My name is Ben Goetsch and I represent Briarpatch Enterprises, Inc., a member of the Connecticut Coalition of Shellfishers. I thank the committee for drafting this bill and for the opportunity to present testimony in support of HB 5361 and SB344.

Last fall, a portion of the Connecticut shellfish industry was required by the Bureau of Aquaculture to place electronic monitoring devices on all their vessels in order to access the Housatonic River for the coming season. We had no prior notice or industry meeting with state officials to discuss the program’s details despite requests and we were left with more questions than answers about any future requirements and implications of this program. The coalition is therefore requesting that the Department of Agriculture utilize a process in accordance with the Uniform Administrative Procedure Act that clearly establishes the requirement for these monitoring devices and how the data generated by the devices will be used by the state. The following account details our experience with and concerns about this new program.

On September 19th 2017, only a month before the opening day for the oyster seed season in the Housatonic River, the Bureau of Aquaculture notified the shellfish industry, without advance warning about a new electronic surveillance pilot program for the Housatonic River Management Plan. The industry was informed that this would be a voluntary program, but in fact it was mandatory for any shellfishermen who wanted to work in the Housatonic River that year to install electronic surveillance devices on every boat in their entire fleet. Additionally, we were told that on June 30th, 2018, each vessel would be assessed a fee of $69.00 per boat per month. My company, Briarpatch Enterprises, Inc., has 9 boats and at $828 per boat per year, it will cost us $7,452 for these devices per year. In addition, some of the boats we were required to put devices on are only 20-foot open skiffs that never leave the harbor.

Despite multiple requests from the industry, the Bureau of Aquaculture denied an industry meeting to discuss the details and long-term implications of the program
because all project staff was working on getting the system up and running. However, the Bureau had plenty of time to roll out the program with more advance notice to the industry considering the state contract for the electronic surveillance system was awarded on June 12th, 2017, three months before the industry was first notified. Unfortunately, two days before the opening day of the Housatonic River, the Bureau of Aquaculture abruptly notified the industry that opening day for the Housatonic River would be delayed 5 days until October 25th, 2017, because only half of the participating boats had electronic surveillance devices installed despite full cooperation from participating companies.

As of now, the Bureau of Aquaculture has not scheduled an industry meeting regarding the electronic surveillance program despite the fact that project staff had time to present preliminary results from the program at the Milford Aquaculture Seminar in January of 2018. Right now only those companies that harvest in the Housatonic River are required to have their entire fleet under electronic surveillance and many other companies that move oyster seed from similarly classified bodies of water are not required to have these devices installed on their boats. This has created an uneven playing field as some shellfishermen will face fleet wide monthly fees after June 2018 and others will not.

Industry officials still do not know if they will be required to keep these devices on their boats indefinitely at an annual cost of $828.00 per boat per year or if these electronic surveillance devices will become a requirement sometime in the future for all licensed shellfishmen statewide. However, the state contract for the electronic surveillance service is for five years and runs until June 12th, 2022. The coalition is therefore requesting that the Department of Agriculture utilize a regulatory process in accordance with Chapter 54 of the Connecticut General Statutes that allows for public comment and clearly establishes the requirement for these devices and how they will be used by the state during the term of the contract and into the foreseeable future.

Additionally, the vast amounts of data collected by these electronic surveillance devices and hosted on the web by the vendor will naturally contain sensitive information and details regarding the operations of shellfish businesses. This data should be properly stored and safeguarded against improper use by the state or anyone else. Similarly, it is unclear how DEEP or the Bureau will use the data for enforcement actions. The contract specifies that the software program can create geo-fenced areas where vessels cannot go without automatically alerting authorities. There are many legitimate reasons why vessels might transit or be present in areas that are geo-fenced by this program, such as regular maintenance or cultivation activities on privately owned or leased ground. The electronic surveillance system can show where a vessel is with some accuracy but it cannot necessarily determine with any certainty what a vessel is actually doing there.