Mid-Atlantic Fishery Management Council
800 North State Street, Suite 201, Dover, DE 19901
Phone: 302-674-2331 | FAX: 302-674-5399 | www.mafmc.org
Michael P. Luisi, Chairman | P. Weston Townsend, Vice Chairman
Christopher M. Moore, Ph.D., Executive Director

MEMORANDUM

Date: September 24, 2020

To: Council

From: Mary Sabo

Subject: Executive Order 13921 Recommendations

During the October Council Meeting the Council is scheduled to finalize its recommendations in response to the Executive Order on Promoting American Seafood Competitiveness and Economic Growth. The following items are enclosed for Council consideration:

- Memo: Background and Executive Committee Recommendations
- MAFMC Response to Executive Order 13921 - Revised Draft List of Topics
- Public Comments Received Since the August 2020 Meeting

In addition, several supplemental documents are available at the links below:

- EO 13921 on Promoting American Seafood Competitiveness and Economic Growth
- Chris Oliver Letter to the Councils
- NMFS Guidance for Councils Response to E.O. 13921 Section 4
- NMFS Recommended Action Template
- Public Comments Considered at the August 2020 Meeting

These supplemental documents are also available on the Executive Committee Meeting page at https://www.mafmc.org/council-events/2020/executive-committee-sept21

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Date: September 24, 2020

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From: Mary Sabo, Council Staff

Subject: Executive Committee Recommendations on EO 13921

On May 7, 2020, the President of the United States signed an Executive Order (EO) on Promoting American Seafood Competitiveness and Economic Growth. The purpose of this Executive Order is "to strengthen the American economy; improve the competitiveness of American industry; ensure food security; provide environmentally safe and sustainable seafood; support American workers; ensure coordinated, predictable, and transparent Federal actions; and remove unnecessary regulatory burdens."

Section 4 of the Executive Order requires each Regional Fishery Management Council to submit, within 180 days of the date of this order, a prioritized list of recommended actions to reduce burdens on domestic fishing and to increase production within sustainable fisheries, including a proposal for initiating each recommended action within 1 year of the date of this order. Recommendations must be consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws. On May 19, 2020, National Marine Fisheries Service (NMFS) sent a letter requesting a Council response to the EO by November 2, 2020. NMFS has also provided a guidance document for the development of recommendations and a template that provided examples of the form and level of detail for responses.

At the August 2020 Council Meeting the Council reviewed public input and provided guidance to staff on a number of broad topics for further development. Based on this input, staff developed a more detailed list of possible actions that may address the objectives of the EO.

Executive Committee Recommendations and Staff Follow-Up

The Executive Committee met via webinar on Monday, September 21 to review the initial draft list of topics and develop recommendations for Council consideration at the October meeting. Briefing materials considered by the Committee are available at http://mafmc.adobeconnect.com/exec-com-sept21/.

The Executive Committee reviewed a draft list of fourteen recommendations that may address the objectives of the EO. Staff noted that the draft recommendations were categorized as either "Council Actions" which would involve primarily Council work, or "Non-Council Actions," which are recommendations and requests that would be directed to other agencies.

These groupings are only intended to help the Council assess potential recommendations with respect to future workload. However, the final list will need to be prioritized within a combined list. Staff also noted that several items in the "Council Actions" section pertain to actions or initiatives that have already been initiated. The rationale for including these items is to highlight pre-existing efforts to address the objectives of the EO and to encourage continued support from NMFS and other relevant agencies.

The Committee agreed to maintain all fourteen items on the list forwarded to the Council for consideration in October. The Committee requested additional information on one draft recommendation (USFWS Squid Import Export Rules) and directed staff to develop three additional recommendations to add to the draft list.

Request for Additional Information on the USFWS Squid Import/Export Issue

The Committee discussed the letter submitted by Lund's Fisheries, Seafreeze Ltd., and The Town Dock requesting that the Council include in its recommendations a request to NMFS and U.S. Fish and Wildlife Service (USFWS) for exemption of U.S. harvested squid species from the USFWS wildlife import/export rules. The Committee expressed general support for this recommendation but requested that staff provide additional background information regarding the USFWS rationale for including squid in its import/export fee system. The Committee also requested documentation of NMFS' past opposition to the USFWS decision not to classify squid as fish or shellfish. This information will be posted by 9/30/20 as a supplemental document under Tab 4 on the October 2020 Meeting Page (https://www.mafmc.org/briefing/october-2020). In addition, a Committee member asked whether any squid species worldwide are listed under the Convention on International Trade in Endangered Species (CITES). Staff has checked the CITES database and determined that there are no squid species currently listed. Finally, staff notes that the Pacific Fishery Management Council has agreed to include a recommendation on this topic on their list of recommendations in response to the EO.

Recreational Issues

The Committee discussed whether it would be appropriate to include recreational-focused recommendations in the Council's response and ultimately agreed that nothing in the EO precludes recreational issues. After some discussion about the South Atlantic Fishery Management Council's approach to the EO, the Committee directed staff to develop two additional recommendations to address (1) the Council's ongoing Recreational Reform Initiative and any resulting actions, and (2) a request for clarification regarding the application of the Modernizing Recreational Fisheries Act within the constraints of National Standard 1 guidelines. These recommendations have been added to the revised draft list as items #8 and #16, respectively.

Highly Migratory Species Import Issues

The Committee discussed concerns about imports of highly migratory species (HMS) unfairly disadvantaging U.S. fishermen. It was proposed that imported HMS seafood should be required to "meet or exceed the U.S. harvesting standards" in order to create a level playing field for U.S fishermen. Given the complexity of existing HMS management and monitoring systems, the broad nature of this recommendation would be difficult to submit in the format requested by NMFS for this exercise. In follow up conversations after the meeting, staff worked with the HMS Committee chair to identify a specific area of focus for the Council's recommendation on this topic. As a result, topic #17 focuses primarily on ensuring that the U.S. is only importing

HMS seafood from countries that have equivalent gear requirements for HMS fisheries, particularly with respect to the use of circle hooks.

Other Notes

Please Note: All references to topic numbers are based on the revised list of topics provided in the October 2020 Briefing Book.

- Regarding the *Illex* possession limit topic (#1), staff was asked whether the Council would be recommending a specific proposed amount of increase to the possession limit in its response to NMFS. Staff responded that the Council's submission to NMFS will only reflect an intent to evaluate possible increases during the normal specifications process. Additional analysis would be needed to determine what level of increase would be appropriate.
- Staff clarified that the dogfish trip limit topic (#3) would only involve an analysis of the economic impacts of potential changes to the trip limit. This recommendation would not reflect an intent to modify the trip limit. It was mentioned that the Council's new SSC Economic Workgroup may be able to contribute to such an analysis.
- On the golden tilefish multi-year specifications topic (#4), staff clarified that the proposed action would only increase the maximum timeframe the Council could set multi-year specifications for and would not impact any of the existing requirements to review specifications each year.
- Regarding the proposed commercial minimum mesh size review (#5), staff clarified that this work would build on the related Council-funded research that has been conducted in recent years. One Committee member expressed support for using a consistent mesh size and noted that the Council may need to consider changes to other recreational measures to account for the revised mesh sizes.
- On the topic of offshore wind fishery surveys (#10), one Committee member recommended that the NEFSC consider incorporating trap surveys similar to those utilized by the Southeast Fisheries Science Center.
- The Committee expressed general support for addressing the issues related to fishery dependent data reporting (#12). One member requested that the Council specifically highlight the need to address duplicative reporting requirements for fishermen holding permits from multiple regions.
- Staff requested Committee input on whether the three recommendations resulting from the For-Hire/Law Enforcement workshop (#13-15) are appropriate for including in the Council's EO response. One member commented that those issues contribute to the efficiency and profitability of the U.S. fishing industry and should be included in the Council's recommendations.

Next Steps

The Committee discussed prioritization but agreed not to prioritize the list until the Council has finalized its recommendations. Staff has incorporated Committee recommendations into the revised draft list which the Council will review at the October 2020 Council Meeting. Below is a summary of the topics addressed in this list.

1. *Illex* Squid Incidental Possession Limit During Closures
2. Butterfish Mesh Size
3. Dogfish Trip Limit White Paper

4. Golden Tilefish Multi-Year Specifications
5. Commercial Minimum Mesh Size Review for Summer Flounder, Scup, Black Sea Bass
6. Climate Change Scenario Planning
7. Commercial eVTR Implementation and Outreach
8. Recreational Reform Initiative
9. Offshore Wind – Additional Data Collection on Fishing Activity
10. Offshore Wind – Fishery Surveys
11. USFWS Squid Import/Export Rules
12. Fishery Dependent Data Reporting
13. Integration of VTR and HMS Reporting Systems
14. Reporting by Holders of HMS Permits with Commercial Sale Endorsement
15. Integration of the NOAA HMS Database and USCG Safety Inspection Databases
16. Modernizing Recreational Fisheries Act
17. HMS Import Gear Restrictions

MAFMC Response to Executive Order 13921

Draft List of Topics

October 2020 Council Meeting Discussion

COUNCIL ACTIONS

1. ***Illex* Squid Incidental Possession Limit During Closures**
   - **Issue:** When the *Illex* squid fishery closes to directed fishing, vessels may not possess more than 10,000 lbs of *Illex* squid on board. This has been reported as resulting in *Illex* discards by vessels targeting longfin squid after *Illex* closures.
   - **Action By:** Council
   - **Action:** Consider increasing the *Illex* incidental possession limit for vessels possessing a certain amount of longfin squid (e.g. 10,000 lbs) after the *Illex* fishery closes.
   - **Rationale:** This action could reduce regulatory discards by allowing vessels targeting longfin squid to land *Illex* bycatch instead of discarding it.
   - **Initiation Plan:** The Council would consider this regulatory change in 2021 when setting specifications for 2022.

2. **Butterfish Mesh Size**
   - **Issue:** Current regulations require vessels to use a minimum mesh size of 3 inches to possess or land more than 5,000 lbs of butterfish. The original intent was to avoid butterfish that might likely be discarded. However, butterfish and longfin squid co-occur, and the longfin squid fishery is subject to a minimum codend mesh size that is much smaller. Industry reports that for some participants these regulations result in excessive butterfish discards during squid trips.
   - **Action By:** Council
   - **Action:** Consider increasing the amount of butterfish that can be landed by vessels using smaller than 3-inch mesh (the current limit is 5,000 lbs).
   - **Rationale:** This action could alleviate some regulatory discards and allow opportunistic landing of butterfish bycatch during squid trips. Recent data suggest directed butterfish fishing will predominantly occur on larger trips that will still need to use 3-inch mesh.
   - **Initiation Plan:** The Council would consider this regulatory change during the review of 2022 butterfish specifications.

3. **Dogfish Trip Limit White Paper**
   - **Issue:** The spiny dogfish fishery currently has a federal trip limit of 6,000 lbs. There are conflicting opinions among industry participants about whether the trip limit should be increased, eliminated, or remain at 6,000 lbs.
   - **Action By:** Mid-Atlantic and New England Councils
   - **Action:** Analyze the potential impacts of changing the federal trip limit for spiny dogfish.
   - **Rationale:** Some fishery participants have advocated for the trip limit to be increased to allow for full utilization of the quota and development of a large-scale fishery. Other participants have claimed that increasing the federal trip limit would have adverse economic and social impacts and could lead to management issues if the quota is reduced in future years. Additional analysis could help the Council

better understand the potential social and economic impacts and management concerns associated with possible adjustments to the federal trip limit.

- **Initiation Plan:** Staff would develop a white paper on the potential impacts of changing the federal spiny dogfish trip limit.

4. Golden Tilefish Multi-Year Specifications

- **Issue:** Specifications for golden tilefish are typically set for three years at a time. Some fishery participants have advocated for increasing this timeframe, as was done recently for the surfclam and ocean quahog fisheries.
- **Action By:** Council
- **Action:** Council would consider initiating a framework to allow specifications to be set for more than 3 years (e.g. 5 years) when assessment data support the development of longer-term projections.
- **Rationale:** Setting specifications for longer timeframe would increase administrative efficiency and predictability from year to year.
- **Initiation Plan:** Staff would begin preparing background materials needed for the Council to consider initiating a framework.

5. Commercial Minimum Mesh Size Review for Summer Flounder, Scup, Black Sea Bass

- **Issue:** Current regulations require three different minimum mesh size regulations for summer flounder, scup, and black sea bass, which are targeted by a largely overlapping group of vessels fishing in similar areas. Industry members have requested analysis of a uniform mesh size for these three species.
- **Action By:** Council
- **Action:** Review and consider revisions to the commercial minimum mesh sizes for summer flounder, scup, and black sea bass. This work would build on the commercial mesh size research that has been funded by the Council in recent years.
- **Rationale:** A uniform mesh size for two or more of these species would simplify regulations and minimize fishermen having to purchase and store multiple nets and having to switch nets during fishing operations.
- **Initiation Plan:** Staff would work with the Summer Flounder, Scup, and Black Sea Bass Monitoring Committee in 2021 to evaluate biological and economic impacts of modified mesh size regulations, for Council consideration.

6. **Climate Change Scenario Planning** (adapted from SAFMC draft EO recommendations)

- **Issue:** The distribution of managed species is changing on the Atlantic Coast. This will increasingly create access and constituent involvement issues in the fisheries and pose challenges to the 3 Councils that manage resources from Maine through Florida. It may also lead to changes in stock carrying capacity and thus MSY.
- **Action By:** NMFS and MAFMC/SAFMC/NEFMC
- **Action:** Provide operational support to the MAFMC, SAFMC, and NEFMC to pursue the Scenario Planning process initiated through the Northeast Region Coordinating Council.
- **Initiation Plan:** The MAFMC, SAFMC, and NEFMC have initiated the Scenario Planning approach.

7. Commercial eVTR Implementation and Outreach

- **Issue:** In 2021 a new rule will be implemented requiring all commercial vessels with Northeast federal permits to submit vessel trip reports electronically.
- **Action By:** Council and GARFO
- **Action:** Provide training and outreach to facilitate compliance with new electronic reporting requirements.
- **Rationale:** In the long-term, electronic reporting is expected to reduce the burden on industry as reporting requirements are consolidated into the eVTR platforms. However, during the transition period training and outreach will be critical to ensure compliance and correct usage of eVTR platforms.

- **Initiation Plan:** Outreach planning is already underway. The Council and GARFO expect to hold a series of virtual and/or in-person training workshops in 2021.

8. Recreational Reform

- **Issue:** Uncertainty in recreational catch and effort data create unique challenges for managing recreational fisheries. Stakeholders have expressed dissatisfaction with frequent changes to recreational regulations and have requested that the Council and Atlantic States Marine Fisheries Commission (ASMFC) develop strategies to provide greater management flexibility and stability from year to year.
- **Action By:** Council (in coordination with ASMFC)
- **Action:** Continue to develop the Recreational Reform Initiative, which considers approaches to provide greater stability and flexibility in the recreational management programs for summer flounder, scup, black sea bass, and bluefish. Specifically, the objectives of this initiative are to achieve (1) stability in the recreational management measures (bag/size/season), (2) Flexibility in the management process, and (3) accessibility aligned with availability/stock status.
- **Rationale:** Recreational fishing generates income, supports jobs, contributes to the economy, and provides food to recreational anglers. This initiative will help ensure a supply of seafood by maintaining harvest at sustainable levels and promoting continued recreational access to fishery resources.
- **Initiation Plan:** The Council and ASMFC have been developing the Recreational Reform Initiative since March 2019 and will consider initiating an associated management action at the October meeting[1]

NON-COUNCIL ACTIONS

9. Offshore Wind – Additional Data Collection on Fishing Activity

- **Issue:** A large area of the Outer Continental Shelf has been leased for offshore wind development. Many of the wind energy areas overlap with areas important for fishery transit or operations. Available datasets (e.g. VMS, AIS, and VTRs) do not cover all fisheries, and there is a need to address those data gaps in order to avoid and mitigate impacts of offshore development on fisheries.
- **Action By:** Bureau of Ocean Energy Management and U.S. Coast Guard
- **Action:** Collect additional information on fishing and transit locations, especially for fisheries that are not fully covered by existing datasets. Consider collaboration with RODA and other groups/stakeholders, potentially using the New York Bight Transit Lane Workshop as a model.
- **Rationale:** Additional information about patterns of fishing activity will help inform the development of navigation routes and wind farm layout guidance to allow for safe vessel transit, fishing activity, and search and rescue operations.
- **Initiation Plan:** The Council would submit a formal request to BOEM and the USCG.

10. Offshore Wind – Fishery Surveys

- **Issue:** Nearly all long-term fishery-independent surveys in the Northeast will be affected by offshore wind development.
- **Action By:** National Marine Fisheries Service
- **Action:** Provide additional funding to the Northeast Fisheries Science Center to support the design and evaluation of new supplemental surveys that can be integrated into stock assessments and existing time series.
- **Rationale:** Fishery-independent data is fundamental to the management process. If not adequately accounted for, disruptions to historical time series could create data gaps that increase scientific uncertainty and require the Council to set more conservative catch limits.
- **Initiation Plan:** n/a

[1] Final submission to NMFS will include relevant updates from the October meeting.

11. **USFWS Squid Import/Export Rules**

(See comment letter from Lund's/Seafreeze/Town Dock for additional details.)

- **Issue:** The U.S. Fish and Wildlife Service (USFWS) includes squid fishery products in its inspection and user fee system for monitoring the import/export of certain types of wildlife products (at 50 CFR 14), even though these fishery products are already inspected by the US Department of Commerce. Most other fishery products are exempt from USFWS inspection. The USFWS inspection and user fee system was established for monitoring the import and export of certain types of protected wildlife products. In the past, NMFS has taken a position in opposition to the USFWS' justification for including U.S.-produced squid species as part of this program. Despite objection from NMFS, the USFWS declines to classify squid as a fishery product or shellfish, defying best available science.
- **Action By:** USFWS
- **Action:** Recommend that the USFWS revise its wildlife import/export rules (See 73 FR 74615 and 50 CFR Parts 10-14) to exempt U.S. harvested squid species.
- **Rationale:** The added burden of USFWS oversight, in addition to USDOC inspection, costs U.S. squid harvesters and processors collectively multiple tens of thousands of dollars annually in additional fees, requires export from only designated ports, at times disrupts exporting schedules, and makes U.S. squid products less competitive in international markets. This undermines U.S. trade policy and increases the U.S. trade deficit, especially with China and Japan.
- **Initiation Plan:** The Council would submit to USFWS a formal request for regulatory change.

12. **Fishery Dependent Data Reporting**

- **Issue**: Redundant reporting requirements for fishermen with multiple permits and lack of integration between data collection systems creates an excessive reporting burden for the fishing industry. For example, on the Atlantic Coast, an individual fisherman may hold permits for species managed by the New England Council, the Mid-Atlantic Council, the South Atlantic Council, an individual state, and Highly Migratory Species. Reporting systems across these management bodies are not integrated and one fishing trip could require reporting to all entities.
- **Action By**: NMFS and ASMFC (or individual states)
- **Action**: Provide increased funding and resources to simplify reporting through electronic reporting, the integration of data streams and permit databases, implementation of a unique trip identification number, and other appropriate methods.
- **Rationale**: This action would reduce the reporting burdens for commercial harvesters by streamlining the reporting process and eliminating redundant reporting requirements.

** Note: Items 13-15 are based on recommendations from the For-Hire Law Enforcement Workshop.*

13. **Integration of VTR and HMS Reporting Systems**

- **Issue:** For-hire vessels holding dual permits for HMS and GARFO-managed species are required to submit HMS reports and Vessel Trip Reports (VTR) through separate reporting mechanisms.
- **Action By:** NMFS Greater Atlantic Regional Fisheries Office and HMS Division
- **Action:** Integrate VTR and HMS reporting systems
- **Rationale:** This action is needed to reduce duplicate reporting burdens for dual permit holders and to draw parity between the data (e.g., species and disposition) collected under each system.
- **Initiation Plan:** The Council has already submitted a request to GARFO and HMS in April 2019

14. **Reporting by Holders of HMS Permits with Commercial Sale Endorsement**

- **Issue:** The HMS reporting application does not require the same data as VTRs.
- **Action By:** NMFS HMS Division
- **Action:** Require holders of HMS permits with a commercial sale endorsement to report catch and harvest of all species, as well as discarded/undersize fish.

- **Rationale:** This action is needed to develop consistency with data reported on VTRs.
- **Initiation Plan:** The Council has already submitted a request to NMFS HMS in April 2019.

15. Integration of the NOAA HMS Database and USCG Safety Inspection Databases

- **Issue:** The NMFS HMS permitting database and the U.S. Coast Guard (USCG) safety inspection database are not currently linked. For-hire vessels applying for HMS permits with commercial sale endorsements are not required to submit their unique USCG safety inspection number at the time of application. There is no way to enforce the USCG safety requirements for permits with the commercial sale endorsement unless the vessel is boarded.
- **Action By:** USCG
- **Action:** Integrate the HMS and GARFO permitting database and USCG safety inspection database.
- **Rationale:** This action is needed to enforce uniform safety requirements for commercial and for-hire vessels landing fish for commercial sale.
- **Initiation Plan:** The Council has already submitted a request to the USCG in April 2019.

16. Modernizing Recreational Fisheries Act

- **Issue**: Section 102 of the Modernizing Recreational Fisheries Act of 2018 (Modern Fish Act), amends the MSA to explicitly authorize the use of certain management approaches intended to expand management flexibility for recreational fisheries. Specifically, the Modern Fish Act authorizes the use of extraction rates, fishing mortality targets, harvest control rules, and traditional or cultural practices of native communities for the management of recreational fisheries. The Act does not change the existing National Standard requirements to develop ACLs and accountability measures or other applicable provisions of the MSA. There is confusion regarding how the provisions of the Modern Fish Act can be applied to achieve greater management flexibility for recreational fisheries while following the National Standard 1 guidelines as currently written.
- **Action By**: NMFS
- **Action**: Evaluate the National Standard 1 guidelines relative to the Act and provide clarification on the flexibility the Councils have to implement alternative recreational management approaches.
- **Rationale**: This clarification would help the Council refine recreational management approaches and improve recreational efficiency, stability, and angler satisfaction while working within existing MSA constraints.
- **Initiation Plan:** The Council will identify this issue in its EO response and await action by NMFS.

17. HMS Import Gear Restrictions

- **Issue**: Highly migratory species range widely through the ocean and must be managed through international cooperation and collaboration. Efforts by U.S. managers and fishermen to implement science-based approaches to fisheries management cannot result in sustainable HMS fisheries if foreign fleets interacting with shared stocks are not managed under the same harvesting standards. Since 2004, all vessels with pelagic longline (PLL) gear and federal HMS limited access permits have been required to use circle hooks to avoid interaction with sea turtles and other protected species. According to the NOAA Fisheries 2019 Report to Congress on Improving International Fisheries Management, "The United States has consistently promoted the mandatory use of circle hooks and other related mitigation measures in pelagic longline fisheries managed by the tuna regional fishery management organizations (RFMOs) to which it is a party, to reduce the bycatch of sea turtles and other protected species. To date, despite strong U.S. leadership, several members of the tuna RFMOs have opposed adoption of binding conservation and management measures mandating the use of circle hooks." While these gear restrictions have successfully reduced bycatch in the U.S. PLL fishery, the U.S. continues to allow imports of HMS seafood from countries that do not require circle hooks.
- **Action By**: NMFS

- **Action**: The Council recommends several actions to address the disparity between U.S. and foreign HMS harvesting standards: (1) Adopt and expand the use of market-related measures, such as import prohibitions and landing restrictions, to ensure that HMS fish and fish products are only imported from countries that have equivalent gear requirements for PLL HMS fisheries, particularly with respect to the use of circle hooks. (2) Continue to work with regional fishery management organizations to pursue binding conservation and management measures mandating the use of circle hooks. (3) Consider the feasibility of establishing provisions similar to the "Fish and Fish Product Import Provisions of the Marine Mammal Protection Act" that would require nations exporting HMS seafood to the United States to be held to the same standards as U.S. commercial fishing operations.
- **Rationale**: U.S. fishermen are unfairly disadvantaged by imports of HMS seafood harvested by foreign fleets that are not subject to equivalent gear restrictions. The proposed import restrictions and other recommendations are necessary to level the playing field for the U.S. fishing industry and ensure the continued sustainability and productivity of U.S. stocks.
- **Initiation Plan:** The Council will identify this issue in its EO response and submit a formal request to NMFS.

The following pages contain public comments received since the August 2020 Council Meeting. Comments considered at the August meeting are available at

https://www.mafmc.org/s/EO-Public-Comments-2020-08-10-ha25.pdf

Friends of the Earth

September 23, 2020

Dr. Chris Moore, Executive Director
Mid-Atlantic Fishery Management Council
800 North State Street
Suite 201
Dover, DE 19901

Re: Recent aquaculture proposals impacting Mid-Atlantic Fisheries

Dear Dr. Moore and Council Members:

Please accept the following comments on behalf of Friends of the Earth, and our members and activists located throughout the Mid-Atlantic region, to raise our alarm over recent proposals that would advance industrial aquaculture in the U.S. [1] As detailed below, we object to any agenda that furthers industrial aquaculture production based on the established history of negative environmental and socio-economic impacts, and we urge the Mid-Atlantic Fishery Management Council to assert its unique authority and expertise, and demand to be integrally involved as these policies develop along its stretch of the Atlantic coast.

I. We thoroughly object using industrial aquaculture as a means to increase domestic seafood production.

Industrial ocean fish farming – also known as marine finfish or offshore aquaculture – is the mass cultivation of fish in the ocean in net pens, pods or cages. Industrial fish farms are known to contaminate waters with pharmaceuticals, toxic chemicals, untreated waste and disease. Farmed fish spills can also threaten the wild fish populations and natural ecosystems. Coastal businesses could be negatively impacted by the increases in pollution and ecological damage. We have been tracking, and are entirely opposed to, the multitude of advances by the federal government to recklessly develop and expand this destructive, outdated, and unnecessary form of aquaculture in the United States. 1

Other countries with marine finfish aquaculture have suffered extensive environmental, socio-economic and public health problems associated with the industry. These impacts are varied and widespread, and oftentimes do not come to light until years after the damage has been done. The U.S. should acknowledge and learn from these negative experiences. Several countries, like Canada, Argentina, and Denmark, are already moving away from offshore aquaculture due to these serious impacts.[2]

Marine finfish aquaculture routinely results in farmed fish escapes that adversely affect wild fish stocks. In August 2017, a Cooke Aquaculture facility in Washington State spilled more than 263,000 farmed Atlantic salmon into Puget Sound. Long after the escape, many of these non-native, farmed fish continued to thrive and swim free – some were even documented as far north as Vancouver Island, west of the Strait of Juan de Fuca, and south of Tacoma, traveling at least 100 miles from the farm.[3] Escaped fish increase competition with wild stocks for food, habitat, spawning areas and mates. Moreover, reliance on the sterility of farmed fish to prevent interbreeding is *never* 100% guaranteed; therefore, the "long-term consequences of continued farmed [fish] escapes and subsequent interbreeding . . . include a loss of

[1] NOAA, Recommendations for a Comprehensive Interagency Seafood Trade Strategy, 85 FR 41566 (July 10, 2020).
[2] Hallie Templeton (Feb. 10, 2020). *International examples offer US a blueprint for aquaculture regulation in 2020.* Friends of the Earth. https://foe.org/international-examples-offer-us-blueprint-aquaculture-regulation-2020/
[3] Lynda V. Mapes, Seattle Times, Despite agency assurances, tribes catch more escaped Atlantic salmon in Skagit River (Dec. 1, 2017), *available at* https://www.seattletimes.com/seattle-news/environment/despite-agency-assurances-tribes-catch-more-escaped-atlantic-salmon-in-skagit-river/.

genetic diversity."[4] Finally, escaped farmed fish might spread a multitude of parasites and diseases to wild stocks, which could prove fatal when transmitted.[5]

Also on the topic of parasites and diseases, we have significant concerns over the pervasive use of pharmaceuticals and other chemicals for prevention and treatment of outbreaks in marine finfish aquaculture facilities. The use of these chemicals creates environmental and public health concerns. It is no secret that large concentrated populations of animals are more susceptible to pests and diseases due to confined spaces and increased stress. In response, the agriculture and aquaculture sectors administer a pharmacopeia of chemicals – and in the open ocean, residues of these drugs are discharged and absorbed into the marine ecosystem. For example, the marine finfish aquaculture industry treats sea lice with Emamectin benzoate (marketed as SLICE®), which has caused "widespread damage to wildlife," including "substantial, wide-scale reductions" in crabs, lobsters and other crustaceans.[6] For example, in Nova Scotia, an 11-year-long study found that lobster catches plummeted as harvesters got closer to marine finfish aquaculture facilities.[7] These industrial operations also have a plan in the works to apply Imidacloprid – an extremely hazardous, bee-killing neonicotinoid – to help control sea lice.[8] In addition, the industry has embraced the use of Formaldehyde – a toxic carcinogen posing risk to both public health and the marine ecosystem – as a form of disinfectant.[9] Finally, the use of antibiotics in marine finfish aquaculture facilities is contributing to the public health crisis of antibiotic resistance. In farmed fish, there may still be antibiotic and other chemical residues by the time they reach consumers, and they can also leach into the ocean, contaminating nearby water and marine life. In fact, up to 75% of antibiotics used by the industrial ocean fish farming industry are directly absorbed into the surrounding environment.[10]

Another serious concern is the direct discharge of untreated pollutants, including excess food, waste, antibiotics, and antifoulants associated with industrial ocean fish farms. Releasing such excess nutrients can negatively impact water quality surrounding the farm and threaten surrounding plants and animals. These underwater factory farms can also physically impact the seafloor, create dead zones, and change marine ecology by attracting and harming predators and other species that congregate around fish cages. These predators – such as birds, seals, and sharks – can easily become entangled in net pens, stressed by acoustic deterrents, and hunted. In fact, an industrial ocean fish farm caused the death of an endangered monk seal in Hawaii, which was found entangled in the net.[11] In August 2018, Cooke

[4] Fisheries and Oceans Canada, Newfoundland and Labrador Region, Stock Assessment of Newfoundland and Labrador Atlantic Salmon (2016), *available at* http://waves-vagues.dfo-mpo.gc.ca/Library/40619655.pdf ("Genetic analysis of juvenile Atlantic Salmon from southern Newfoundland revealed that hybridization between wild and farmed salmon was extensive throughout Fortune Bay and Bay d'Espoir (17 of 18 locations), with one-third of all juvenile salmon sampled being of hybrid ancestry."); *see also* Mark Quinn, CBC News, *DFO study confirms 'widespread' mating of farmed, wild salmon in N.L.* (Sept. 21, 2016) https://www.cbc.ca/news/canada/newfoundland-labrador/farmed-salmon-mating-with-wild-in-nl-dfo-study-1.3770864.

[5] Jillian Fry, PhD MPH, David Love, PhD MSPH, & Gabriel Innes, VMD, Johns Hopkins University, Center for a Livable Future, "Ecosystem and Public Health Risks from Nearshore and Offshore Finfish Aquaculture" at 6-7 (2017) https://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-a-livable-future/_pdf/research/clf_reports/offshor-finfish-final.pdf

[6] Rob Edwards, The Sunday Herald, *Scottish government accused of colluding with drug giant over pesticides scandal*, (June 2, 2017) http://www.heraldscotland.com/news/15326945.Scottish_government_accused_of_colluding_with_drug_giant_over_pesticides_scandal/.

[7] Milewski, *et al*., (2018) *Sea Cage aquaculture impacts market and berried lobster catches*, Mar. Ecol. Prog. Ser. 598: 85-97, *available at* https://www.int-res.com/articles/meps2018/598/m598p085.pdf.

[8] Rob Edwards, The Ferret Scotland, Fish farm companies 'bidding to use bee-harming pesticide (March 17 2020).

[9] Rob Edwards, The Ferret Scotland, Toxic fish farm pesticide polluted ten lochs across Scotland (May 24, 2020).

[10] United Nations, "Frontiers 2017: Emerging Issues of Environmental Concern" at 15 (2017) https://www.unenvironment.org/resources/frontiers.

[11] Caleb Jones, USA Today, *Rare Monk Seal Dies in Fish Farm off Hawaii* (Mar. 17 2017), *available at* https://www.usatoday.com/story/news/nation/2017/03/17/rare-monk-seal-dies-fish-farm-off-hawaii/99295396/.

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Aquaculture entangled an endangered Humpback whale in large gillnets that it cast to recapture escaped farmed fish from a Canada facility.[12] These examples are merely two of many unfortunate incidents.

Large populations of farmed fish will require an incredible amount of fish feed, which carries its own environmental, public health, and human rights risks.[13] Most industrially farmed finfish, like salmon, are carnivorous and require protein in their feed. This often consists of lower-trophic level "forage fish," many of which are already at risk of collapse. Lately, aquaculture facilities are relying more on ingredients such as corn, soy, and algae as substitute protein sources, many of them genetically engineered, and which do not naturally exist in a fish's diet. Use of these ingredients can lead to heightened, widespread environmental degradation, a heightened demand on natural resources, and a less nutritious fish for consumers. Moreover, the fish feed industry is a global contributor to human trafficking and slavery.[14] There are very few requirements for the industry to include traceability of ingredients or sourcing methods in fish feed, allowing these serious problems to pervade.

Finally, permitting commercial, marine finfish aquaculture in the United States could bring formidable economic harm to our coastal communities, food producers (on land and at sea), and other marine-reliant industries. Members of the wild-capture fishing industry have collectively voiced their trepidations over attempting to coexist with the marine finfish aquaculture industry, stating that "this emerging industrial practice is incompatible with the sustainable commercial fishing practices embraced by our nation for generations and contravenes our vision for environmentally sound management of our oceans."[15] These massive facilities could also close off and essentially privatize large swaths of the ocean that are currently available for numerous other commercial purposes, including fishing, tourism, shipping, and navigation. Given what we know about economies of scale and the business models of modern agriculture and terrestrial food production, we can only expect a similar trend at sea: that is, the marine finfish aquaculture industry could easily push out responsible, small-scale seafood producers and crop growers. This dynamic equates to an alarming imbalance of power, and allows corporations to dominate business structures, production methods, and management policies within the industry. Giving corporations disproportionate influence over food production also severely limits consumer choices.[16] Most important is the fact that our existing seafood producers are acutely struggling from the sweeping impacts of the COVID-19 pandemic. The Administration should set aside its flawed mission to advance an industry with myriad documented harms, and instead prioritize protecting and assisting our preexisting – and deeply struggling – seafood production sectors.

[12] Terri Coles, CBC News, *Humpback whale freed from net meant for escaped farm salmon in Hermitage Bay* (Aug. 14, 2018), https://www.cbc.ca/news/canada/newfoundland-labrador/whale-caught-gill-net-cooke-aquaculture-1.4784732.

[13] *See generally*, Changing Markets Foundation, *Until the Seas Run Dry* (2019), *available at* http://changingmarkets.org/wp-content/uploads/2019/04/REPORT-WEB-UNTILL-THE-SEAS-DRY.pdf (concluding that using wild fish to feed farmed fish "raises concerns of overfishing, poor animal welfare and disruption of aquatic food webs; it also undermines food security in developing countries, as less fish is available for direct human consumption").

[14] David Tickler, *et al.* (2018) *Modern slavery and the race to fish*, Nature Communications 9: 4643, *available at* https://www.nature.com/articles/s41467-018-07118-9.

[15] Open letter to Members of the U.S. House of Representatives and Senate, Dec. 4, 2018, re: Opposition to marine finfish aquaculture in U.S. waters, *available at* http://foe.org/DecFishFarmingSignOnLetter/.

[16] *See generally*, Undercurrent News, "World's 100 Largest Seafood Companies" (Oct. 7, 2016) https://www.undercurrentnews.com/report/undercurrent-news-worlds-100-largest-seafood-companies-2016/; Tom Seaman, Undercurrent News, "World's top 20 salmon farmers: Mitsubishi moves into second place behind Marine Harvest" (June 29, 2016) https://www.undercurrentnews.com/2016/06/29/worlds-top-20-salmon-farmers-mitsubishi-movesinto-second-place-behind-marine-harvest/; Aslak Berge, Undercurrent News, "These are the world's 20 largest salmon producers" (July 30, 2017) http://salmonbusiness.com/these-are-the-worlds-20-largest-salmon-producers/.

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The risks are not isolated to marine finfish operations. Other forms of aquaculture – such as intensive bivalve cultivation and large-scale warehouses on land – can also be destructive to essential habitat, water quality, and public health when poorly sited and scaled. While *wild* bivalves are known to clean water, the water quality impacts of intensive shellfish aquaculture may not always be beneficial; many aquaculture activities can negatively affect water quality through the removal of eelgrass, the increase of wastes from concentrated production, and the disruption of sediments. Other significant potential environmental impacts from dense shellfish aquaculture is a reduction in shoreline biodiversity,[17] installation of plastic gear (e.g., PVC tubes, polyethylene anti-predator netting, and polyolefin ropes),[18] and use of pesticides.[19] These massive shellfish operations also pose risks to marine wildlife and public health and safety.[20]

Massive land-based finfish aquaculture facilities also pose risks. One such facility is being proposed on Maryland's Eastern Shor by Norwegian company AquaCon. Aquacon intend to build the $300 million operation on the outskirts of Federalsburg in Caroline County, and aims to harvest 3 million fish a year, weighing 14,000 metric tons. This "harvest" will be on par with Maryland's total annual commercial crab catch.[21] The company hopes to follow suit with two additional operations on the Eastern Shore over the next six or seven years, ramping up production to 42,000 tons annually. This "harvest" would total more than the entire Baywide landings of *any* fish or shellfish – except for menhaden.[22] Although these types of operations are referring to themselves as "Recirculating Aquaculture Systems," these are not actually what is commonly defined as a recirculating system (fully recirculating, reusing all waste and water within the system – not merely 99%) and have regular discharge. Co-opting the term recirculating aquaculture system to describe these facilities, is simply a form of greenwashing the operations, in the hopes of garnering support for it by confusing the public about their true nature. Given its scale, the AquaCon facilities are likely to routinely discharge *millions of gallons of effluent daily* off Maryland's coast.[23] Regardless of any dilution efforts, effluent from a facility of this size contains alarming amounts of fish waste, excess food, and pharmaceutical residues. Moreover, the facility will use a stunningly irresponsible amount of water and have an extreme carbon footprint. Finally, the colossal scale of the facility plan is cause for extreme concern for the wellbeing of Maryland's independent fishing community as well as small and mid-sized seafood businesses. Based on these reasons, we are opposed to the facility and strongly object to the issuance of any permits for its operation and further are very concerned about their usage of the term "recirculating aquaculture" in this manner.

[17] *See id*; Bouwman, L., A. Beusen P. M Glibert, C Overbeek, M Pawlowski, J. Herrera S. Mulsow, R. Yu, and M. Zhou, *Mariculture: significant and expanding cause of coastal nutrient enrichment,* Environ. Res. Lett. 8 (2013); DeFur, P. and D.N. Rader, *Aquaculture in estuaries: Feast or famine?* Estuaries Vol. 18, No. 1A (1995); Hastings, R.W. and D.R. Heinle, *The effects of aquaculture in estuarine environments: Introduction to the dedicated issue,* Estuaries Vol. 18, No. 1A (1995); Dethier, M., *Native shellfish in nearshore ecosystems of Puget Sound*, Puget Sound Nearshore Partnership Report No. 2006-04, Published by Seattle District, U.S. Army Corps of Engineers, Seattle, Washington (2006); Diana, J.S., H. S. Egna, T. Chopin, M.S. Peterson, L. Cao, R. Pomeroy, M. Verdegem, W.T. Slack, M.G. Bondad-Reantaso, and F. Cabello, *Responsible Aquaculture in 2050: Valuing Local Conditions and Human Innovations Will Be Key to Success*, Bioscience, Vol. 63(4) (2013); Bendell, L.I. and P.C.Y. Wan, *Application of aerial photography in combination with GIS for coastal management at small spatial scales; a case study of shellfish aquaculture* (2013).

[18] Bendell, L.I., Favored use of anti-predator netting (APN) applied for the farming of clams leads to little benefits to industry while increasing nearshore impacts and plastics pollution, Marine Pollution Bulletin (2015).

[19] Jennifer Wing, Willapa Bay Oyster Farmers Ask State Again For Permission To Use Neurotoxin, KPLU, (Jan. 9, 2016); Wash. Dept. of Ecology, Willapa Bay- Grays Harbor: Burrowing Shrimp Control – Imidacloprid (last visited Aug. 1, 2016).

[20] Richard Langan, Kevin Heasman, Shellfish Culture in the Open Ocean: Lessons Learned for Offshore Expansion, Marine Technology Science Journal (May 2010).

[21] Timothy Wheeler & Jeremy Cox, Bay Journal News Service, Salmon farm planned on Eastern Shore (Sept. 5, 2020).

[22] *Id.*.

[23] A similar operation proposed in Maine aims to produce 33,000 tons of fish annually, discharging 7.7 million gallons of effluent daily. *See* Abigayl Curtis, Bangor Daily News, *State officials get an earful about proposed Belfast fish farm* (Feb. 13, 2020).

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II. We oppose NOAA's plans for establishing Aquaculture Opportunity Areas.

On August 20, 2020, the National Oceanic and Atmospheric Administration (NOAA) announced the designation of federal waters in the Gulf of Mexico and Southern California regions as Aquaculture Opportunity Areas (AOA), with the intention of announcing eith more AOAs by 2025.[24] NOAA created the AOA designations despite a ruling from the Fifth Circuit Court of Appeals earlier in August that concluded that the Magnuson Stevens Act "unambiguously precludes the agency from creating an aquaculture regime, and affirmed the lower court's decision to vacate the nation's first commercial aquaculture permitting scheme.[25] Instead, NOAA made the AOA designations in response to a non-legislative mandate contained in the May 7, 2020 Executive Order on Promoting American Seafood Competitiveness and Economic Growth ("EO").[26] NOAA is planning to designate a portion of each named region into a parcel that can host 3-5 offshore aquaculture operations for finfish, plants, bivalves, or a combination of species.

NOAA has stated that it chose the first two regions "based on the already available spatial analysis data and current industry interest in developing sustainable aquaculture operations in the region." This statement in itself is troubling, as the agency has clearly failed to take into account whether the two regions consent to having aquaculture facilities sited in their adjacent federal waters. Before any AOA can legally be finalized, the Coastal Zone Management Act mandates a consistency review with the relevant state authorities to explore this important issue.[27] Moreover, it seems abundantly clear that NOAA chose these two regions – at least in part – based on the fact that there each region is the target site for at least one proposed finfish aquaculture facility for which permits are now pending. This does not bode well for the Mid-Atlantic. The Region would be home to a proposed finfish aquaculture facility that aims to cultivate Atlantic striped bass in the EEZ off the coast of Long Island, New York: Manna Fish Farms.[28]

Based on the industry's history of environmental and socio-economic harms, we urge the MAFMC to oppose the use of any future designation of an AOA for marine finfish aquaculture facilities. Because we are mindful that certain low-trophic marine aquaculture facilities do not pose the same risks,we would request the MAFMC urge NOAA to only permit plant and bivalve facilities in the Mid-Atlantic region that are moderately scaled, appropriately sited, and which do require feed or other inputs such as chemicals, herbicides, and pesticides.

Finally, marine conditions are highly localized and can vary greatly even within a small parcel of ocean space. Therefore, for any facilities that will be permitted, we are strongly opposed to any streamlined or programmatic environmental review process and recommend that each facility undergo rigorous review by pertinent agencies, including meaningful public participation and fulfillment of all mandated environmental reviews, consultations, and other conservation processes, including, but not limited to, those contained in the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*, the Endangered Species Act (ESA) 16 U.S.C. § 1531, *et seq.*, the Marine Mammal Protection Act, 16 U.S.C. § 1361, *et seq.*, and the Migratory Bird Treaty Act, 16 U.S.C. § 703, *et seq.*

[24] NOAA, Press Release, NOAA Announces Regions for First Two Aquaculture Opportunity Areas under Executive Order on Seafood (Aug. 20, 2020).
[25] Gulf Fishermens Ass'n v. NMFS, 968 F.3d 454 (5th Cir. Aug. 2020).
[26] Executive Office of the White House, Promoting American Seafood Competitiveness and Economic Growth, Executive Order 13921 (May 7, 2020).
[27] 16 U.S.C. § 1455(c).
[28] *See* Valerie Gordon, The Southampton Press, Manna Fish Farm Stuck On Sandbar Near Entrance To Shinnecock Canal (May 15, 2018).

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III. We oppose the U.S. Army Corps draft nationwide permits streamlined approach to permitting industrial aquaculture.

Pursuant to the EO, the U.S. Army Corps of Engineers (USACE) has drafted a new set of nationwide permits for finfish, plant, and multi-trophic aquaculture facilities, as well as amended the pre-existing nationwide permit 48 for shellfish aquaculture. An unofficial draft of the permits has been provided for public inspection by the Federal Register, with formal publication of the official draft and a 60-day public comment period forthcoming.[29]

We are still in the process of reviewing the finer details of the draft nationwide permits. However, we assert our opposition to any streamlined approach to permitting industrial aquaculture operations, and object to any permitting for marine finfish aquaculture facilities. Many of the risks inherent with industrial aquaculture operations cannot be mitigated or avoided. Moreover, as mentioned above, even localized ocean space can vary significantly within the same region, which requires a unique and targeted review for each proposed site. For these reasons, each individual permit and its potential environmental and socio-economic harms must be closely and thoroughly scrutinized by pertinent agencies, including a rigorous public participation process.

IV. We recommend the following actions by MAFMC with regard to emerging aquaculture proposals:

The Magnuson Stevens Act acknowledges the critical relationship between fishing and non-fishing uses of the ocean through its mandate to consider all ocean uses when creating or amending fisheries policy. By the same logic, the MAFMC has a vested interested in ensuring that emerging ocean policies and uses do not compromise wild-capture fishing activities by damaging the ocean ecosystem, disrupting ongoing spatial uses, or harming marine life. Indeed, the fish harvesters that MAFMC represents all deeply depend on a healthy, robust marine environment, which would be put at significant risk by industrial aquaculture. To help fulfill its responsibilities, we recommend that MAFMC exercise its unique influence and authority to undertake the following as related to emerging marine aquaculture proposals:

- Request the Secretary of Commerce to initiate Essential Fish Habitat consultations on all proposed aquaculture permits or siting proposals – including the draft nationwide permits and any future AOA designations in the region – at the earliest possible opportunity, not to be consolidated with other environmental review procedures.

- Coordinate and provide input into proposed aquaculture permits or siting proposals – including the draft nationwide permits and any future AOA designations in the region – to the extent allowed by the environmental review procedures in the National Environmental Policy Act (NEPA), the Clean Water Act (CWA), and the Coastal Zone Management Act (CZMA).

- Provide to the Secretary of Commerce, Secretary of Interior, and Secretary of Defense an assessment of the environmental and socio-economic risks of industrial aquaculture in the region and request that the assessment be incorporated into all agency strategies and decisions on aquaculture proposals and policies for the region. This assessment may be incorporated in a number of current MAFMC processes, including but not limited to, eosystem-based management processes, including Fishery Ecosystem Plans; fishery management plan updates and amendments; and the Council's work with fishery agencies, tribes, and land and water management agencies to assess habitat conditions and develop comprehensive restoration plans. (MSA § 305(b))

[29] Dep't of Defense, Proposal to Reissue and Modify Nationwide Permits, Dkt. No. 2020-0002 (Aug 3, 2020).

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- Incorporate language into conservation and management measures that rejects marine finfish aquaculture facilities in the region based on the industry's impacts on ocean health and wild fish productivity abundance, and distribution.

V. We recommend that the MAFMC request the following priorities for the Seafood Trade Task Force:

We are concerned with the overarching goal of the May 7 Executive Order to increase domestic seafood production – principally through offshore finfish aquaculture development – to address the overstated problem that we import too much seafood. At the same time, the EO ironically seeks to increase our seafood exports, and mandates the Task Force to explore recommendations and provide trade strategy to achieve this goal, which will only exacerbate the perceived "trade deficit" problem. Additionally, COVID-19 has shuttered communities, closing large swaths of the domestic market to our fishing industry and creating a glut of American seafood.[30]

This situation has become especially vital in recent months as more and more people in the U.S. struggle to feed their families as the COVID-19 pandemic has caused many to lose income and disrupted supply chains in the seafood industry. Research has shown that 23% of us here in the U.S. are now affected by food insecurity, almost double since before the pandemic, with Black and minority communities being especially hard hit.[31] With almost a quarter of all Americans being affected, this is an urgent, nationwide priority that must be addressed. Therefore, rather than prioritizing the export of U.S. seafood to increase profit and trade statistics, it behooves the Task Force to instead promote the domestic sale of U.S. seafood products.

Moreover, increasing exports of U.S.-produced seafood will deny U.S. consumers access to high-quality, sustainably harvested product, resulting in the continued import of cheaper, foreign seafood for domestic consumers. Research has shown that much of the seafood into the U.S. is produced in very problematic ways. Approximately half of our imported seafood is industrially farmed, which has a number of socio-economic and environmental problems noted in Section I above.[32] And up to 32% of imported wild shrimp, crab, salmon and other catch is illegally poached.[33] Illegal fishing puts even more pressure on wild populations such that legal harvest is barely sustainable, and displaces those in the fishing industry who operate responsibly.[34] Documentation of imported fish is lax, making it difficult to trace the seafood from harvest to processing, which often occurs in multiple countries, each with their own set of regulations.

Instead of promoting exports of domestic seafood, the Task Force should focus its attention on the following objectives:

- Increase regulatory controls in the U.S. to prohibit seafood imports from countries that do not meet our high standard for ethical and sustainable production. Allowing imports from these countries creates an unfair

[30] Laura Reiley, Washington Post, "Commercial fishing industry in free fall as restaurants close, consumers hunker down and vessels tie up" (Apr. 8, 2020).
[31] Alvin Powell, The Harvard Gazette, *Hunger on the rise amid pandemic* (July 1, 2020), https://news.harvard.edu/gazette/story/2020/07/covid-19-leaving-some-americans-sick-and-hungry/
[32] Darryl Fears, The Washington Post, *Seafood study: up to 32% imported to U.S. is caught illegally* (Apr. 20, 2014), https://www.washingtonpost.com/national/health-science/seafood-study-up-to-32-percent-imported-to-us-is-caught-illegally/2014/04/20/3ceeabe0-c04d-11e3-bcec-b71ee10e9bc3_story.html
[33] NOAA, *Global Wild Fisheries*. https://www.fishwatch.gov/sustainable-seafood/the-global-picture#:~:text=to%20United%20States-,NOAA%20Fisheries%20estimates%20that%20the%20United%20States%20imports%20more%20than,of%20more%20than%20%2410.4%20billion.
[34] Ian Urbina, NBC News, The deadly secret of China's invisible armada (July 22, 2020) ("China is sending a previously invisible armada of industrial boats to illegally fish in North Korean waters, violently displacing smaller North Korean boats and spearheading a decline in once-abundant squid stocks of more than 70 percent.").

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advantage over American seafood and exacerbates harm to consumers and struggling domestic wild-capture fishing communities who are operating responsibly and abiding by government regulations.

- Focus on correcting our flawed tracking program for seafood trade, which relies on inaccurate tracking and reporting methods that double-counts seafood of domestic origin that is exported abroad for processing but re-imported for sale and consumption back here in the U.S. These erroneous figures are used as a primary reason to bring industrial aquaculture to the U.S. as a silver-bullet solution to the perceived seafood trade deficit.

- And, explore methods to end the export of seafood for cheap processing abroad by fostering and incentivizing domestic seafood processing here at home.

In conclusion, we are deeply concerned over recent proposals that seek to advance the growth of industrial aquaculture – many without proper oversight, environmental review and public participation processes, and other assurances to adequately protect water quality, wildlife habitat, and coastal economies. It is clear that industrial aquaculture has myriad, inherent environmental and socio-economic harms. Instead of treading carefully toward permitting an emerging industry with well-documented harms, we are alarmed that federal agencies have taken measures to rush the regulatory and environmental review processes to speed production while ignoring many risks and external costs.

Based on industrial aquaculture's long-established history of environmental and socio-economic risks, we do not support these proposals, or any future policies that prioritize this risky method of seafood production. We urge the MAFMC to adopt the above recommendations and object to any efforts that would assist the hasty development of this dangerous industry.

Thank you for accepting these comments. I am available for any follow-up you may have in response to this communication.

Sincerely,

Hallie Templeton
Senior Oceans Campaigner
Friends of the Earth
htempleton@foe.org
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From: Bonnie Brady <greenfluke@optonline.net>
Sent: Thursday, August 13, 2020 8:59 AM
To: Mary Clark Sabo <msabo@mafmc.org>
Subject: EO 13921

On behalf of the Long Island Commercial Fishing Association, in the spirit of EO 13921, we hereby request a policy change whereby all legal sized fish species that are caught can be landed, instead of thrown over as regulatory by catch. This would reduce discard and bycatch in a multitude of fisheries, and produce huge benefits to ports throughout the nation as well as reduce bycatch to the extent practicable, in support of National Standards Five and Nine of the Magnuson Stevens Act.

Thank you
Bonnie Brady
LICFA

From: John depersenaire <jdepersenaire@joinrfa.org>
Sent: Tuesday, August 18, 2020 11:29 AM
To: Mary Clark Sabo <msabo@mafmc.org>
Subject: Fwd: RFI Reponse: Interagency Seafood Trade Task Force

Mary, I happened to be listening to the MAFMC meeting last Thursday when EO 13291 was discussed. I must have missed the announcement from the MAFMC soliciting public input on this matter. RFA did submit comments to the request for recommendations for the Comprehensive Seafood Trade Strategy which was posted in the federal register. We would have submitted the same comments to the MAFMC if we knew you were looking for comments. I understand the council's comment period may have closed but I still felt it was important to forward you our comments considering there were very few comments submitted from the recreational sector.

John

---------- Forwarded message ---------
From: **John depersenaire** <jdepersenaire@joinrfa.org>
Date: Thu, Jul 16, 2020 at 11:00 AM
Subject: RFI Reponse: Interagency Seafood Trade Task Force
To: <SeafoodTrade.strategy@noaa.gov>
Cc: <andrew.lawler@noaa.gov>

Please find attached comments from the Recreational Fishing Alliance in regards to the request for information for the development of the Comprehensive Interagency Seafood Trade Strategy.

--
John DePersenaire
Recreational Fishing Alliance
PO Box 250
New Gretna, NJ 08224
888 JOIN-RFA

July 16, 2020

Interagency Seafood Trade Task Force
U.S. Department of Commerce

RE: RFI Response: Interagency Seafood Trade Task Force

Dear Members of the Interagency Seafood Trade Task Force:

Please accept the following comments on behalf of the Recreational Fishing Alliance (RFA) regarding the request for information issued by the Interagency Seafood Trade Task Force. RFA is a national organization with a mission statement to fight for the rights of saltwater anglers, protect marine and fishing tackle jobs and ensure the long-term sustainability of our Nation's marine resources. RFA recognizes the importance and traditional value of US commercial fishermen and what they provide to this council in terms of food production and jobs. RFA strives to maintain working relationships with individual commercial fishermen and commercial fishing organizations to work constructively through issues important to both our sectors.

RFA also recognizes the intent of Executive Order 13921 issued by President Trump on May 7, 2020. RFA is particularly supportive of the statement in section 1 to "get more Americans back to work and put healthy, safe food on our families table." The U.S. fisheries are the best managed in the world and RFA believes it is appropriate for the Administration to make investments for the benefit of U.S. fishermen.

Specific to key sections of Executive Order 13921, RFA supports Section 2 (a) that seeks to "identify and remove unnecessary regulatory barriers restricting American fishermen and aquaculture producers." While RFA agrees that U.S. fishermen are subjected to unnecessary regulatory barriers, RFA is cautious about advancing aquaculture producers too rapidly. Aquaculture development, particularly ocean-based facilities, hold potential negative impacts to important habitat and native fish stocks and these important issues should not be glossed over, but rather fully vetted. RFA supports NOAA remaining the lead federal agency and conducting the appropriate environmental impact statements under NEPA for all aquaculture facilities proposed in the marine area.

RFA supports Section 2 (b) to combat illegal, unreported, and unregulated fishing (IUU). RFA and the recreational fishing community have been at the forefront of requesting the U.S. government take a firm stance through international fishing treaties to curb IUU fisheries. The fairness aspect aside, which should be plainly apparent, there are serious conservation impacts

that result from IUU fishing that impact domestic commercial and recreational fishermen. The obvious impact is the reduction of available quota and fishing opportunities for U.S. fishermen.

RFA supports Section 2 (e) that seeks to safeguard our communities and maintain a healthy aquatic environment. Fishing communities are essential for both commercial and recreational fishermen to access our marine resources. Fishing communities include tackle shops; marinas that hold private, for-hire and head boats; piers; boat ramps; and water access points. All are essential in ensuring that the American public has adequate opportunities to access U.S. fisheries. It also goes without saying that a healthy aquatic environment is essential to many species of critical importance to both commercial and recreational fishermen. RFA is opposed to the roll back of any environmental laws, regulations, or review processes that would result in a net degradation of our nation's estuaries, rivers, bays, waterways, and oceans.

Where the RFA finds fault with Executive Order 13921 and recent notices to enact the mandates of EO 13921, is the conscious decision to exclude recreational fishing in achieving the goals of the order. In our review of multiple definitions of seafood, in no instance did it exclude fish harvested by recreational anglers. The most common definition of seafood includes some variant of the following definition, "any shellfish or finfish from the sea used for food." None of the definitions we have seen restrict the definition of seafood or shellfish to-finfish caught by commercial fishermen or commercial fishing gear. Therefore, a summer flounder, blue crab, bluefin tuna, or Atlantic cod landed for consumption by a recreational angler is just as much seafood as those same species landed by commercial fishermen.

EO 13921 fails to define seafood for use in this executive order or for actions that will be taken to advance its objectives. Therefore, it can be assumed that any one of the myriad of definitions ~~for~~ seafood in popular use could be used with this executive order. RFA sees absolutely no reason that fish landed by recreational anglers for consumption should not be considered seafood. Based on every definition we have reviewed seafood is not a term that can be assigned exclusively to the commercial fishing industry. Furthermore, EO 13921 speaks about actions suggested to benefit U.S. fishermen. 'Fishermen' is a broad term that covers all individuals that catch or attempt to catch animals from the marine environment. The term fisherman is not sector specific, and the Administration should never suggest that the term 'fishermen' excludes anglers that fish for recreation or personal consumption. Thus, all benefits, goals and objectives outlined in EO 13921 aimed at benefiting fishermen must include both commercial and recreational fishermen.

RFA points this out because it is extremely disappointed that EO 13921 does not recognize the contributions that recreational fishing makes towards providing the U.S. public with fresh, domestic caught seafood. While not all recreational fisheries have a significant consumptive component such as marlin, sailfish and some other 'sport' fisheries, the primary motivation for

most anglers is to consume at least a portion of their catch. From an economic standpoint, recreational fishing generates income, supports jobs, and contributes to the gross domestic product in no less important a manner as commercial fishing. RFA can find no rationale to support why recreational fishing should be excluded from this effort by the Administration to "promote American seafood competitiveness and economic growth." In fact, RFA feels it is insulting and disappointingly consistent with a long and unfortunate bias against the recreational fishing industry by NOAA Fisheries under previous Administrations. In the past, this modus operandi has been used to promote discord and divide recreational and commercial fishermen when we are natural allies in achieving conservation objectives and promoting the goal of achieving the greatest value from our shared public trust marine resources.

In terms of staff, research dollars, and management funding, the U.S. Department of Commerce and its subordinate agencies, particularly NOAA Fisheries, have historically prioritized commercial fishing interests over that of the recreational fishing industry. RFA and many in the recreational fishing industry had hoped this Administration would undo this institutional bias that has placed the interests of the commercial fishing industry over that of the recreational fishing industry. We were hopeful that the current Administration would put both sectors on equal standing and acknowledge the important role that each play in providing the United States public with domestic seafood. It is our expectation that these comments will spur the Administration to reflect on this oversight and provide equal interest and consideration.

Perhaps the White House and the newly created Interagency Seafood Trade Task Force are not aware of the magnitude of the benefits to the nation derives in terms of jobs, landings and economic output from the US recreational fishing industry. According to the National Oceanic and Atmospheric Administration, the most recent economic estimates of recreational saltwater fishing include 472,000 jobs, $68 billion in sales and $39 billion in total contributions to gross domestic product. When compared to similar categories attributed to the commercial fishing industry, the recreational values represent over one third of the combined US fishing output. This is no small contribution and should not be overlooked in the creation of something as important as the Interagency Seafood Task Force.

In terms of landings, recreational anglers are estimated to have harvested 334,907,475 pounds of seafood in 2019. In the same year, the recreational sector is estimated to have released over 609,000,000 pounds of fish. Released fish, the overwhelming number of which return unharmed to the biomass, can be classified in several ways including regulatory discards (below or above a minimum/maximum size limit, above a bag limit, out of season), or a personal decision made by the angler to release the fish. Based on the data alone, it would be frivolous for recreational fishing to be considered insignificant or even worse, excluded when crafting domestic seafood policy.

As to the RFI, RFA offers the following response to question 1. The remaining 6 questions are not relevant to the recreational sector and again demonstrates the inherent bias towards the commercial sector. These questions also demonstrate a very narrow focus put forward by the Administration to address this issue solely by increasing the export of more domestically caught seafood. RFA believes it is not the ideal solution for a whole host of reasons and in fact, this approach may exacerbate pressure on certain species and have broad ecological consequences. If the United States is already the largest importer of foreign-caught or farmed seafood, wouldn't a more prudent approach be to promote domestic-caught seafood to the domestic market and reduce our reliance on imports, thereby reducing our trade deficit in much the same way the Administration has promoted increased domestic energy production to reduce imported energy.

1) Recreational anglers do not export fish they land. Thus, every pound of fish harvested by recreational angler remains and is consumed by U.S. citizens. These landings estimates should be applied toward the total domestic seafood production on an annual basis. As explained above, recreationally landed fish fall under every definition of seafood and this acknowledgment alone will help in closing the seafood deficit.

Given that the questions put forward in the RFI are primarily focused at commercial fisheries, RFA would like to offer additional comments for the Task Force to consider as it works towards the development of a Comprehensive Interagency Seafood Trade Strategy.

1) The harvest attributed to recreational anglers on an annual basis is significant. What is unique about these landings is that they result from low impact hook and line gear. The magnitude of landings is only possible when the number of recreational participants is high. Appropriate regulatory frameworks for popular, healthy fisheries can help spur interest in these fisheries and drive more participation. This would help close the seafood gap and consequently increase the overall economic benefits to the nation derived from recreational fishing.
2) International management and compliance ~~has~~ imposes a significant impact on U.S. recreational fishermen and the businesses and jobs supported by recreational fishing. RFA suggests the U.S. State Department and Commerce Department take more aggressive action through international fisheries treaties where U.S. fishermen are regularly disadvantaged due to IUU, noncompliance, misreporting, while lacking enforcement by other contracting parties. These actions often result in lower overall quotas for the U.S., which in turn result in fewer opportunities for recreational anglers, lower recreational harvest and reduced economic output.
3) Explore ways to reduce regulatory discards in the recreational sector and convert mortality associated with discards to harvest. The idea is to find conservation neutral solutions that will increase the potential for recreational harvest without resulting in a net increase of overall mortality.

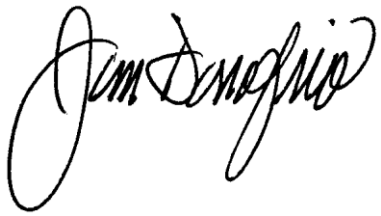
4) Review all federal laws that hold jurisdiction over the management of recreational saltwater fisheries and make suggestions for changes that would allow greater recreational access to U.S. marine resources while ensuring long term sustainability.
5) Explore ways to increase recreational participation. Increasing recreational participation, in concert with some of the above-mentioned suggestions, will allow for increased recreational harvest without the unwanted consequences of highly efficient or destructive fishing gear.

In closing, RFA believes it is paramount that the Administration acknowledges that fish and shellfish harvested by recreational anglers is indeed seafood. Perhaps this acknowledgement will help end the decades long institutional bias against the recreational fishing industry and help achieve the Administration's goal of closing the U.S. seafood gap which the RFA supports under certain scenarios. Now more than ever as our Nation deals with COVID 19, it has been demonstrated that recreational fishing in all forms of fresh and saltwater fishing and recreational shellfish harvesting helps provide food to the public. Grocery stores had either low inventory or were limiting the amount of protein a customer could purchase. The inventory at food banks and other food assistance programs remains low. Because of this, the public actively sort out recreational fishing opportunities to supplement their diet. Recreational gives the public an opportunity to put fresh food, seafood, on the plate.

RFA strongly encourages the Administration to include the interests of the recreational fishing industry and the important role it can play in the goals and objectives of the Interagency Seafood Trade Task Force and the forthcoming Comprehensive Interagency Seafood Trade Strategy.

Thank you for your consideration. Our industry looks forward to providing constructive input for this important work.

Sincerely,



James Donofrio
Executive Director

RECREATIONAL FISHING ALLIANCE
PO BOX 250 New Gretna, NJ 08224
888 564-6732 www.JOINRFA.org

From: James Fletcher <bamboosavefish@gmail.com>
Sent: Friday, August 21, 2020 9:56 AM
To: Moore, Christopher <cmoore@mafmc.org>; Kellogg, Chris <ckellogg@nefmc.org>; Beal, Robert <rbeal@asmfc.org>; Batsavage, Chris <chris.batsavage@ncdenr.gov>; Didden, Jason <jdidden@mafmc.org>
Subject: Tuesday September meeting ****** Commerce & State Department Added

Dr Moore; IS THIS A SO CALLED HORSE & PONY SHOW BY NATIONAL MARINE FISHERIES IN ORDER TO DIVERT ATTENTION FROM EXECUTIVE ORDER?
NATIONAL SALTWATER REGISTRY COMPLIANCE ALL EEZ RECREATIONAL FISHERS & TRIP ELECTRONIC REPORTING.
KISS PROCESS: TOTAL RETENTION BY RECREATIONAL FISHING INDUSTRY **TOTAL RETENTION OF ALL CATCH. MANDATORY CELL / ELECTRONIC REPORTING PRIOR TO LEAVING DOCK & UPON RETURN TO SERVICE. COMPARABLE TO COMMERCIAL REPORTING!**
TWO TYPES RECREATIONAL LICENSES FOR EEZ AS NATIONAL SALTWATER ANGLER REGISTRY MANDATES. 1. LICENSE A. THOSE FISHING FOR FOOD ARE ALLOWED BARBED HOOKS ON VESSELS. LICENSE B. FISHING FOR SPORT; ONLY BARBLESS HOOKS ARE ALLOWED ON VESSEL, {NO EXCEPTIONS}
COMMERCIAL TOTAL RETENTION WITHIN 6 YEARS; ALL CATCH MUST BE RETAINED AFTER AND SOLD IF MARKET CAN BE CREATED. IMPLEMENT DEHYDRATION / EXTRUDED SYSTEMS FOR CATCH AT MAJOR PORTS FOR CATCH WITH NO MARKET. TACKLE FEDERAL FOOD & DRUG OVER NAME CHANGE [DOGFISH] OVER USE OF ENTIRE FISH **GUTS FINS SCALES EYES BONES FOR DRY FISH PROTEIN POWDER FOR HUMANS. ALSO A FISH MEAL PROTEIN FOR AQUACULTURE.**
A STATED EEZ AQUACULTURE POLICY FOR EEZ NO SIZE LIMIT FROM NMFS. LIMITED INPUT FROM COMMERCE THROUGH COAST GUARD NO INPUT FROM ARMY CORP OF ENGINEERS.
Hopefully you will include the suggestions for discussion September 22 meeting / DO NOT NEED HORSE & PONY SHOW FOR EVASION OF EXECUTIVE ORDER FOR SEPTEMBER WEB.
PLEASE USE A WEB SYSTEM THAT HAS HISTORY OF WORKING & ALLOWING ACCESS **DO NOT ALLOW A SWITCH OF WEB ACCESS PLEASE!!!**

--
James Fletcher
United National Fisherman's Association
123 Apple Rd.
Manns Harbor, NC 27953
252-473-3287

-------- Forwarded Message --------
Subject: Re: Fw: Council discussion Executive order discussion
Date: Thu, 10 Sep 2020 12:43:42 -0400
From: James Fletcher <unfa34@gmail.com>
Reply-To:unfa34@gmail.com
To: Andrew Petersen <andrew@bluefindata.com>

Call any time 757 435 8475 Bluefin has done a good job BUT NATIONAL MARINE FISHERIES & MID

ATLANTIC COUNCIL HAS AN AGENDA NOT TO SHOW NUMBER OF RECREATIONAL FISHERS IN EEZ. MAFMC & NMFS APPROVED A ALTERNATIVE DATA FIRM FOR REPORTING RECREATIONAL LANDINGS OF BLUE LINE TILE FISH.

REASON TO SAY DATA IS NOT COMPARATIVE WITH COMMERCIAL DATA FROM BLUE FIN. [muddy the data water not compare] NMFS DOES NOT WANT TOTAL RECREATIONAL NUMBERS IN EEZ. MY GROUP IS DISCUSSING IF ONLY 6% TO 10 % OF POPULATION FISH WHY ALLOW RECREATIONAL 30 TO 90% OF SOME FISH SPECIES. YOU NEED TO UNDERSTAND THAT THE u.s. DEPARTMENT'S OF COMMERCE & STATE WANT IMPORTS. my theory is Magnuson requires comparable recreational data. call when you have time usually up till 10 or 1030PM
BLUEFIN WAS SCREWED DID NOT GET CONTRACT, IN THE TILEFISH REPORTING [REASON] IN ORDER TO HAVE DIFFERENT DATA SO NMFS & COUNCIL COULD SAY NOT COMPARABLE DATA. CALL WHEN YOU WILL
James Fletcher

On 9/9/2020 9:29 PM, Andrew Petersen wrote:
Hey James,

I'm happy to hear you see the need for electronic reporting in the recreational sector. It's something I've been working towards - mostly behind the scenes. Were you able to make progress after this email you sent in August?

I'd love the opportunity to hear your thoughts on how to implement electronic reporting within the recreational sector. I'm happy to work around your schedule.

ANDREWPETERSEN
CEO, BLUEFIN DATA

+1 202 883 8375
www.bluefindata.com

From: Claude Petersen <claude@bluefindata.com>
Sent: Friday, August 7, 2020 10:56 AM
To: Andrew Petersen <andrew@bluefindata.com>
Subject: Fwd: Council discussion Executive order discussion

Andrew,

James Fletcher is the gentleman I mentioned to you previously.

I was cc'd on this email.

Get Outlook for Android

From: James Fletcher <bamboosavefish@gmail.com>
Sent: Friday, August 7, 2020 8:01:12 AM
To: Bob Beal <rbeal@asmfc.org>; Moore, Christopher <cmoore@mafmc.org>; Chris Kellogg <ckellogg@nefmc.org>; Claude Petersen <claude@bluefindata.com>; Batsavage, Chris <chris.batsavage@ncdenr.gov>
Subject: Fwd: Council discussion Executive order discussion

DOES ANY AGENCY HAVE A VERIFIABLE RECREATIONAL NUMBER FOR SALT WATER FISHING? A VERIFIABLE NUMBER FOR FISHERS MOSTLY IN EEZ?

Mr. Beal
Would ASMFC discuss MANDATING Electronic reporting by recreational anglers in state waters by 2021. I believe Bluefin Data would store data: Will ASMFC contact Blue Fin Data for services to ASMFC. Mr. Batsaavage will North Carolina lead the requirement to implement electronic reporting by recreational fishers by end of 2020 IN STATE WATERS?
Dr. Moore Would the electronic reporting be discussed as an agenda item by counci DURING UPCOMMING COUNCIL MEETING ?
THANK ALL CONCERNED FOR ASSISTANCE TO OBTAIN BETTER DATA!
-------- Forwarded Message --------
Subject: Council discussion Executive order discussion
Date: Thu, 6 Aug 2020 10:22:01 -0400
From: James Fletcher <unfa34@gmail.com>
Reply-To:unfa34@gmail.com
To: Moore, Christopher <cmoore@mafmc.org>, Batsavage, Chris <chris.batsavage@ncdenr.gov>, Chris Kellogg <ckellogg@nefmc.org>

Recreational Boating & Fishing Foundation 13.1 million fish in salt water, in light of **EXECUTIVE ORDER** council discuss & justify recreational allocation of around 50% of most species when much of recreational allocation result in dead discard. Justify not utilizing total length / retention of all catch. JUSTIFY 13.1 MILLION VS. 325 MILLION RESULTING IN 92% TO 93% IMPORTED SEAFOOD DISCUSS mandatory electronic / cell phone reporting by all recreational fishing in EEZ USING BLUE FINA DATA APP {INVITE BLUE FIN DATA TO PARTICIPATE PLEASE!}

--
James Fletcher
United National Fisherman's Association
123 Apple Rd.
Manns Harbor, NC 27953
252-473-3287

--
James Fletcher
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