot of talk about barriers to entry in the commercial fleet, whether it is because of the high cost, upfront costs of financing a boat, and gear, and quota or just the next generation who do not have those resources.

What other things can we be looking at, whether it is in the MSA reauthorization or beyond that can help that issue? Particularly in communities like where the two of you reside, Mr. Fields and Ms. Bonney, in Kodiak. I think that is an incredible community.

Can you talk about the fishing fleet and how important that is not only in Kodiak, but other coastal communities on the island and this issue of barriers to entry?

Ms. BONNEY. And I am probably going to give you a different answer than you expect.

Senator SULLIVAN. I am asking this because I know there might be different views, which is the whole point of the hearing.

Ms. BONNEY. So I think, first of all, you need to understand that the community of Kodiak is very diverse. And so, we are kind of the black and white of any fishing community because we have many participants in the fishery that are involved in the State fisheries, particularly salmon. Then we have a large group of the community that is involved in the Federal fisheries.

So my life is mostly involved in the Federal fisheries because I work for the trawl industry and that industry brings 20 percent of all jobs to Kodiak, which is an important group.

We are seeing a lot of new participants in the fishery. A lot of people are silver haired, like I am working on, and leaving the industry. And so, new people are coming in. Who is coming in are the sons and daughters of the owners of the vessels and operators and the crewmember that are working on the back deck that are experienced and with some expertise.

But in my industry right now, we have a race for fishery environment for the trawl participants which is not as sophisticated as in the Bering Sea. We have a lot of restrictions in terms of bycatch.

Senator SULLIVAN. Can you explain that term? It is used a lot. I just want other Senators, who are going to be looking at this transcript and their staff, as we talk about the broader issues what

that term means when you talk about “the race to fish” and how that impacts sustainability, safety, and successful management.

Ms. BONNEY. Just because I have these conversations with my family, I will put it this way.

If you have a pie, and you put the pie in the middle of the table, and everybody has a fork, the goal is to get it. So the race for fish is trying to get the most pie that you can before your neighbor eats more than you do.

The catch here, the program basically allocates to individuals or cooperatives, and cuts that pie up into individual pieces, and each participant that has a fork at the table gets a slice of the pie. Then you can choose to eat that as slowly or as fast as you want, and whenever you want.

So it just creates more reason within the way that you are harvesting and it gives you more tools to make a business plan out of it.

So coming back to the issue of next generation participants, there is a lot of uncertainty in the industry that I work for because of the system that we are operating under. So they are less likely to be able to get bank loans and enter the fisheries in that way.

So for the industry that I work for, we would like more certainty and more ability to get the fish out of the water and have a business plan versus the system that we live in now.

Now for Duncan Field’s groups and for Shannon Carroll’s, I think their opinions are different than mine.

Senator SULLIVAN. Duncan, do you want to comment, Mr. Fields, just on any of those questions I mentioned?

Mr. FIELDS. Well, thank you.

I like Julie’s pie metaphor or analogy. But what she did not amplify is that once those pieces are cut, first of all, they are not all even pieces. And then only those people initially allocated a piece of the pie ever get to eat dessert. That is the barrier to entry that creates the graying of the fleet and the problem for young fishermen.

That is it. That is what we are facing. Whether or not it was a State of Alaska limited entry program, or a Federal IFQ program, or a LAP program—Bering Sea crab, for example. Each one of those programs creates barriers to entry and that is an aspect.

Now, there are many positive aspects: economic gains, efficiency, safety at sea. Not to minimize the positives, but I do not think we, as a Nation, have fully appreciated some of the downstream, long term effects from these Limited Access Programs particularly in terms of young fishermen entering the fishery.

And so, in response to my experience in these rural communities, they have been excluded, in large part, from some of the salmon fishes because of the permit process, from most of the Federal fisheries because of either the LLPs, the permits, or specifically lack of quota share.

And now their dads are dying or died, and they do not have any continuity in terms of teaching.

For example in the community of Ouzinkie, a recent sociological study of a survey of the high school in Ouzinkie, out of 20 students, only one thought that he had a future in fisheries. This is a community that one generation ago, everybody in the community par-

ticipated in the fisheries. In one generation, you have lost fishing in that community.

That is the problem, Mr. Chair.

Senator SULLIVAN. Let me ask you, and I want to get back to Mr. Carroll. Let me ask a related question.

In Bristol Bay, nearly 60 percent of the permits are now issued to non-Alaskans. And that is a trend that you are kind of touching on in terms of permits leaving Alaska's communities. I am the Chairman of this Committee. I am looking nationally but, of course, I am an Alaskan Senator and that trend, that statistic causes concern for me.

What are ways that we can undertake to address that kind of trend?

Mr. FIELDS. I think we straddle two worlds, the State permit world through limited entry, and I think that statistic is more reflective of the state limited entry permit issue. I do not know that we can solve that issue through Magnuson.

Senator SULLIVAN. No, I know. I am not saying that necessarily.

Mr. FIELDS. There are parallel permits in Magnuson called LLPs and I think we need to look for opportunities, for transitional LLPs for people that fish for a certain number of years under a provisional LLP and then transition into the fishery. Some of these shoulder kinds of provisions may enable participation in the fishery within the Federal sphere.

But that trend is continuing. It is alarming for us that believe rural Alaska should have an economy. It probably should be a fishing economy. And I think within the State system, there have been some representatives trying to look at the limited entry program to also provide shoulder opportunities for people to transition into limited entry permits.

There is a great program—back to the CDQs—a great program that the CDQs have to help young people finance Bristol Bay permits; maybe some of the other CDQs as well. That is not available in the Gulf of Alaska because we do not have that economic base of a CDQ program.

Senator SULLIVAN. Did you have a comment, Mr. Carroll?

Mr. CARROLL. Yes, and I will be brief.

Getting back to your original question, I think for a lot of people, fishing is a way of life, but at the end of the day, it is still a business. So I think Congress needs to do the best it can to make sure that it is an attractive business to invest into.

I think the way that you do that is to ensure that the reauthorized Act allows for managers to sustainably manage their fisheries and requires that of them.

Then just last, as far as what the Act can do to break down some of those barriers to entry, I think there is a lot in it already that empowers the Councils to do that. I think if you look back at some of the hearings for the 2006 Act, though, there was a lot of attention paid to whether or not to lift the moratorium on catcher programs.

I think what you see under 303a and the LAP provision was really an attempt to bridge the gap between a lot of the benefits that come with catcher programs and a lot of the negative economic consequences and socioeconomic consequences in communities.

I think Mr. Fields pointed out that in 10 years, no fishing community has received an allocation under that provision. That was a really big provision in allowing Congress to lift the moratorium.

So I think considering what you can do to really rework that to honor the original intent of that provision would be a way forward.

Senator SULLIVAN. Yes, Ms. Bonney.

Ms. BONNEY. Just to follow up on that, I would note that NMFS actually wrote a document that explains how to do a sustainability plan. So if you are going to go down that route, you may want to look at that, and see what is in there, and what might be missing.

Senator SULLIVAN. Great.

Ms. Swanson, I wanted to turn to you. Earlier, there was the discussion on the issue of classified areas of overfished stocks that might not relate directly to overfishing.

Can you discuss the effects of the precautionary management and whether or not you think that—and we talked about overfished stocks—any under-harvesting of stocks is occurring? Or do you think that the system, and the data, and the way in which the Council is working is avoiding that issue?

Ms. SWANSON. Thank you, Mr. Chairman. That is an interesting question.

Regarding the precautionary principle, I think the idea is sound that if you do not have adequate information, then you tread very lightly until you do.

Where it becomes a problem is where you cannot get the information and that is, I think, what you have heard loud and clear that we need the surveys.

Senator SULLIVAN. Yes.

Ms. SWANSON. Because if our survey information ages, then the ACLs are going to drop because we are uncertain.

As far as under-harvesting, it is arguable that we are. I mean, the Bering Sea has a 2 million ton cap, which some people believe is arbitrary. Some believe it is important to the conservation of the system.

Senator SULLIVAN. What do you believe? Not to put you on the spot.

Ms. SWANSON. Not speaking for MCA on this.

Senator SULLIVAN. Well, I have asked this question a lot on the cap.

Ms. SWANSON. That is OK.

Senator SULLIVAN. It is an important question and when it is statutorily defined and has not been reviewed, I think it is a legitimate question to ask.

Ms. SWANSON. And again, not speaking on behalf of MCA, but myself, I think putting absolute numbers out for anything is generally not a good idea because you do not know what the right number is. You should have the flexibility to find out what it is.

I think having an extremely conservative program in the North Pacific has benefited our stocks.

Senator SULLIVAN. Yes.

Ms. SWANSON. But it has done that likely at the cost of under-harvesting. And that, depending on how you view that, that could be a good or a bad thing.

I certainly would not advocate lifting the cap altogether.

Senator SULLIVAN. No.

Ms. SWANSON. At least not in one step. I think you have to be very, very careful because you do not know the consequences to other parts of the ecosystem or other fisheries.

But generally, I think, my overall feeling is that we are in a very fluid environment, not to make a pun. We are in an environment where the fisheries are changing, the make up of the fisheries are changing. Fish are moving. We heard about halibut moving offshore. We have had surveys that have shown anomalous results.

To have a static regulation in that kind of environment is not a good idea. So flexibility, flexibility, flexibility, I think, is important.

Senator SULLIVAN. Ms. Ogilvie, can you explain a little bit more the concept of alternative management and whether that is something that your Association is supportive of?

Ms. OGILVIE. I am not an expert on the nuances of the management Act itself.

We are looking for ways to benefit what we are trying to do as a community, which is increase participation. And outdoor recreation as a whole, there is a national effort to increase participation and for us, specifically, on the recreational fishing side. It is one of our top priorities of ASA.

Other organizations such as the Recreational Boating and Fishing Foundation, State fish and wildlife agencies, and Federal land management agencies, in particular the U.S. Forest Service are partnering with us on that effort.

And we hope that in the Federal marine fisheries management space there is an opportunity to be a partner too. Perhaps it is alternative management policies and actions to really focus on the trend of growing more anglers because we want them to keep pace with how successful we are already being.

So thank you.

Senator SULLIVAN. Well, listen. I am going to ask if there are any other final comments with regard to the witnesses here. Again, if you have a final statement or area of emphasis you want to leave the Committee with, I would welcome any final comments before we close out this third and final panel. Again, I will open it up to the panel for any other final comments you may wish to make.

Mr. Fields.

Mr. FIELDS. Mr. Chairman, I have a real sense of urgency relative to the rural communities in the Gulf of Alaska. You have been in a number of those communities. You have been to Old Harbor.

Old Harbor, 20 years ago, or 35 years ago when I went down there during high school with my wrestling buddies, was a vibrant fishing community. It still has a number of boats in the harbor. All but one of those skippers are over 50 years old.

In my closing comments, this is not abstract to me. Changing the community provisions in Magnuson will affect real people that I know, families and communities that I am engaged with, and it is very important.

Thank you.

Senator SULLIVAN. Great. Thank you. Anyone else?

Yes, Ms. Swanson.

Ms. SWANSON. Thank you, Mr. Chairman.

I think I am repeating probably what Mr. Reed mentioned earlier. Sound, verifiable science is key to fisheries management. You receive data from a lot of different sources from fishermen on the water who see this every day from universities, from Federal research, and all of that data has value.

But before it is incorporated into a management system, I think you need to do a very rigorous review of how the data was collected. Has it been peer reviewed? Is it repeatable?

I would be very concerned about lowering the bar for the standard of science that we use right now to be more inclusive.

Senator SULLIVAN. Thank you. Anyone else?

Ms. Bonney.

Ms. BONNEY. I guess I am going to speak to one of the other issues that was brought up in the other two panels and that is observer coverage. And so, the North Pacific has a very unique program through the partial coverage sector.

What is happening is there was a human coverage pool. Now we are integrating the E.M. side of the pool and our funding sources have diminished. And all of it is becoming self-funded through fishermen, taxing fishermen and processors.

Senator SULLIVAN. Yes.

Ms. BONNEY. We need help with funding for that program.

Senator SULLIVAN. Well, we are going to look at that because my understanding of that right now is it is not equitable in terms of how it is applied in other regions. And if another region pays for it through Federal funds, then my view is we should have similar opportunity to receive that kind of support. So we will be looking at that hard, but thank you for raising it. Anyone else?

Yes, Mr. Carroll.

Mr. CARROLL. I just want to say thank you for holding this hearing in Alaska and we appreciate your support.

Senator SULLIVAN. Absolutely. Great.

Ms. Ogilvie, anything?

Ms. OGILVIE. The same, we are all very appreciative, and conservation is the top of mind. Fishing is top mind, keeping our waters clean, abundant with fish, and having access to them. Thank you.

Senator SULLIVAN. Great. Well, again, in conclusion, I want to thank all the witnesses. I think everybody who has remained, you have been a very patient audience, but I think you have seen we have had three great panels, very informative. Different views which, of course, we knew that was going to happen.

I also want to mention the hearing record will remain open for two weeks. During this time, other Senators on the Committee may be submitting questions for the record to any of the three panel witnesses.

So we ask respectfully that if you do receive questions from another Senator that the witnesses are requested to submit their written answer to the Committee as soon as practicable.

I want to thank the witnesses for appearing again today. I also want to leave an e-mail for anyone else who wants to submit their record of testimony to the Committee on this topic. The e-mail is to a committee staffer *Chance_Costello@commerce.senate.gov*.

Again, I appreciate the panelists. I have certainly learned a lot and look forward to continuing to engage with all the different stakeholders here on this very, very important topic as we move forward.

This hearing is now adjourned.

[Whereupon, at 4:05 p.m., the hearing was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF REBECCA SKINNER, EXECUTIVE DIRECTOR, ALASKA WHITEFISH TRAWLERS ASSOCIATION

Thank you for the invitation to submit written testimony following the field hearing on the successes and challenges of the Magnuson-Stevens Act (MSA). I am submitting comments on behalf of the Alaska Whitefish Trawlers Association.

Alaska Whitefish Trawlers Association (AWTA) is a trade organization that has represented independently owned trawl catcher-vessels operating in the Gulf of Alaska and Bearing Sea for over 40 years. The average length of AWTA member vessels is 80 feet, most members home-port in Kodiak and have Kodiak based captains and crew. AWTA vessels spend an average of 9–11 months each year trawling in the vicinity of Kodiak Island, delivering fish to shore-based processing plants located in the City of Kodiak. Kodiak ranks as the second largest port in the U.S. by volume, largely driven by high-volume trawl groundfish deliveries. Year-round trawl deliveries allow Kodiak's shore based processing plants to operate 11 months per year and support Alaska's largest resident processing workforce.

AWTA believes that MSA has generally worked well for both the trawl industry and the fishing industry overall in Alaska for the last 40 years. AWTA notes the following as elements that should be continued in the MSA, as well as elements that should be augmented or added as part of the MSA reauthorization.

1. *Preserve and enhance the ability to conduct stock assessments and surveys.* Accurate and timely stock assessments form the basis for effective fishery management plans. Any reductions in current assessment levels will lead to less data, more conservative harvest limits to account for the uncertainty, and therefore reduced harvest and economic contributions from those fisheries.
2. *Continued flexibility for Councils to address circumstances that arise within each region.* Built-in flexibility recognizes that inherent differences exist between fisheries and between regions, and allows managers to develop and utilize tools that work for a particular fishery or region. In addition to flexibility in relation to different fisheries or regions, it would be helpful to increase the ability of Councils to quickly adapt management and respond to changes that may occur within a single year or fishing season. In recent years Alaska has experienced unexpected changes in ocean temperatures, ocean acidification and temporal and spatial shifts in encounters for various species of fish (*i.e.*, encountering fish at times or places that are different from what has usually occurred in the past). Without the ability of fisheries managers to quickly adapt to unexpected changes there is increased risk of fishing closures, economic losses and negative impacts to Alaska's fishing communities.
3. *Retain catchshare programs as a potential tool for regional councils.* As part of maintaining flexibility at the regional council level catchshare programs should be retained as a potential management tool. AWTA members have seen first-hand benefits that result from cooperative management programs utilizing catchshares, benefits that include higher utilization, increased value, lower bycatch, and reduced impacts on the environment. For example, consider the Rockfish Program in the Gulf of Alaska that uses the catchshare tool and cooperative management. The Rockfish Program stopped the race for fish, reduced bycatch and increased monitoring within the fishery. Rockfish harvest can now be spread out over time, allowing for better utilization, higher value, and reducing the strain on Kodiak's water and power infrastructure that resulted from the peaks and valleys of fish deliveries inherent under a race for fish management structure.
4. *Ensure council management systems are transparent to the public, promote accountability, include fair representation of participants and continue to utilize data-based decisionmaking.* The public, and participants, should be able to see how decisions are being made, that those decisions have been based on data

and not politics, to the extent possible. Council make-up should fairly represent fishery participants in each region to ensure that all perspectives are heard and considered in the decision making process.

5. Finally, any changes to MSA should encourage a management system that maximizes stability for the managed fisheries. Inconsistent, unexpected and intermittent fishery closures, whether trawl groundfish in the Gulf of Alaska, or red snapper in the Gulf of Mexico, are devastating to small businesses and coastal communities that rely on healthy and sustainable fisheries. While the ultimate goal should continue to be ensuring sustainable harvests in the long-term, fisheries management structures should also provide for year over year stability and consistency to the extent possible.

In closing, thank you for holding a field hearing in Soldotna, Alaska, for providing an opportunity to share our input with you through this written testimony, and for your continued work to ensure that MSA can continue to serve as the foundation for sustainable fisheries management in Alaska and throughout the country.

PREPARED STATEMENT OF ERNEST WEISS, NATURAL RESOURCE DIRECTOR,
ALEUTIANS EAST BOROUGH

Chairman Thune and Senator Sullivan, thank you for holding this field hearing with three great panels of experts. The people of the Aleutians East Borough, Alaska are highly dependent on the fisheries in the Bering Sea and Gulf of Alaska, and we are thankful for this hearing held in our State of Alaska. Please accept these brief comments on the topic of this oversight hearing.

I would like to first express my support for the current leadership in the fisheries of the North Pacific, starting with the Alaska Delegation. Senators Sullivan & Murkowski, and Congressman Young continuously show their breadth of knowledge and understanding for Alaska's coastal communities and the deep connection our people have to the fisheries of the North Pacific. The Aleutians East Borough supports both the North Pacific Fishery Management Council and the Alaska Board of Fisheries. These management bodies both utilize robust public involvement processes that ensure the best opportunity for sustainable fisheries. Finally, I would like to applaud Chris Oliver, newly appointed Assistant Administrator for NMFS, and Alaska Department of Fish & Game Commissioner Sam Cotten. Both of these leaders in fisheries management have provided insightful vision to the future of Alaska's coastal fishing communities.

Moving forward in the development of an MSA reauthorization, as many of the panelists indicated, few changes are needed in MSA. Please continue the use of the robust public process of the Regional Fishery Management Councils. I believe any future major changes in the fisheries, such as the implementation of new catch share programs, should go through the Council process, which is working. Rationalization of any new fisheries, that may benefit a well-connected few, should not be legislatively set into regulation. I also support the promulgation of fishery regulations through the Council process as over-riding other less robust processes, such as the Marine Sanctuary nomination and designation process.

Also mentioned several times in the hearing, the critical importance of continued funding for fishery surveys and assessments. The North Pacific is a leader in fisheries management because of the continued attention to the use of best science and data. I support continued funding of surveys and possibly new funding for the North Pacific Observer program.

The Aleutians East Borough is also on record supporting a reevaluation of many of the Steller sea lion regulations that prohibit fishing and/or vessel transit near rookeries or haulouts, critical habitat established decades ago, including many that have since moved to other locations.¹

Thank you for the opportunity to comment.

STATEMENT OF RYAN P. MULVEY, COUNSEL, CAUSE OF ACTION INSTITUTE

Chairman Thune, Ranking Member Nelson, and Members of the Committee: Thank you for the opportunity to submit a statement for the record as part of this important hearing on reauthorization of the Magnuson-Stevens Act, 16 U.S.C. § 1801 *et seq.*

¹<https://www.regulations.gov/contentStreamer?documentId=NOAA-NMFS-2017-0067-0016&attachmentNumber=1&contentType=pdf>

My name is Ryan Mulvey and I am an attorney with Cause of Action Institute (“CoA Institute”), a nonpartisan 501(c)(3) nonprofit strategic oversight group committed to ensuring that government decision-making is open, honest, and fair.¹ In carrying out its mission, CoA Institute uses various investigative and legal tools to educate the public about the importance of government transparency and accountability, as well as agency adherence to the rule of law. CoA Institute also advocates on behalf of clients facing Federal overreach and overregulation, including members of the New England fishing industry.

CoA Institute currently represents David Goethel, a New Hampshire-based fisherman, and the members of Northeast Fishery Sector XIII in a lawsuit challenging the legality of the Northeast multispecies sector at-sea monitoring program.² Specifically, we contest the statutory authorization for the so-called “industry funding requirement,” which shifts costs for at-sea monitoring onto regulated fishermen. At more than \$700 per day at sea, these costs are more than double what most small-scale fishermen take home from an average day of fishing.³ It is not surprising that New England fishermen have been de-scribed as the most “under recognized” endangered “species.”⁴

The National Marine Fisheries Service (“NMFS”) promulgated the industry funding requirement for groundfish sectors in 2010, but delayed implementation for over five years. In the interim, NMFS paid for third-party monitors with congressionally-appropriated funds. Since March 1, 2016, fishermen have been required to bear part of the cost of at-sea monitors. When industry funding is fully implemented, the New England groundfish industry will be devastated.

Unfortunately, our clients’ opportunity for review of the industry-funding requirement is quickly passing. The District Court for New Hampshire and the First Circuit Court of Appeals both dismissed their case as untimely under the Magnuson-Stevens Act’s extremely short statute of limitations, 16 U.S.C. § 1855(f). Last month, we filed a petition for writ of certiorari to the Supreme Court of the United States, arguing that the lower courts’ rulings conflicted with well-established precedents on the availability of pre-enforcement review and misconstrued the definition of an “implementing action” under Section 1855(f)(2) of the Magnuson-Stevens Act.⁵ Our efforts, and the precarious economic future of groundfish sector participants, have been widely documented by the press.⁶

Yet, no matter the outcome of the petition, our clients’ case highlights the urgent need for *congressional action*. As the First Circuit itself commented:

[G]iven [the government’s] own study which indicated that the groundfish sector could face serious difficulties as a result of the industry funding requirement, . . . this may be a situation where *further clarification from Congress* would be helpful for the regulated fisheries and the agency itself as it balances the competing goals of conservation and the economic vitality of the fishery.⁷

With that suggestion in mind, I respectfully direct the Committee’s attention to NMFS’s plans to expand industry-funded monitoring without any semblance of statutory authority through the New England Fishery Management Council’s Industry-Funded Monitoring Omnibus Amendment (“Omnibus Amendment”).⁸ Like the groundfish at-sea monitoring program, the Omnibus Amendment raises a number of serious legal questions concerning the Executive Branch’s authority to compel regulated parties, *i.e.*, fishermen, to pay for at-sea monitoring. In short, there is *no* such authority under Magnuson-Stevens for most industry funding schemes, and Congress should reiterate its intentions in light of NMFS’s egregious deviation from the statute.

¹ CAUSE OF ACTION INST., *About*, <http://www.causeofaction.org/about>.

² *See Goethel v. Dep’t of Commerce*, 854 F.3d 106 (1st Cir. Apr. 14, 2017), *petition for cert. filed* No. 17–75 (July 12, 2017); *Goethel v. Pritzker*, No. 15–497, 2016 WL 4076831 (D.N.H. July 29, 2016).

³ *See infra* notes 33–36 and accompanying text.

⁴ Christian A. Putnam, *With plenty of fish in the sea, will there be anyone to catch them?*, SCITUATE MARINER (Aug. 4, 2017), <http://bit.ly/2vHHNjg>.

⁵ Cause of Action Inst., Press Release: CoAI Seeks Supreme Court Review of Job-Killing Fishing Regulation (July 13, 2017), available at <http://coainst.org/2sTZreu>.

⁶ *See, e.g.*, Patrick Whittle, *Fishermen taking fight over monitors to Supreme Court*, BOSTON GLOBE (ASSOC. PRESS NEWSWIRE) (July 25, 2017), <http://bit.ly/2hJ0Hjn>; *see generally East Coast fishermen spar with Federal government over cost of at-sea monitors*, FOX NEWS (July 14, 2016), <http://fxn.ws/2viP4EJ>.

⁷ *Goethel*, 854 F.3d at 116 (emphasis added).

⁸ New Eng. Fishery Mgmt. Council & Mid-Atl. Fishery Mgmt. Council, Industry-Funded Monitoring Omnibus Amend. (Sept. 2016) [hereinafter Omnibus Amend.], available at <http://bit.ly/2mQxrtm>.

NMFS apparently plans to expand industry funding into other fisheries, despite the lack of statutory authorization. As Senator Sullivan recognized during the opening hearing in this series, the costs of onboard monitoring and NMFS's perceived lack of urgency in pursuing less costly alternatives, including electronic monitoring and other emerging technologies, only reinforce the need for Congress to clarify the limits of NMFS's power.⁹ The Committee's current reauthorization efforts present a timely opportunity to address the matter.

I. Magnuson-Stevens Does Not Generally Authorize Industry Funding

The stated purpose of the Omnibus Amendment is straightforward: the New England Council is "interested in increasing monitoring and/or other types of data collection to assess the amount and type of catch, to more precisely monitor annual catch limits, and/or provide other information for management,"¹⁰ but its ability to fund that increased monitoring is limited.¹¹ The proposed solution is to design a standardized mechanism that would permit the government to order fishermen to cover a substantial portion of monitoring costs.¹² Unfortunately, the Council and NMFS cannot point to *any provision* in Magnuson-Stevens that grants them the authority to implement such a plan.

a. NMFS Must Have Explicit Statutory Authority to Compel Industry to Fund Discretionary At-Sea Monitoring Programs

Federal agencies do not enjoy unbridled power in choosing which programs to pursue. They cannot impose new fees or taxes, nor can they demand that citizens pay for programs that the government ought to be financing in the first place. In this sense, the basic presumption in the Omnibus Amendment, namely, that an Executive Branch agency can order industry to fund a monitoring program, is gravely mistaken and runs afoul of a fundamental principle of administrative law: "[A]n agency literally has no power to act . . . unless and until Congress confers power upon it."¹³

The New England Council appears to acknowledge as much, but does not give this principle due credit: "A Federal agency cannot spend money on a program beyond the maximum authorized program level without authorization from Congress. [It] also cannot get around the maximum authorized program level by adding to its appropriations from sources outside the government without permission from Congress."¹⁴

Magnuson-Stevens does not authorize NMFS and the regional councils to redesign fishery management plans to introduce the sort of industry-funded monitoring envisioned by the Omnibus Amendment. At most, the statute authorizes the *placement* of observers and monitors.¹⁵ But NMFS is not at liberty to implement any particular *funding* mechanism. The plain meaning of Magnuson-Stevens is clear and

⁹U.S. H.R. Comm. on Commerce, Sci., & Transp., Subcomm. on Oceans, Atmosphere, Fisheries, & Coast Guard, *Hearing on Reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act: NOAA and Council Perspectives* (Aug. 1, 2017), archived video available at <http://bit.ly/2uFyTOC>.

¹⁰See Omnibus Amend. at 41.

¹¹See *id.* at 43–44 ("NMFS has limited funding for monitoring, so both Councils have considered requiring industry to contribute to the cost of monitoring."); Greater Atl. Reg'l Fisheries Office, Nat'l Marine Fisheries Serv., Press Release: Industry-Funded Monitoring Omnibus Amendment, Public Hearings and Comment Period (Sept. 20, 2016) ("The amount of available Federal funding to support additional monitoring is limited[.]",) available at <http://bit.ly/2nHNp11>.

¹²See Omnibus Amend. at 62 ("Under Omnibus Alternative 2, there would be an established, standardized structure for new industry-funded monitoring programs . . . [that addresses] (1) standard cost responsibilities associated with industry-funded monitoring for NMFS and the fishing industry, (2) a process for FMP-specific industry-funded monitoring to be implemented via [amendment and revised via] a . . . framework adjustment action, (3) standard administrative requirements [for industry-funded monitoring service providers] . . . (4) [a] process to prioritize new industry-funded monitoring programs in order to allocate available Federal resources for industry-funded monitoring across FMPs, including the type of weighing approach and the timing of revising the weighing approach, and [(5)] a process for FMP-specific monitoring set-aside programs to be implemented via a future framework adjustment action. Additionally, [it] would include a range of options for the process to prioritize industry-funded monitoring across all FMPs.") (alternations indicate changes in the April 2017 Omnibus Amendment draft, available at <http://bit.ly/2omwA0Q>).

¹³*La. Pub. Serv. Comm'n v. Fed. Commc'ns Comm'n*, 476 U.S. 355, 374 (1986); see *Util. Air Regulatory Grp. v. Env'tl. Prot. Agency*, 134 S. Ct. 2427, 2466 (2014) ("An agency confronting resource constraints may change its own conduct, but it cannot change the law.")

¹⁴See Omnibus Amend. at 45.

¹⁵16 U.S.C. § 1853(b)(8); 50 C.F.R. § 648.2.

unambiguous.¹⁶ The statute only authorizes industry-funded monitoring in a few specific regions and circumstances: (1) foreign fishing,¹⁷ (2) limited access privilege programs,¹⁸ and (3) the North Pacific fisheries research plan.¹⁹ Congress's decision to permit NMFS and the councils to require industry funded monitoring and observing in those, and only those, three situations shows its intent to disallow industry funding in other instances.²⁰ To read Magnuson-Stevens otherwise violates Congress's clear intent and the statute's legislative history.²¹

b. The Omnibus Amendment's Industry-Funded Monitoring Scheme Violates Standards and Other Important Legal Principles

Notwithstanding the lack of explicit legal authority, the introduction of industry-funded monitoring across the Greater Atlantic fisheries would also impose a tremendous economic burden on the fishing industry and could lead to the wholesale elimination of small-scale fishing. This result would violate National Standards 7 and 8.²²

Congress never intended to grant NMFS the authority to regulate a substantial portion of the Atlantic fleet out of existence.²³ As the Supreme Court has held, "Congress . . . does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions,"²⁴ nor does it "delegate a decision of such economic and political significance in so cryptic a fashion."²⁵ Industry-funded monitoring as a normal course of fishery regulation is not only novel, but represents a shift of economic and political significance.

In the absence of statutory authorization for the sort of industry-funded monitoring programs contemplated by the Omnibus Amendment—and already in place in the groundfish fishery—the Executive Branch can only be described as preparing to impose a "tax" to extract money from regulated parties in order to fund desired regulatory programs. This cannot stand as "only Congress has the power to levy taxes."²⁶

The Omnibus Amendment, as applied in future fishery management plan amendments, would also likely violate numerous statutes governing agency finance, such

¹⁶See generally *Palmieri v. Nynex Long Distance Co.*, 437 F.3d 111, 115 (1st Cir. 2006); *Bonilla v. Muebles J.J. Alvarez, Inc.*, 194 F.3d 275, 277 n.2 (1st Cir. 1999).

¹⁷16 U.S.C. § 1821(h)(4).

¹⁸*Id.* § 1853a(e). The Greater Atlantic Region contains two fisheries that permit cost recovery through a fee system: the Atlantic sea scallop and golden tilefish individual fishing quota limited access privilege programs. See Omnibus Amend. at 51.

¹⁹16 U.S.C. § 1862(a).

²⁰Any other reading of Magnuson-Stevens would render provisions discussing industry funding surplus-age, *Natl Credit Union Admin v. First Nat'l Bank & Tr. Co.*, 522 U.S. 479, 501 (1998), and offend important canons of construction. *Duncan v. Walker*, 533 U.S. 167, 173 (2001); see *EchoStar Satellite L.L.C. v. Fed. Comm'n's Comm'n*, 704 F.3d 992, 999 (D.C. Cir. 2013); *Ry. Labor Execs.' Ass'n v. Nat'l Mediation Bd.*, 29 F.3d 655 (D.C. Cir. 1994); cf. *Anglers Conservation Network v. Pritzker*, 139 F. Supp. 3d 102, 116 n.9 (D.D.C. 2015) ("[C]lost sharing' programs with industry participants in other fisheries in order to provide higher observer coverage levels . . . were expressly authorized by statute for particular fisheries only.") (emphasis added) (citing 16 U.S.C. § 1862).

²¹There is no evidence of congressional recognition for some pre-existing, implied authority to impose monitoring costs on industry. Congress has repeatedly declined the opportunity to permit industry funding nationwide. Each time that Magnuson-Stevens has been reauthorized, Congress considered (and rejected) bills that would have created blanket authority for mandatory industry funding. H.R. 1554, 101st Cong. § 2(a)(3) (1989); H.R. 39, 104th Cong. § 9(b)(4) (1995); H.R. 5018, 109th Cong. § 9(b) (2006).

²²See 16 U.S.C. § 1851(a)(7)–(8). It should not lightly be concluded that Congress intend to grant authority for the regional councils and NMFS to take actions that would put fishermen out of business. See *Arctic Sole Seafoods v. Gutierrez*, 622 F. Supp. 2d 1050, 1061 (W.D. Wash. 2008) (rejecting agency interpretation as it "leads to absurd results—the inevitable elimination of the fishery"); *W. Sea Fishing Co. v. Locke*, 722 F. Supp. 2d 126, 140 (D. Mass. 2010) ("[Magnuson-Stevens] creates a duty to allow for harvesting at optimum yield in the present, while at the same time protecting fishery output for the future[.]"

²³Any council could certainly repeal or revoke any of its fishery management plans, but it must do so explicitly and by three-quarters majority approval of its voting members. 16 U.S.C. § 1854(h).

²⁴*Whitman v. Am. Trucking Ass'n, Inc.*, 531 U.S. 457, 468 (2001).

²⁵*Food & Drug Admin. v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 160 (2000); see *Gonzales v. Oregon*, 546 U.S. 243, 267 (2006) (rejecting the argument that Congress would delegate "broad and unusual authority through an implicit delegation").

²⁶*Thomas v. Network Solutions*, 2 F. Supp. 2d 22, 29 (D.D.C. 1998); see U.S. Const., art. I, § 8, cl. 1; *Natl Cable Television Ass'n, Inc. v. United States*, 415 U.S. 336, 340 (1974) ("Taxation is a legislative function, and Congress . . . is the sole organ for levying taxes[.]").

as the Anti-Deficiency Act²⁷ and the Miscellaneous Receipts Statute.²⁸ Finally, industry funding requirements impermissibly compel fishermen into commercial transactions in violation of the Commerce Clause²⁹ and arguably violate other parts of the Constitution, including the Fourth Amendment.

II. The Economic Impact of the Omnibus Amendment and Stakeholder Feedback Expose Other Deficiencies with Industry-Funded Monitoring

In line with the National Standards, the Omnibus Amendment and future industry-funded monitoring programs must “minimize costs,”³⁰ “provide for the sustained participation of [fishing] communities,”³¹ and “minimize adverse economic impacts.”³² The Omnibus Amendment fails to meet these standards because it will have a severe and adverse impact on the fishing industry.

The expected economic impact of industry-funded monitoring on fishery-related businesses and communities is uniformly negative.³³ Monitoring costs in the herring fishery, for example, will likely exceed \$710 per sea day for an at-sea monitor and \$818 per sea day for a NEFOP-based observer.³⁴ Such costs are over double the daily profit of a small-boat captain.³⁵ This is certainly the case in the Northeast multispecies fishery. Under the groundfish sector at-sea monitoring program, which our clients are challenging, up to 60 percent of the fleet is expected to “see negative returns to owner when full” monitoring costs “are factored in.”³⁶ It is irresponsible for NMFS to ignore the devastating economic effects of industry funding. Yet, with the Omnibus Amendment and the herring and mackerel fisheries, NMFS is doing just that by deeming cost estimates too “speculative” to consider.³⁷

It is worth noting the overwhelmingly negative feedback that NMFS and the New England Council have received in pursuing the Omnibus Amendment. Of the eighty-three (83) submissions posted to the electronic docket during the last round of public comment, only six (6) voiced various levels of support for industry-funded monitoring; the vast majority, 93 percent, opposed it.³⁸ The reasons for this opposition are straightforward enough. Small-scale fishermen cannot remain profitable if they must assume monitoring costs.³⁹

The Long Island Commercial Fishing Association, for example, expects that the Omnibus Amendment’s approximate \$800 per-sea-day cost would force more than half of the entire New York-based fleet out of business.⁴⁰ Other stakeholders are

²⁷ See 31 U.S.C. § 1341(a)(1)(A)–(B); see also *Env’tl. Def. Ctr. v. Babbitt*, 73 F.3d 867, 872 (9th Cir. 1995).

²⁸ See 31 U.S.C. § 3302(b); see also *Scheduled Airlines Traffic Offices, Inc. v. Dep’t of Def.*, 87 F.3d 1356, 1361 (D.C. Cir. 1996). The Government Accountability Office has rejected the proposition that an agency can avoid the Miscellaneous Receipts Statute “by authorizing a contractor to charge fees to outside parties and keep the payments in order to offset costs that would otherwise be borne by agency appropriations.” Gov’t Accountability Office, 2 Principles of Fed. Appropriations L. at 6–177 (3d ed. 2006).

²⁹ See, e.g., *Nat’l Fed’n of Indep. Bus. v. Sebelius*, 132 S. Ct. 2566, 2587 (2012) (The government cannot “compel[] individuals to become active in commerce by purchasing a product.”).

³⁰ 16 U.S.C. § 1851(a)(7).

³¹ *Id.* § 1851(a)(8).

³² *Id.*

³³ See, e.g., Omnibus Amend. at xiii–xxiv; *id.* at 244 (“Overall, there will be *negative direct economic impacts to fishing vessels* as a result of selecting Omnibus Alternative 2[.]”) (emphasis added).

³⁴ *Id.* at 291 (Table 89). For fishermen active in both the herring and the mackerel fisheries, these costs could rise even further. See *id.* at 301 (“Many of the vessels that would be impacted by industry-funded monitoring costs in the herring fishery would also be impacted by industry-funded monitoring costs in the mackerel fishery.”). Total estimated costs for vessels active in the mackerel fishery will depend, of course, on the Mid-Atlantic Fishery Management Council’s preferred mackerel coverage target alternatives, which have not yet been chosen.

³⁵ See, e.g., Transcript of Preliminary Injunction Hearing at 63:13–64:16, *Goethel v. Pritzker*, No. 15–497, 2016 WL 4076831 (D.N.H. July 29, 2016); see also *id.* at 64:17–65:21.

³⁶ New Eng. Fishery Mgmt. Council, Draft Report: Preliminary Evaluation of the Impact of Groundfish-Sector Funded At Sea Monitoring on Groundfish Fishery Profits at 10 (June 19, 2015), available at <http://bit.ly/28QUXwT>. These costs are predicted to be heaviest for small vessels. *Id.* at 13 (Table 12). NMFS recognized these prospects, describing them as a “restructuring of the fleet.” *Id.* at 10.

³⁷ Omnibus Amend. at 237 (“[P]otential downstream effects (e.g., subsequent management measures to address bycatch issues) of this action are considered too remote and speculative to be appropriate for consideration[.]”).

³⁸ Dept of Commerce, Nat’l Oceanic & Atmospheric Admin., 81 Fed. Reg. 64,426 (Sept. 20, 2016), Docket No. NOAA–NMFS–2016–0139–0001, available at <http://bit.ly/2p5NO1s>.

³⁹ See Comment of Meghan Lapp, Seafreeze Ltd., on Omnibus Amend. (Nov. 7, 2016), Docket No. NOAA–NMFS–2016–0139–0009, available at <http://bit.ly/2nUf8Ph>.

⁴⁰ See Comment of Long Island Commercial Fishing Ass’n on Omnibus Amend. (Nov. 8, 2016), Docket No. NOAA–NMFS–2016–0139–0084, available at <http://bit.ly/2odOrsX> (“The onus for NMFS required observer coverage should be on NMFS, not industry. It is cost prohibitive.”).

skeptical that increased monitoring has any connection to conservation or maintaining the sustainability of the fisheries, and they question the quality of the data collected. Most importantly, however, the public recognizes that the Magnuson-Stevens Act does not, in fact, authorize industry funding simply because the New England Council or NMFS wishes it to do so,⁴¹ and the public acknowledges the potential constitutional problems.⁴²

Apart from the lack of statutory authority for industry-funded monitoring, NMFS and the New England Council have failed to provide an adequate explanation for why increased monitoring is even necessary, let alone justify that monitoring in light of the extreme financial burden it will put on fishermen. Industry-funded monitoring, as pro-posed, will destroy multi-generational, small-business fishermen up and down the East Coast while benefitting industrial fishing firms. That result is unacceptable and highlights why this Committee should urgently act on the matter.

Conclusion

Thank you for your consideration of these comments. I am prepared to offer further details about our ongoing litigation or, more generally, the legality of industry-funded at-sea monitoring. If you have any questions, or if there is anything further that CoA Institute can provide, please feel free to contact me by telephone at (202) 499-4232 or by e-mail at ryan.mulvey@causeofaction.org.

STATEMENT OF A.G. "SPUD" WOODWARD, DIRECTOR, COASTAL RESOURCES DIVISION,
GEORGIA DEPARTMENT OF NATURAL RESOURCES

Response to question: "What is alternative management?"

For the purposes of discussion about the Magnuson-Stevens Act (MSA), alternative management approaches are those currently used by state fisheries managers on inland and coastal fisheries, interstate commissions and Federal wildlife managers. They are only alternatives when compared to techniques such as annual catch limits currently used to manage marine fisheries in Federal waters. Otherwise, they are traditional and successful approaches to fish and wildlife management. Anglers, the marine industry, and many state agency staff do not believe the methods currently used by Federal marine fishery managers administering the MSA properly balance fish stock health with human use. Unquestionably, the best managed recreational and, often, commercial fisheries in this country are under state control. Employing approaches proven to work at the state level can dramatically improve the current Federal approach to managing marine recreational fishing.

Alternative management approaches are potentially a better fit for marine recreational fishing. They offer options—tools in the toolbox—to allow Federal management to be tailored to specific fisheries in a way that is considerate of the unique nature of recreational fishing. For example, in some fisheries there is a large amount of voluntary catch-and-release by recreational fishers with high rates of survival in the fish that are released. In other fisheries, anglers desire to keep the fish they catch for personal consumption so there is little voluntary catch-and-release. In others, survival of released fish is poor making voluntary catch-and-release of questionable conservation value. The management approaches to these fisheries should be different. It is important to state that these approaches emphasize conservation and sustainability while allowing resource policy makers to provide more consistent and predictable access to fish stocks.

Recreational fishing and commercial fishing are different endeavors yet Federal marine fishery management principles are rooted in managing commercial fishing where there is a known and identifiable universe of fishers and high quality and

⁴¹See, e.g., Comment of David Goethel on Omnibus Amend. (Nov. 7, 2016), Docket No. NOAA-NMFS-2016-0139-0010, available at <http://bit.ly/2o04Mye> ("Monitoring is a function of government and should be funded at levels Congress deems appropriate through NOAA line items in the budget. . . . [The Magnuson-Stevens Act] allows for the placement of observers on fishing boats but is silent on cost recovery except in specific fisheries in the North Pacific Region."); see also Comment of Gregg Morris on Omnibus Amend. (Nov. 8, 2016), Docket No. NOAA-NMFS-2016-0139-0080, available at <http://bit.ly/2o09hJp> (same).

⁴²E.g., Comment of N.C. Fisheries Ass'n on Omnibus Amend. (Nov. 7, 2016), Docket No. NOAA-NMFS-2016-0139-0082, available at <http://bit.ly/2oXBtAa> (raising due process concerns) ("There was no reasonable opportunity for [public hearings] down in the affected states of Maryland, Virginia, and North Carolina. Their involvement in the public hearings process was substantially truncate. [Those] whose stand to be severely impacted . . . have not been given a single public hearing reasonably close enough for them to be expected to attend."); cf. Brooke Constance White, *Stonington fishermen, first select-man: Camera proposal violates Fourth Amendment rights*, THE WESTERLY SUN (Apr. 7, 2017), <http://bit.ly/2o00maB>.

timely data on removals. By trying to fit recreational fishing into a commercial fisheries management model, Federal managers are forced to make decisions based on data sources plagued with uncertainty. For some fisheries, catch and effort data is nothing but a semi-educated guess. This uncertainty of recreational catch and effort data intended to show long-term and regional trends leads to extremely precautionary management decisions. To the recreational sector, it appears that Federal marine fishery management is more focused on restricting the access of the fishermen to fish rather than properly balancing the impacts of that access on fish populations.

One of the most common examples of alternative management employed by state agencies, both in coastal and some inland fisheries, is harvest rate management. Using this approach, catch limits, season lengths and other regulations are set to control the quantity, size, and age of the fish harvested from a particular stock. Emphasis is placed on maximizing access and opportunity but doing so in a way that does not jeopardize the targeted fish stock or create incidental impacts on other species. The efficacy of harvest rate management is periodically evaluated using ongoing monitoring of fish abundance and stock status determinations using methods appropriate for the available data. Harvest rate management requirements are only changed when there is convincing evidence that such requirements are not preventing overfishing. For example, one of the Southeast's most popular inshore sportfish, spotted sea trout, has been successfully managed in Florida with bag and creel limits to maintain a Spawning Potential Ratio (SPR) of at least 35 percent since the 1990s. A similar situation exists for another iconic marine species, the red drum, which is successfully managed across its range with slot-size and creel limits and a SPR biological reference point.

The challenge of fisheries management is to balance the needs of the fish with the wants of fishers. For recreational fishing where angler expectations are highly variable this is particularly difficult. In many fisheries, the Magnuson-Stevens Act does not achieve this balance and recreational anglers are deprived of opportunity without a commensurate conservation need or benefit. Lost opportunities translate to fewer state fishing license purchases and less spending for boats, engines, tackle, and gear resulting in fewer contributions to support Federal Aid in Sport Fish Restoration. Ultimately, this means fewer conservation dollars for the state agencies tasked with ensuring we have healthy and abundant fish populations.

Alternative management approaches with appropriate accountability measures offer an opportunity to address this imbalance. The country is replete with effective tools in its natural resource management toolbox. However, Federal marine fishery managers do not consider many of them to be appropriate or effective for managing fisheries pursuant to the MSA. Yet, state resource managers have and continue to use them as a way to maximize recreational opportunities while achieving long-term conservation goals. Collectively, this creates a stronger, more vibrant recreational fishing industry while giving anglers greater opportunities to access and enjoy our Nation's marine resources.

March 15, 2017

Members of the 115th Congress
Washington, DC

Congressman:

The MSA Working Group is a coalition of organizations representing the saltwater recreational fishing and boating community. We are pleased to present to you draft amendments to the Magnuson-Stevens Act. We believe these amendments bring parity to recreational and commercial fishing which are different endeavors and should be managed differently.

In trying to squeeze recreational fishing into a management model not designed for recreational fishing, Federal managers are being forced to do a lot of guessing. Therefore, we propose alternative management techniques that are rooted in management currently being used by state fisheries managers on inland and coastal fisheries, by management commissions and by Federal game managers. In many fisheries, the Magnuson-Stevens Act does not achieve a balance between conservation goals, angler satisfaction and the needs of the recreational fishing industry. Therefore, recreational anglers are deprived access and opportunity, and while our industry is a strong economic driver, it does not perform to its potential.

Saltwater recreational fishing contributes \$70 billion annually to the Nation's economy and supports 455,000 jobs in every corner of the country from boat dealerships, marinas and tackle shops to restaurants, motels and manufacturers. Atop their economic impact, America's anglers and boaters are the foremost supporters

of conservation and resource management. In 2010 alone, anglers and boaters contributed \$650 million in excise taxes for sportfish conservation and management, boating safety and infrastructure, and habitat restoration. An additional \$657 million was contributed by anglers through fishing license fees.

We urge your support for this package of amendments. Please do not hesitate to reach out to the coalition as we work to modernize saltwater recreational fisheries management.

Sincerely,

Mike Nussman, President
American Sportfishing Association

Jeff Angers, President
Center for Sportfishing Policy

Patrick Murray, President
Coastal Conservation Association

Jeff Crane, President
Congressional Sportsmen's Foundation

Dr. Guy Harvey, President
Guy Harvey Ocean Foundation

Rob Kramer, President
International Game Fish Association

Thom Dammrich, President
National Marine Manufacturers Association

Jim Donofrio, President
Recreational Fishing Alliance

Ellen Peel, President
The Billfish Foundation

Whit Fosburgh, President
Theodore Roosevelt Conservation Partnership

Modernizing Recreational Fisheries Management and Boating Safety Act of 2017—Section by Section

TITLE I—CONSERVATION AND MANAGEMENT

Sec. 101. Allocation

This section would establish clear, objective criteria upon which allocation decisions could be based, and require periodic review of allocations in mixed-used fisheries—limited to the South Atlantic and Gulf of Mexico Fishery Management Councils. For many mixed-use fisheries (*i.e.*, those fished by both the commercial and recreational sectors), *allocations* of harvestable quota for each sector are based on decisions in fisheries management plans *written decades ago*. Because no formalized process exists to prompt the regional fishery management councils toward examining these allocations, and because allocation discussions have been historically contentious, fisheries managers lack the necessary incentives to reexamine allocations regardless of how outdated and/or inequitable they may be today.

Sec. 102. Alternative Management

This section would clarify that NOAA Fisheries can implement alternative management approaches more suitable to the nature of recreational fishing while adhering to the conservation principles of the Magnuson-Stevens Act (MSA). Recreational and commercial fishing are fundamentally different activities that require different management approaches. State fishery managers use different management approaches for recreational and commercial sectors. NOAA Fisheries does not, however. NOAA Fisheries manages recreational fisheries the same way as commercial fisheries—by setting a poundage-based quota at or near maximum sustainable yield and attempting to enforce it in real time. While this may be an ideal management strategy for commercial fishing, where harvesting the maximum biomass is desired, it is *not an effective management tool* for many saltwater recreational fisheries.

Sec. 103. Limited Access Privilege Programs in Mixed-Use Fisheries

This section would prevent new “limited access privilege programs” in the mixed-use fisheries in the Gulf and South Atlantic Regional Councils. Limited access privilege programs (LAPPs) are intended to reduce capacity and participation in a fishery. While this model has applicability in purely commercial fisheries, it has created significant user conflicts in fisheries pursued by both recreational and commercial fishermen. LAPPs remove flexibility to manage resources according to changing economic and demographic factors, and present an often-insurmountable obstacle to managing marine resources to their highest and best use for the public which ultimately owns those resources.

Sec. 104. Rebuilding Fishery Stock Timelines

This section would allow for modest flexibility in setting rebuilding time frames by changing *possible* to *practicable* and offering a science-based alternative to arbitrary 10-year rebuilding timeframe. Proposed modifications would also afford statutory consistency with recent revisions to National Standard 1 Guidelines. When NOAA Fisheries sets the length of time to rebuild a depleted fishery, it also sets

the pace at which a specific stock size must meet its rebuilding target. Yet, the speed at which a stock can rebuild is often unpredictable and influenced by factors outside of fishing. Even minor *flexibility with rebuilding timeframes provides anglers with greater opportunities to access rebuilding fish stocks while still meeting conservation goals*. Flexibility with rebuilding also helps minimize the negative impacts when rebuilding time frames or rebuilding targets are set using poor science.

Sec. 105. Annual Catch Limit

These revisions would provide flexibility with the application of annual catch limits (ACL) to take into account ecological considerations, and social and economic impacts. In addition, flexibility with ACLs would be afforded when stock assessments are outdated or absent. The application of annual catch limits that are set in pounds of fish has a negative and unfair impact on the recreational sector and makes it extremely difficult to set reasonable regulations. MSA currently requires an ACL for every species *regardless of whether there is good science or an adequate monitoring system* in place to support the catch limit.

Sec. 106. Exempted Fishing Permits

These revisions will establish specific criteria to evaluate permit applications and formalize an expanded review process that requires greater regional stakeholder input on the merits of each permit application. The exempted fishing permit process was originally intended to allow researchers and fishermen to test gear modifications and fishing practices outside of regulations in place to manage certain stocks of fish. EFPs can enact programs that run multiple years and have significant impacts to the management regime of an entire fishery, and yet the permits need only approval by a single entity—NOAA Fisheries—to be enacted. In recent years, the EFP process has been misused as a mechanism to simply circumvent Council process and/or public opposition to controversial measures that benefit a certain sector or even select individuals within a certain sector.

TITLE II—RECREATION FISHERY INFORMATION, RESEARCH, AND DEVELOPMENT

Sec. 201. Cooperative Management

This section would require the Secretary of Commerce, in consultation with the science and statistical committees of the regional councils, to submit a report to the relevant congressional committees on facilitating greater incorporation of data, analysis, stock assessments, and surveys from state agencies and nongovernmental sources such as fishermen, fishing communities and research institutions. Cooperative management will help *improve the accuracy* of fish stock information and data collection and analysis by incorporating data collected by anglers themselves into fisheries management decisions.

Sec. 202. Recreational Data Collection

This section would transition existing Federal funds toward state programs to improve fisheries harvest data. The Federal program that estimates *angler harvest*—the Marine Recreational Information Program (MRIP)—is capable of providing baseline trends in fishing effort. But, for many offshore fisheries *MRIP does not provide data at the level of accuracy or timeliness needed* for in-season management. By contrast, many states, especially in the Gulf of Mexico, have developed complimentary angler harvest data collection systems to provide real-time and better harvest data.

TITLE III—BOATING SAFETY AND DOCUMENTATION FOR RECREATIONAL VESSELS

Sec. 301. Installation and Use of Engine Cut-off Switches on Recreational Vessels

This section would require recreational vessel operators to use an engine cut-off device for boats under 26 feet in length, while the vessel is underway. Manufacturers, dealers, boaters, law enforcement and the U.S. Coast Guard (USCG) have supported such action but regulatory delays since 2011 have prevented action. The length and type of vessels subject to engine cut-off wear would address the majority of incidents where an operator is ejected from a boat while underway. Loss of control can result in a dangerous situation for the operator, passengers, and nearby boaters and law enforcement. There would be no additional cost for wear, as the provision is designed for vessels *already* installed with such a device and manufacturer compliance has already occurred for the past decade.

Sec. 302. Visual Distress Signals and Alternative Use

This section would move forward current USCG efforts to examine alternative distress devices, such as LED lights, and prioritize a regulatory fix to allow other distress devices to qualify for carriage. Current regulations require carriage of a flare device for visual distress on a recreational vessel. Traditional flares pose an environmental risk and lack facilities for proper disposal. Traditional flares would not be replaced, but this section would expand the qualifications of other devices for carriage so long as they met USCG standards.

Sec. 303. Renewal Period for Documented Recreational Vessels

The Coast Guard Authorization Act of 2015 directed the USCG to issue regulations allowing for a five-year renewal of recreational vessels within one year of enactment of the law. The USCG has yet to act on this one-year requirement. This provision would make the renewal time period self-executing.

Magnuson-Stevens Act – Draft Discussion Provisions

Modernizing Recreational Fisheries Management and Boating Safety Act of 2017

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE. – This Act may be cited as the “Modernizing Recreational Fisheries Management and Boating Safety Act of 2017”.

(b) TABLE OF CONTENTS. – The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. References to the Magnuson-Stevens Fishery Conservation and Management Act.
- Sec. 3. Findings.

TITLE I – CONSERVATION AND MANAGEMENT

- Sec. 101. Allocation
- Sec. 102. Alternative Management
- Sec. 103. Limited Access Privilege Programs in Mixed-Use Fisheries
- Sec. 104. Rebuilding Fishery Stock Timelines
- Sec. 105. Annual Catch Limit
- Sec. 106. Exempted Fishing Permits

TITLE II – RECREATION FISHERY INFORMATION, RESEARCH, AND DEVELOPMENT

- Sec. 201. Cooperative Management
- Sec. 202. Recreational Data Collection

Title III – Boating Safety and Documentation for Recreational Vessels

- Sec. 301. Installation and Use of Engine Cut-off Switches on Recreational Vessels
- Sec. 302. Visual Distress Signals and Alternative Use
- Sec. 303. Renewal period for documented recreational vessels

SEC. 2. REFERENCES TO THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT.

Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)

SEC. 3. FINDINGS

(a) RECREATIONAL FISHING. – Section 2(a) (16 U.S.C. 1801) is amended by inserting at the end the following –

“(13) While both provide significant cultural and economic benefits to the Nation, recreational fishing and commercial fishing are fundamentally different activities, therefore requiring management approaches adapted to the characteristics of each sector.”

(b) TECHNICAL CORRECTION. – Section 2(a)(3) (16 U.S.C. 1801) is amended to read –

“(3) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities.”

TITLE I – CONSERVATION AND MANAGEMENT

Sec. 101. PROCESS FOR ALLOCATION REVIEW FOR SOUTH ATLANTIC AND GULF OF MEXICO MIXED-USE FISHERIES.

(a) STUDY OF ALLOCATIONS IN MIXED-USE FISHERIES. – Not later than 60 days after the date of enactment of this Act, the Secretary of Commerce shall enter into an arrangement with the National Academy of Sciences to conduct a study of the South Atlantic and Gulf of Mexico mixed-use fisheries–

- (1) to provide guidance to the South Atlantic Fishery Management Council and Gulf of Mexico Fishery Management Council on criteria that could be used for allocating fishing privileges, including consideration of the conservation and socioeconomic benefits of the commercial, recreational, and charter components of a fishery, to a Regional Fishery Management Council established under section 302 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852) in the preparation of a fishery management plan under that Act;
- (2) to identify sources of information that could reasonably support the use of such criteria in allocation decisions; and
- (3) to develop procedures for allocation reviews and potential adjustments in allocations based on the guidelines and requirements established by this section.

(b) REPORT. – Not later than 1 year after the date a contract is awarded under subsection (a), the National Academy of Sciences shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives a report on the study conducted under subsection (a).

(c) PROCESS FOR ALLOCATION REVIEW AND ESTABLISHMENT.----The Gulf and South Atlantic Regional Councils shall----

(1) Notwithstanding the report required pursuant to this Section, and any other provision of law, the South Atlantic and Gulf Councils shall perform an initial review within 2 years of the date of enactment of this Act of the allocations of all mixed-use fisheries in the Councils

respective jurisdictions and a periodic review every three years thereafter; and

(2) consider the conservation and socioeconomic benefits of each sector in any allocation decisions.

Sec. 102. ALTERNATIVE FISHERY MANAGEMENT.

(a) REPEAL.-----Section 407(d) (16 U.S.C. 1883), and the corresponding reference in the table of contents, are repealed.

(b) MANAGEMENT.-----Section 302(h) (16 U.S.C. 1852(h)) is amended by redesignating subparagraph (8) as (9) and inserting the following new subparagraph (8):

"(8) have the authority to use alternative fishery management measures in a recreational fishery (or the recreational component of a mixed-use fishery), including extraction rates, fishing mortality targets, and harvest control rules, in developing a fishery management plan, plan amendment, or proposed regulations. For purposes of this subsection, alternative fishery management measures may also include traditional or cultural practices of native communities." SUMMARY.—Within 180 days after enactment of this paragraph, the Secretary shall transmit a summary to Congress that describes actions to implement this subsection.

Sec. 103. CATCH SHARES IN MIXED-USE FISHERIES.

(a) In the Gulf of Mexico and South Atlantic Fishery Management Councils, there shall be a moratorium on the development or consideration of any new limited access privilege programs in mixed-use fisheries consisting of both commercial and recreational sectors.

Sec. 104. REBUILDING OVERFISHED AND DEPLETED FISHERIES.

(a) Section 304(e)(4)(A) (16 U.S.C. 1854(e)(4)(A)) is amended to read as follows:

- (A) specify a time period for rebuilding the fishery that—
 - (i) shall be as short as practicable, taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish within the marine ecosystem; and
 - (ii) except where management measures under an international agreement with the United States participates dictate otherwise, shall not exceed—
 - (a) 10 years, except in cases where the biology of the stock of fish or other environmental conditions dictate otherwise; or
 - (b) the sum of the time in which the affected stock of fish is expected to surpass its maximum sustainable yield biomass level in the absence of fishing mortality, and the mean generation of time of the affected stock of fish..

Sec. 105. MODIFICATIONS TO THE ANNUAL CATCH LIMIT REQUIREMENT.

(a) Section 302 (16 U.S.C. 1852) is amended by adding at the end the following:

“(m) CONSIDERATIONS FOR MODIFICATIONS TO ANNUAL CATCH LIMIT REQUIREMENTS.—

“(1) CONSIDERATION OF ECOSYSTEM AND ECONOMIC IMPACTS.—In establishing annual catch limits a Council may, consistent with section 302(h)(6), consider changes in an ecosystem and the economic needs of the fishing communities.

“(2) LIMITATIONS TO ANNUAL CATCH LIMIT REQUIREMENT FOR SPECIAL FISHERIES.—Notwithstanding subsection (h)(6), a Council is not required to develop an annual catch limit for—

“(A) an ecosystem component species;

“(B) a fishery for a species that has a life cycle of approximately 1 year, unless the Secretary has determined the fishery is subject to overfishing;

“(C) a stock for which—

“(i) fishing mortality is below the fishing mortality target; and

“(ii) a peer reviewed stock survey and stock assessment have not been performed during the five-year period that ends on the date of enactment of this Act;

“(D) the Secretary determines that overfishing is not occurring; or

“(E) for a sector of a fishery that is not monitored by a data collection system determined by the Secretary to be adequate for the development, implementation and enforcement of annual catch limit specific to that sector, based on the evaluation recommended by the National Academy of Sciences in its report Review of the Marine Recreational Information Program (2017) of whether the design of MRIP for the purposes of stock assessment and the determination of stock management reference points is compatible with the needs of in-season management of annual catch limits.

“(4) AUTHORIZATION FOR MULTISPECIES COMPLEXES AND MULTIYEAR ANNUAL CATCH LIMITS.—For purposes of subsection (h)(6), a Council may establish—

“(A) an annual catch limit for a stock complex; or

“(B) annual catch limits for each year in any continuous period that is not more than three years in duration.

“(5) ECOSYSTEM COMPONENT SPECIES DEFINED.—In this subsection the term ‘ecosystem component species’ means a stock of fish that is a non-target, incidentally harvested

stock of fish in a fishery, or a non-target, incidentally harvested stock of fish that a Council or the Secretary has determined—

“(A) is not subject to overfishing, approaching a depleted condition or depleted; and

“(B) is not likely to become subject to overfishing or depleted in the absence of conservation and management measures.”.

Sec. 106. EXEMPTED FISHING PERMITS.

(a.) Prior to the approval and issuance of any new exempted fishing permit the Secretary shall:

- 1) Conduct a joint peer review by the appropriate regional fisheries science center and state marine fisheries commission, and
- 2) Certify that the regional fishery management council or federal agency with jurisdiction over the affected fishery determined that:
 - A. The fishing activity conducted under a new exempted fishing permit would be consistent with any management measures or conservation objectives included within existing fishery management plans or amendments;
 - B. The social and economic impacts in both dollar amounts and loss of fishing opportunities on all participants in each sector of the fishery expected to occur as a result of any new exempted fishing permit would be minimal;
 - C. The information collected through fishing activity conducted under any new exempted fishing permit will have a positive and direct impact on a conservation, assessment or management problem; and
 - D. The Governor of each State, any part of which is located within 100 nautical miles of the proposed activity under an exempted fishing permit, has been consulted on the proposed exempted fishing permit.

(b.) The duration of any exempted fishing permit shall expire after 12 months; renewals are subject to provisions of Paragraph (A).

TITLE II – RECREATION FISHERY INFORMATION, RESEARCH, AND DEVELOPMENT

Sec. 201. COOPERATIVE MANAGEMENT.

(a) IMPROVING DATA COLLECTION AND ANALYSIS.—

(1) IN GENERAL.—Section 404 (16 U.S.C.1881c), as amended by section 203 of this Act, is further amended by adding at the end the following: “(f) IMPROVING DATACOLLECTION AND ANALYSIS.—

“(1) IN GENERAL.—The Secretary, in consultation with the science and statistical

committees of the Councils established under section 302(g), shall develop and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives a report on facilitating greater incorporation of data, analysis, stock assessments, and surveys from state agencies and nongovernmental sources into fisheries management decisions.

“(2) NONGOVERNMENTAL SOURCES. – Nongovernmental sources are limited to the following –

- (A) Fishermen
- (B) Fishing communities
- (C) Universities
- (D) Research Institutions

“(3) CONTENT.—The report under paragraph (1) shall—

- “(A) identify types of data and analysis, especially concerning recreational fishing, that can be reliably used for purposes of this Act and the basis for establishing conservation and management measures as required by section 303(a)(1), including setting standards for the collection and use of that data and analysis in stock assessments and surveys and for other purposes;
- “(B) provide specific recommendations for collecting data and performing analyses identified as necessary to reduce the uncertainty referred to in section 404(e)(2)(C);
- “(C) consider the extent to which it is possible to establish a registry of persons providing such information; and
- “(D) consider the extent to which the acceptance and use of data and analysis identified in the report in fishery management decisions is practicable.”

(b) NAS REPORT RECOMMENDATIONS.—The Secretary of Commerce shall take into consideration and, to the extent feasible, implement the recommendations of the National Academy of Sciences in its report Review of the Marine Recreational Information Program (2017), including—

- (i) prioritizing the evaluation of electronic data collection as an option for the Fishing Effort Survey, including smartphone apps, electronic diaries for prospective data collection and a web option for all or just panel members; and
- (ii) evaluating whether the design of the Marine Recreational Information Program MRIP for the purposes of stock assessment and the determination of stock management reference points is compatible with the needs of in-season management of annual catch limits. If these needs are

incompatible, the evaluation should determine an alternative method for in-season management.

(c) DEADLINE.—The Secretary of Commerce shall submit the report required under the amendment made by subsection (a) not later than 1 year after the date of enactment of this Act.

Sec. 202. RECREATIONAL DATA COLLECTION.

(a) Section 401(g) (16 U.S.C. 1881(g)) is amended by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following:

“(4) Federal-State Partnerships.—

“(A) Establishment.—The Secretary shall establish partnerships with States to develop best practices for implementation of State programs established pursuant to paragraph (2).

“(B) Guidance.—The Secretary shall develop guidance, in cooperation with the States, that details best practices for administering State programs pursuant to paragraph (2), and provide such guidance to the States.

“(C) Biennial Report.—The Secretary shall submit to the Congress and publish biennial reports that include—

“(i) the estimated accuracy of the registry program established under paragraph (1) and of State programs that are exempted under paragraph (2);

“(ii) priorities for improving recreational fishing data collection; and

“(iii) an explanation of any use of information collected by such State programs and by the Secretary, including a description of any consideration given to the information by the Secretary.

“(D) States Grant Program.—The Secretary shall make grants to States to improve implementation of State programs consistent with this subsection. The Secretary shall prioritize such grants based on the ability of the grant to improve the quality and accuracy of such programs.

“(i) Funding. — A portion of the funds appropriated to the Marine Recreational Information Program shall be provided for implementation of this section.”

Title III—Boating Safety and Documentation for Recreational Vessels

Sec. 301. Installation and Use of Engine Cut-off Switches on Recreational Vessels

(a) Operator requirements-- Insert Subpart E, 33 CFR 175, Maintenance and Use of Engine Cut-off Switches

"Operators of recreational vessels less than 26 feet in length, must wear an engine cut-off switch link while the vessel is underway, and on plane, if an engine cut-off switch is factory equipped on the propulsion machinery.

(b) Exclusions: An engine cut-off switch shall not be required for operators of

- (i) Cabin cruiser vessels under 26 feet in length or those vessels with a sheltered helm or cockpit
- (ii) vessels with propulsion machinery developing static thrust of less than 115 pounds or 3 horsepower."

(c) Insert subpart N, 33 CFR 183, Required Installation of Engine Cut-off Switches

"Associated equipment manufacturers, distributors and dealers installing propulsion machinery and associated starting controls on a recreational vessel less than 26 feet in length and capable of developing at least 115 pounds of static thrust must install engine cut-off switches in compliance with American Boat and Yacht Standard A-33, as amended. Effective date: 1 year from enactment of this Act.

(d) Definitions-- 33 CFR 175 shall be amended to include the following provisions:

- (i) Engine cut-off switch—mechanical or electronic device that is connected to propulsion machinery that will stop propulsion if the switch is not properly connected, or the switch components are submerged in water, or separated from the switch by a predetermined distance.
- (ii) Engine cut-off switch link—equipment attached to the recreational vessel operator and which activates the engine cut-off switch.

(e) Penalty-- Failure to comply with engine cut-off use and maintenance requirements can subject recreational vessel operator to civil penalties under 46 USC 4311 not to exceed \$100 for the first offense, \$250 for the second offense or \$500 for any subsequent offense.

(f) Preemption-- Pursuant to 46 U.S.C. 4306, Federal regulations and laws establishing minimum safety standards for recreational vessels and associated equipment and establishing procedures and tests required to measure conformance with those standards preempt State law, unless the State law is identical to a Federal regulation or a State is specifically provided an exemption to those regulations or permitted to regulate marine safety articles carried or used to address a hazardous condition or circumstance unique to that State. Because of this express preemption,

States may not establish, continue in effect, or enforce any law or regulation addressing engine cut-off switch requirements that is not identical to this Act.

Sec. 302. Visual Distress Signals and Alternative Use

- (a) "The USCG shall develop a performance standard for the alternative use and possession of visual distress signals as mandated by carriage requirements for recreational boats in 33 CFR 175 Subpart C.
- (b) No later than 180 days after the performance standard for alternative use of a visual distress signal is finalized, 33 CFR 175 shall be amended to allow for carriage of such alternative signal devices."

Sec. 303. Renewal Period for Documented Recreational Vessels

- (a) "Certificates of documentation for recreational vessels shall be effective for five (5) years.
- (b) The owner of such a recreational vessel shall notify the United States Coast Guard of:
 - (i) each change in the information on which the issuance of the certificate of documentation is based, that occurs before the expiration of the certificate;
 - (ii) and apply for a new certificate of documentation for such a vessel if there is any change."

SEAFOOD HARVESTERS OF AMERICA
Arlington, VA, August 22, 2017

Hon. DAN SULLIVAN,
Chairman, Senate Commerce Committee,
Washington, DC.

Chairman Sullivan,

On behalf of the Seafood Harvesters of America and our Alaskan members, I write to express our support for your efforts to modernize and strengthen the Magnuson-Stevens Act (MSA), while maintaining the Act's core conservation provisions and accountability standards upon which the long-term viability of our fisheries depend.

The Harvesters represent an array of commercial fishing organizations and fishermen across Alaska and the nation, including those who use pots to crab in the Bering Sea, those who seine for Copper River salmon and those who trawl for Pollock or use longlines to catch black cod in the Gulf of Alaska. While we may use different gear and target different species, we all have in common a desire and commitment to manage our fisheries sustainably. The Harvesters bring together fishermen from across the Nation to learn from each other's successes, as well as our failures, and collectively champion policies to ensure that we have well-managed fisheries. Our members are privileged to go to sea every day, bringing to market healthy, domestic, sustainable seafood.

As you know, The United States has one of the most successful fishery management systems in the world, with almost 500 federally managed stocks producing almost 10 billion pounds of seafood valued at over \$5 billion annually direct to fishermen. Our success in managing this renewable resource is based on the MSA's regional management approach, rooted in sound science. The short-term sacrifices that our industry made to adhere to annual catch limits have yielded greater long-term benefits of rebuilt stocks that we are enjoying today.

Through the accountability standards and conservation mandates in the MSA, our fisheries have improved dramatically as the commercial fishing industry has become more responsible, transparent and efficient. In Alaska, we have reversed the culture of disregard and led the Nation in sustainable managed fisheries from the Bering Sea, to Bristol Bay and Prince William Sound, on down to the Dixon Entrance. We have found a better way to fish through limited access privilege programs that have ended the race to fish and enabled more flexible harvesting, allowing for more complete yields of target species, reducing bycatch and discards and avoiding catch of prohibited species. These programs have allowed us to be vested caretakers of the resource while at the same time offering financial stability and increased safety. Consequently, we support Assistant Administrator Chris Oliver's recent testimony before your committee that "Limited Access Privilege Programs, while not appropriate for all fisheries, are an important tool in our collective tool box, and the current Act allows for development of such programs to be tailored to the specific needs of each fishery."

While Alaska has the best managed fisheries in the world, there is still room for improvement. We believe that the modernization and streamlining of fishery information systems is critical to provide more timely science for better management decisions. Unfortunately, existing systems are built using technology and practices that are outdated, slow, incomplete, expensive and often inaccurate. Relying on pen and paper to track billions of fish is obviously antiquated and results in management uncertainty and economic inefficiencies.

If we are going to renewably maximize the bounty that the ocean can provide to our nation, we need additional and better monitoring, accountability, and enforcement throughout our fisheries. Many of our members are doing that by installing camera systems on their boats. When the nets are hauled back or lines drawn in, the cameras turn on and record the catch so that there is certainty about what is landed and what is discarded. We are now working to ensure that these real-time data are utilized to make wise management decisions. We look forward to working with you to innovate and implement electronic monitoring and electronic reporting of real-time catch data to reduce uncertainty in our fisheries and thus maximize sustainable harvesting.

The Seafood Harvesters' mission is to develop sustainable fisheries, using accountability as the sword and the shield. We are the fishermen who rose out of the ashes of overfishing and are using the hard lessons we learned to chart a path to prosperity and environmental health. We have an obligation to make wild-caught fish a viable, enduring, dependable source of food. Healthy fisheries are vital to the economic well-being of our coastal communities, now and into the future.

We greatly appreciate your consideration of our concerns as you look to reauthorize and strengthen the Magnuson-Stevens Act. We hope you will work with us to improve the law through modernizing the data collections systems, innovating better ways to incorporate real-time data into stock assessment, while maintaining science based catch limits to prevent overfishing, rebuild vulnerable fish populations and protect the safety and long-term stability of our fishing communities.

Thank you for your consideration, leadership and support for the commercial fishing industry.

Sincerely,

KEVIN R. WHEELER,
Executive Director.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ROGER F. WICKER TO
ELIZABETH OGILVIE

Question 1. Exempted Fishing Permits are an important scientific tool for fisheries research. NOAA Fisheries issues Exempted Fishing Permits to individuals for the purpose of conducting research or other fishing activities using private vessels. How is the process for Exempted Fishing Permits currently being used? Given this process, are there opportunities for Exempted Fishing Permits to be abused or misused?

Answer. The Exempted Fishing Permit program as originally conceived would allow scientific research to take place for the betterment of fishery management and conservation where the activity would otherwise be prohibited. (600.745 of title 50, Code of Federal Regulations (b) *Exempted fishing—(1) General.* A NMFS Regional Administrator or Director may authorize, for limited testing, public display, data collection, exploratory fishing, compensation fishing, conservation engineering, health and safety surveys, environmental cleanup, and/or hazard removal purposes, the target or incidental harvest of species managed under an FMP or fishery regulations that would otherwise be prohibited. Exempted fishing may not be conducted unless authorized by an EFP issued by a Regional Administrator or Director in accordance with the criteria and procedures specified in this section.)

The program has informed better management at times. However, in recent years the permits have been abused by operators focused on self-enrichment rather than any public or conservation benefit from their efforts. Below are a few troubling examples of how loopholes in the program have failed to protect America's public marine resources.

- *Headboat Collaborative Exempted Fishing Permit—2013*
Exempted Fishing Permit (RIN 0648-XC528) allowed a pre-selected subset of less than a dozen Gulf headboat operators to be gifted recreational quota to use for their individual harvest of red snapper and grouper for two years. Touted as an experiment to provide accurate and timely landings data, this EFP paved the way for allowing separate allocations of common property resources to the for-hire and private boat recreational fishing sectors and the ultimate creation of a catch shares program in the recreational sector.
This EFP simply did not produce conservation gains or enhance efficiency. Any "academic study" designed to quantify the stated goals of this EFP were negated by the non-random selection of the subject vessels. There was no evidence that the decline in for-hire reef fish permits in the Gulf has affected any of the operators who are applying for this EFP as the decline cited in their application has affected primarily the smaller charter vessels. There was also no history of project management and oversight by the "Headboat Cooperative" that would provide the agency with the standard assurances that the conditions and requirements of the EFP could, in fact, be achieved.
The most that could be hoped for by this EFP is that it would show a small number of vessels, when granted the right to fish when it is illegal for everyone else to fish, will be more profitable. That conclusion needs no test. Artificially controlling supply in the face of pent-up demand will increase prices, pure and simple.
Despite overwhelming public sentiment in opposition, this EFP was granted. Before it had fully run its two-year course and the results evaluated, the Gulf Council had approved the creation of a new charter-for-hire/headboat sector with its own allocation of red snapper (Amendment 40)
- *South Atlantic Collaborative Exempted Fishing Permit Application—Feb. 2017*
An exempted fishing permit (EFP) to initiate a commercial privatization program for at least six species of fish in the South Atlantic was filed by a newly

created group called the South Atlantic Commercial Fishing Collaborative, which was comprised of exactly four individuals, including two sitting South Atlantic Council members and one former member. The EFP outlined a two-year pilot program to assign private ownership privileges for those six species to up to 25 commercial vessels, although those vessels were not identified in the permit. The permit did not address how shares would be assigned, how they would be traded or ownership limits. There was no mention of resource rents or any sort of payment for the right to harvest these fish for their personal financial benefit, a topic that has come under increasing scrutiny.

The permit was withdrawn from consideration after an outpouring of public opposition and is likely to be re-submitted.

- *Exempted Fishing Permit to Reintroduce Longlines into South Atlantic conservation zone—Aug. 2017*

More than two decades ago swordfish in the Western Atlantic were in serious trouble. The average landed weight had dropped to approximately 60 pounds, swordfish were overfished and overfishing was occurring. The initial problem with the fishery was that too many juvenile swordfish were dying due to longlining off the coast of Florida and the Charleston Bump. As a result, those nursery areas were identified and closed to the United States pelagic longline (PLL) fleet in 2001. Ever since, there have been ill-conceived attempts to reopen the closed areas to commercial harvest and expose it to the types of intense commercial fishing pressure that drove stocks into an overfished condition in the first place.

In August 2017, the Office of Highly Migratory Species approved an EFP that will allow a fleet of six longliners owned by a *single* company back into the nursery areas to “evaluate the effectiveness of existing area closures at meeting conservation and management goals under current conditions using standardized Pelagic Longline gear.”

Reference was made in the EFP to protecting America’s swordfish quota at the International Commission for the Conservation of Atlantic Tunas (ICCAT), a clear implication that if America does not catch and kill every swordfish allotted to it then this international management body will reassign that quota to other nations. However, ICCAT itself touts the swordfish recovery as one of its greatest conservation achievements. There is no indication that ICCAT would punish the United States for having achieved that victory. Although this argument has been around for years, the United States has not lost a single pound of swordfish quota.

Despite overwhelming public opposition, the EFP was allowed to be used as a tool of convenience for a single longline operator to gain access to nearby pristine fishing grounds, jeopardizing a proven billfish nursery area and the considerable economic impact of a healthy billfish fishery on the region.