

**TESTIMONY OF**

**ROBERT BEAL**

**Executive Director**

**Atlantic States Marine Fisheries Commission**

**Testimony before the Senate Commerce Committee's  
Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard**

**United States Senate**

**A Hearing on "Developments and Opportunities in  
U.S. Fisheries Management"**

**March 19, 2013**

Mr. Chairman and members of the Subcommittee,

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

**Background**

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

could declare a complete moratorium on the fishing for that species in that state's waters. Through the Commission process, Atlantic coastal states have developed and fully implemented FMPs for 25 species or species groups.

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

### **Successes**

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

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

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

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

---

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

## **Fiscal Challenges**

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

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

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

The Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act) requires the Atlantic states to develop FMPs through the Commission and to implement and enforce those plans under state law, under penalty of pre-emption of a state's fishery by the Secretary of Commerce. The continued reduction in "Regional Councils and Commissions" funding would reduce the capacity of the Commission as well as its member states to develop, implement, and enforce FMPs. "Regional Councils and Fisheries Commissions" funding goes to help provide valuable sources of data that allow fisheries managers to achieve sustainability for commercial and recreational fisheries, generating billions of dollars of economic activity. Further budget cuts to the program would force the Commission to eliminate one of four Commission meetings,

cancel stock assessment training for state scientists, delay (one year) benchmark stock assessments for American lobster, Atlantic striped bass, and northern shrimp, eliminate a stock assessment scientist position, suspend outreach activities, and reduce FMP coordination capacity. The resultant impact would reduce the opportunity for public engagement in the management process; decrease the quantity, quality, and timeliness of scientific advice; and reduce the Commission's responsiveness to fisheries management issues. Greater scientific uncertainty could result in more precautionary management decisions, with consequent opportunity costs to commercial and recreational harvesters due to lower quotas and shorter seasons. Greater uncertainty also may decrease the justification for Commission actions, potentially resulting in legal vulnerability. Through the Commission process, states have reduced the number of overfished species by over 50% during the past decade; further progress towards rebuilding overfished species will be hampered by budget cuts and resulting lack of data and slowed response time.

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

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

## **Partnership Opportunities**

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

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

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

## **Summer Flounder Management**

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

Summer flounder, *Paralichthys dentatus*, is one of the most sought after commercial and recreational fish along the Atlantic coast. It is one of four species jointly managed by the Commission and the Mid-Atlantic Fishery Management Council. The 2012 summer flounder stock assessment update indicated the stock is not overfished and overfishing is not occurring. The management program divides a total annual quota between the recreational fishery (40%)

and the commercial fishery (60%). The commercial quota is divided into state-by-state quotas based on historical landings. Recreational bag/size limits and seasons are determined on a state-by-state basis using conservation equivalency.

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

Although the shift away from coastwide management to state conservation equivalency addressed the interests of some states (e.g. North Carolina with its smaller fish and later season, Nov-Dec fishery), it has given rise to concerns on the part of other states. While conservation equivalency provided greater flexibility for individual states to set their limits from year to year, individual state targets were based upon the state's proportion of the 1998 MRFSS harvest estimate. This resulted in ever increasing size limits, reduced bag limits, and shorter seasons for most of the states while the stock was at a low level and recovering. However, the impact of these ever-restrictive measures seemed to affect New York the most, where the size limit reached 21 inches by 2009, resulting in a very short season with a mid-season closure. In 2012, with a fully recovered stock, New York's minimum size (19.5 inches) was at least one inch higher than any other state, one and a half inches higher than Connecticut and two inches greater than New Jersey (Table 1).

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

In response to concerns about the unanticipated impacts of conservation equivalency and the availability of updated recreational landings data from the MRIP, the Commission initiated a change to the summer flounder management program for 2013 and beyond. For 2013, each of the states, except New York and New Jersey, are allowed to liberalize their regulations under the existing conservation equivalency provisions. However, many of the states have indicated they

will not take full advantage of the opportunity to liberalize their regulations. The Commission has initiated a proposed change to the management program to allow New York and New Jersey to access the summer flounder that will remain un-harvested by the other states. If adopted, it is anticipated that this will allow New York and New Jersey to liberalize their regulations and provide additional recreational fishing opportunities. There is a public comment period open until 5:00 pm on April 12, 2013 on this proposed change; the document can be found on the Commission website, [www.asmfc.org](http://www.asmfc.org), under Breaking News

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

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

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

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

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

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

The Commission and Council selected the state by states allocation system to prevent a coastwide "race-to-fish" which would have resulted in a short fishing season and low economic

return. The allocation system allows a state to craft seasons and possession limits to maximize the value of the available quota and accommodate the needs of their fishermen. Some states have allocated their quota individual to fishermen through ITQ systems.

**Conclusion**

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

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

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

**Table 1. Recreational Summer Flounder Fishery**  
2012 recreational management measures for summer flounder by state.

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