

Testimony
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Mr. Chairman and members of the Committee: Thank you for the opportunity to testify before you today concerning fisheries management. I am Andrew Rosenberg, Professor of Natural Resources in the Institute for the Study of Earth, Oceans and Space at the University of New Hampshire and a member of the U.S. Commission on Ocean Policy. I was formerly the Deputy Assistant Administrator for Fisheries at NOAA, a Regional Administrator for NOAA Fisheries, and a scientist working at NOAA's Northeast Fisheries Science Center.

The Ocean's Act of 2000 formed the U.S. Commission on Ocean Policy and directed us to "make recommendations for coordinated and comprehensive national ocean policy..." The Act set out eight specific objectives for this policy paraphrased here:

1. protection of life and property;
2. responsible stewardship of ocean and coastal resources;
3. protection of the marine environment;
4. enhancement of marine-related commerce, resolution of conflicts among diverse users of the marine environment and engagement of the private sector in developing approaches to the responsible use of marine resources;
5. expansion of knowledge of the marine environment and the advancement of education in fields related to the ocean and coasts;
6. development and improvement in technological capability for ocean related activities;

7. cooperation among all government agencies to ensure coherent regulations, appropriate use of funding, efficient operation of federal agencies, and enhancement of partnerships with state and local governments; and
8. leadership by the United States in ocean and coastal activities.

I believe the Commission's recommendations truly meet the spirit and intent of the Oceans Act. Further, I believe that we must immediately begin to make changes in U.S. ocean policy to reverse an alarming, widespread degradation in the health of the oceans and coasts, vital living marine resources, and coastal communities. While this may sound dramatic, I believe that our ocean environment is at risk and a change of course is needed to reduce that risk.

U.S. Commission on Ocean Policy and the privately-funded Pew Oceans Commission identified remarkably similar core priorities and made complementary recommendations in a number of key areas—including the critical need for fisheries management reform. The Joint Ocean Commission Initiative formed to continue to pursue implementation of the recommendations made in the two Commission reports. I am part of a ten-member Task Force (five from each Commission) that guides the work of the Joint Initiative.

I have been asked to comment on H.R. 5018 and H.R. 4940, bills to amend the Magnuson-Stevens Fishery Conservation and Management Act. The Joint Ocean Commission Initiative is committed to a set of fundamental principles that are articulated in both reports and that should ground all ocean policy reform. Many of these principles are reflected in the priorities for fishery management and recovery highlighted in both Commission reports, including: (1) moving toward ecosystem-based management, (2) maintaining and enhancing ecosystem services, (3) strengthening the scientific process and basing decisions on science, (4) broadening public participation, (5) enhancing a stewardship ethic, and (6) ensuring adequate funding to support fishery management and recovery. The Joint Initiative believes these concepts must guide and be incorporated into meaningful and effective fisheries legislation. I would like to elaborate on these concepts briefly.

Moving toward ecosystem-based management.

Ecosystem-based management means managing human activities within a large marine ecosystem in concert, rather than separately, and considering the cumulative impacts of those activities on the functioning of the ecosystem as a whole. The perspective is that the natural system sets the bounds for management, rather than political boundaries. This is because within an ecosystem, effects on one component can logically be expected to impact other components. Therefore, as we seek to manage across the full range of human activities and mitigate their impacts on the natural environment, we need to consider the interactions between different management actions. For example, coastal development interacts with pollution abatement programs and affects the productivity of the coastal ocean in salt marshes and nearshore areas. In other words, fisheries are affected by more than just fishing and pollution is affected by more than just controlling the amount of discharge. Because humans are an integral part of the ecosystem, social and economic impacts are part of the ecosystem-based management perspective.

Ecosystem-based management does not mean abandoning management activities now underway. Fishing still needs to be managed to prevent overfishing and restore overfished resources for example. But the management of the fishery should be linked to the management of other sectors to provide a more coherent set of policies. The focus for ecosystem-based management should be to maintain the function of coastal and marine ecosystems including both their goods and services. We want to

maintain the ability to harvest fish as goods from the ecosystem, but we want to ensure the ecosystem services provided by overall productivity and ocean health aren't undermined. In other words, we want to enjoy a healthy ocean for many other reasons than just for fishing.

While we are not suggesting legislatively mandated standards for ecosystem-based management, we would like to see a strong signal in support of the concept within the language of the bill. Reauthorization of the MSFCMA offers an important opportunity to introduce ecosystem-based management as a central concept, especially with regard to providing a framework for improving consistency across government agencies. Language in the two Commissions' reports could be used to strike the right balance, and the Commissioners stand ready to assist you and your staff in any way that would be helpful.

H.R. 5018 calls for research, but no real management action and restricts the focus to the fisheries sector only. The call for research is important, as is the development of regional pilot programs as recommended by the U.S. Commission on Ocean Policy. *It would be helpful to ensure that the regional pilot programs build upon the recommendations of the Commissions not just the Ecosystem Principles Advisory Panel.* It is important to note that the Advisory Panel did not consider ecosystem-based management of the marine environment broadly, but only within the fisheries sector, and this is a serious limitation.

In addition, some of the proposed revisions in H.R. 5018 and H.R. 4940, such as changes to requirements to comply with the National Environmental Policy Act and coordination with the National Marine Sanctuaries Act would undermine efforts to implement coordinated, ecosystem-based management of the marine environment. There is no reason to set fisheries apart under NEPA and it would seriously compromise the ability to consider the impacts of all sectors jointly on marine ecosystems. I do not believe there is any streamlining of the process obtained by this exemption, but there is the loss of information and opportunity for the public to participate in the management process. With regard to the management of Sanctuaries, the provision undermines the ability to consider broader ecosystem goals and again inappropriately sets fisheries apart from other marine related activities.

Strengthening the use of independent science in fishery management decisions. I want to commend the Committee for the inclusion of provisions in H.R. 5018 that requires the Secretary to establish a peer review process to evaluate the scientific information used by the Councils, mandate the Science and Statistical Committees (SSCs) to recommend acceptable biological catch levels *and requires the Regional Fishery Management Councils to adopt levels that do not exceed these recommended levels.* This represents a significant step towards one of the key fishery recommendations of the Joint Ocean's Commission Initiative. It is essential that overfishing be prevented as the basis management.

H.R. 5018 and 4940 also address the rebuilding provisions of the Act but these changes do not build on the progress noted above with regard to preventing overfishing. The introduction and usage of the term "diminished" confuses the issue. If fishery productivity is reduced due to factors other than fishing, fishing pressure must still be reduced. It is not a matter of assigning blame, but of adjusting fishing pressure to a level that the resource can sustain. The proposed changes also allow for

extensions of rebuilding timeframes. This also undermines the sound management of the resource. Continuing to extend the rebuilding timeframe makes it far more difficult to rebuild overall, causes even greater economic and social impacts and means an ongoing, major loss of resources for the Nation. The New England groundfish fishery illustrates the problems resulting from continued delays in implementing strong rebuilding measures.

In addition, the Joint Oceans Commission Initiative recommends that the following areas be addressed. In several cases, I am pleased to see that H.R. 5018 and HR 4940 cover some of these issues. I hope those points that are not currently addressed can be taken up by the Committee:

- ***Fallback Provisions.*** As an incentive toward timely and responsible action to address overfishing and the degradation of essential fish habitat, require fallback provisions to be implemented when management plans are not developed within a required time frame. In the context of the current proposals, there must be some consequence if the catch limit is exceeded, other than litigation. Proposals such as deducting overages from subsequent year's catches provide such a consequence.
- ***Dedicated Access Privileges.*** Authorize fishery managers to use dedicated access privileges. Establish national guidelines that allow for regional implementation that is consistent with those guidelines. H.R. 5018 does allow for dedicated access privileges following a referendum from the participants. The proposal for the inclusion of regional fishery associations seems to move in the direction of Alaska style cooperatives. I view this as a positive direction for many U.S. fisheries *if* the associations take collective responsibility for adhering to the conservation and management needs for a fishery.
- ***Enforcement.*** Expand cooperative fisheries enforcement programs between federal and state enforcement entities. The programs should clarify the role of the Coast Guard and should emphasize joint training, stronger and more consistent information sharing, and increased use of enforcement technology such as Vessel Monitoring Systems. H.R. 5018 promotes the use of cooperative enforcement agreements.
- ***Cooperative Research.*** Direct NOAA to create an expanded, regionally-based collaborative research program that involves the fishing community and federal, state, and academic scientists. Research should benefit from linkages to the Integrated Ocean Observing System. Funds for such cooperative research projects should be awarded on a competitive basis. H.R. 4049 calls for provisions in fishery management plans to create cooperative research programs. In my view, the programs should not be explicitly linked to plans but should be broader based. They should be focused on research, not on immediate management actions.
- ***Bycatch Reduction.*** Bycatch should be addressed continuously to ensure the sustainability of fisheries and ecosystem services. Bycatch reduction efforts should include accounting for bycatch in the level of the Total Allowable Catch for that all fishing mortality is included. This then means that discarding should be minimized to the maximum extent possible to avoid wastage. This vital concern is not addressed in either proposed bill though there is a provision

for fostering the development of new fishing gear to reduce bycatch in H.R. 5018 and a provision to allow bycatch to be landed for charitable purposes in H.R. 4940. These latter two provisions are not sufficient to deal with the major problems of bycatch over and above the total allowable catch levels.

- **Training.** Require training on a variety of topics relevant to fishery management for new Regional Fishery Management Council members and make such training available to representatives from interest groups and industries. I am pleased to see H.R. 5018 requiring training for new council members within six months.
- **Education.** Foster formal and informal education efforts. These should include promoting public understanding of ocean resources issues, including the importance of conservation measures aimed at sustaining fisheries and the linkages between human health and the health of oceans. H.R. 4940 creates Fishery Research Networks and Fisheries Science Centers of Excellence. Both are interesting ideas but need to be further developed.
- **International Leadership.** Promote adoption and observance of international standards for the sustainable harvest of coral reef and other living marine resources.

The U.S. Commission on Ocean Policy recommended a set of guiding principles for national ocean policy. In particular, I would like to highlight: stewardship, resources are held in the public trust for all Americans; ecosystem-based management, understanding and mitigating the cumulative impacts of human activities on the ecosystem as a whole; adaptive management, continuously re-evaluating management as new information becomes available and making adjustments as needed to meet the goals; understandable, clear rules, making the rules that govern various activities coherent for the public; accountability, to ensure that government and the public do what is needed to conserve marine ecosystems; and international responsibility, working cooperatively on ocean issues and meeting our responsibilities for global ocean policy. Using these and the other principles an overarching ocean policy can be articulated for the nation.

Mr. Chairman and members of the Committee, thank you for the opportunity to testify today. I would be pleased to discuss these and other matters with you further at your discretion. The Joint Oceans Commission Initiative is available to work with you and your staff as you continue to move forward with this important legislation.