



Atlantic States Marine Fisheries Commission

1050 N. Highland Street • Suite 200A-N • Arlington, VA 22201

703.842.0740 • www.asmfc.org

A.G. "Spud" Woodward (GA), Chair

Joseph Cimino (NJ), Vice-Chair


Robert E. Beal, Executive Director

Sustainable and Cooperative Management of Atlantic Coastal Fisheries

MEMORANDUM

Revised July 28, 2023

TO: Commissioners; Proxies; American Eel Management Board; Atlantic Striped Bass Management Board; Coastal Pelagics Management Board; Coastal Sharks Management Board; Executive Committee; ISFMP Policy Board; Spiny Dogfish Management Board; Tautog Management Board; Shad & River Herring Management Board

FROM: Robert E. Beal 
Executive Director

RE: ASMFC Summer Meeting: August 1-3, 2023 (TA 23-043)

The Atlantic States Marine Fisheries Commission's Summer Meeting will be held August 1-3, 2023 at **The Westin Crystal City**. The room block is now closed; if you need assistance reserving a room, please contact Lisa Carty at lcarty@asmfc.org. This will be a hybrid meeting (both in-person and remote) to allow for participation by Commissioners and interested stakeholders.

The final agenda and meeting materials for the Summer Meeting are now available at <https://www.asmfc.org/home/2023-summer-meeting>; click on the relevant Board/Committee name to access the documents for that Board/Committee.

Webinar Information

Board meeting proceedings will be broadcast daily via webinar beginning Tuesday, August 1 at 9 a.m. and continuing daily until the conclusion of the meeting (expected to be 11 a.m.) on Thursday, August 3. To register for the webinar, please go to:

<https://attendee.gotowebinar.com/register/8211916328494316377> (Webinar ID 505-145-715).

If you are joining the webinar but will not be using voice over internet protocol (VoIP), you can also call in at +1 (914) 614-3221, access code 865-531-935. A PIN will be provided to you after joining the webinar; see webinar instructions for details on how to receive the PIN.

For those who will not be joining the webinar but would like to listen to the audio portion only, press the # key when asked for a PIN.

Meeting Process

In terms of meeting process, board chairs will ask both in-person and virtual board members if they wish to speak. In-person members can simply raise their hands at the meeting without logging on to the webinar, while virtual members will raise their hands on the webinar. The chair will work with staff to compile the list

MAINE • NEW HAMPSHIRE • MASSACHUSETTS • RHODE ISLAND • CONNECTICUT • NEW YORK • NEW JERSEY • DELAWARE
PENNSYLVANIA • MARYLAND • VIRGINIA • NORTH CAROLINA • SOUTH CAROLINA • GEORGIA • FLORIDA

of speakers, balancing the flow of questions/comments between in-person and virtual attendees. The same process will be used for public comment. Depending upon the number of commenters, the board chair will decide how to allocate the available time on the agenda (typically 10 minutes) to the number of people who want to speak.

Each day, the webinar will begin 15 minutes prior to the start of the first meeting so that people can troubleshoot any connectivity or audio issues they may encounter. If you are having issues with the webinar (connecting to or audio-related), please contact Chris Jacobs at 703.842.0790.

We look forward to seeing you at the Summer Meeting. If the staff or I can provide any further assistance to you, please call us at 703.842.0740.

Enclosed: Final Agenda, Hotel Directions, TA 23-036, Travel Reimbursement Guidelines



Atlantic States Marine Fisheries Commission

Summer Meeting

August 1-3, 2023

The Westin Crystal City

Arlington, Virginia

Public Comment Guidelines

To provide a fair opportunity for public input, the ISFMP Policy Board has approved the following guidelines for use at management board meetings:

For issues that are not on the agenda, management boards will continue to provide the opportunity for the public to bring matters of concern to the board's attention at the start of each board meeting. Board chairs will ask members of the public to raise their hands to let the chair know they would like to speak. Depending upon the number of commenters, the board chair will decide how to allocate the available time on the agenda (typically 10 minutes) to the number of people who want to speak.

For topics that are on the agenda, but have not gone out for public comment, board chairs will provide limited opportunity for comment, taking into account the time allotted on the agenda for the topic. Chairs will have flexibility in deciding how to allocate comment opportunities; this could include hearing one comment in favor and one in opposition until the chair is satisfied further comment will not provide additional insight to the board.

For agenda action items that have already gone out for public comment, it is the Policy Board's intent to end the occasional practice of allowing extensive and lengthy public comments. Currently, board chairs have the discretion to decide what public comment to allow in these circumstances.

In addition, the following timeline has been established for the **submission of written comment for issues for which the Commission has NOT established a specific public comment period** (i.e., in response to proposed management action).

1. Comments received three weeks prior to the start of a meeting week (July 10th) will be included in the briefing materials.
2. Comments received by 5:00 PM on Tuesday, July 25th will be included in supplemental materials.
3. Comments received by 10:00 AM on Friday, July 28th will be distributed electronically to Commissioners/Board members prior to the meeting.

The submitted comments must clearly indicate the commenter's expectation from the ASMFC staff regarding distribution. As with other public comment, it will be accepted via mail and email.

Final Agenda

The agenda is subject to change. The agenda reflects the current estimate of time required for scheduled Board meetings. The Commission may adjust this agenda in accordance with the actual duration of Board meetings. Interested parties should anticipate Boards starting earlier or later than indicated herein.

Tuesday, August 1

9 – 10 AM

Shad and River Herring Management Board

Member States: Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida

Other Members: DC, NMFS, PRFC, USFWS

Chair: Fegley

Other Participants: Eakin, Sabo

Staff: Boyle

1. Welcome/Call to Order (*L. Fegley*)
2. Board Consent
 - Approval of Agenda
 - Approval of Proceedings from February 2023
3. Public Comment
4. Consider Update to Potomac River Fisheries Commission American Shad Sustainable Fishery Management Plan (*W. Eakin*) **Final Action**
5. Update on US Geological Survey Alosine Genetic Repository and Expanding Collection Efforts (*W. Eakin*)
6. Progress Update on the 2024 River Herring Benchmark Stock Assessment (*K. Drew*)
7. Other Business/Adjourn

10:15 – 11:45 AM

American Eel Management Board

Member States: Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida

Other Members: DC, NMFS, PRFC, USFWS

Chair: Edwards

Other Participants: Carty, Beal, Eyler

Staff: Starks

1. Welcome/Call to Order (*P. Edwards*)
2. Board Consent
 - Approval of Agenda
 - Approval of Proceedings from February 2023
3. Public Comment

4. Consider Stock Assessment Subcommittee Report on Alternative Analysis of Index Methods for Setting Management Measures **Action**
 - Presentation of Stock Assessment Subcommittee Report (*S. Eyster*)
 - Consider Acceptance of 2023 Benchmark Stock Assessment and Peer Review Report for Management Use
 - Consider Management Response, if necessary
5. Review Maine Glass Eel Quota Provision of Addendum V (*C. Starks*) **Action**
6. Review Maine Life Cycle Survey Report (*D. Carty*)
7. Consider Approval of 2024 Maine Aquaculture Proposal (*C. Starks*) **Action**
8. Other Business/Adjourn

11:45 AM – 12:30 PM **Lunch Break (provided)**

12:30 – 1:30 PM

Coastal Sharks Management Board

Member States: Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida

Other Members: NMFS

Chair: Burgess

Other Participants: Willey, Thomas, DuBeck

Staff: Starks

1. Welcome/Call to Order (*E. Burgess*)
2. Board Consent
 - Approval of Agenda
 - Approval of Proceedings from May 2023
3. Public Comment
4. Presentation on Scoping for Draft Amendment 16 to the Highly Migratory Species Fishery Management Plan (*G. DuBeck*)
5. Consider Approval of Fishery Management Plan Review and State Compliance for the 2021 Fishing Year (*C. Starks*) **Action**
6. Other Business/Adjourn

1:45 – 5:45 PM

Atlantic Striped Bass Management Board

Member States: Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina

Other Members: DC, NMFS, PRFC, USFWS

Chair: Gary

Other Participants: Lengyel Costa, Mercer

Staff: Kerns

1. Welcome/Call to Order (*M. Gary*)
2. Board Consent
 - Approval of Agenda
 - Approval of Proceedings from May 2023

3. Public Comment
4. Consider Approval of Fishery Management Plan Review and State Compliance for the 2022 Fishing Year (*T. Kerns*) **Action**
5. Review Status of 2023 Emergency Action **Possible Action**
 - Public Hearing Summary (*T. Kerns*)
 - Discuss Timeline for Possible Extension of Emergency Action
6. Consider Approval of Draft Addendum II on 2024 Management Measures for Public Comment (*T. Kerns*) **Action**
7. Other Business/Adjourn

Wednesday, August 2

8 – 10 AM

Breakfast will be served at 7:45 a.m.

Executive Committee

(A portion of this meeting may be closed for Committee members and Commissioners only)

Members: Abbott, Bell, Burgess, Cimino, Clark, Davis, Fegley, Geer, Gilmore, Keliher, Kuhn, McKiernan, McNamee, Miller, Patterson, Rawls, Woodward

Chair: Woodward

Staff: Leach

1. Welcome/Introductions (*S. Woodward*)
2. Committee Consent
 - Approval of Agenda
 - Approval of Meeting Summary from May 2023
3. Public Comment
4. Consolidated Appropriations Act Update (*R. Beal*)
5. Review Findings of the Legislative and Governor Appointee Commissioner Survey Regarding Stipends (*R. Beal*)
6. Legislative Update (*A. Law*)
7. Discussion on Per Diem Rates (*R. Beal*)
8. Other Business/Adjourn

10:15 AM – 12:45 PM

Coastal Pelagics Management Board

Member States: Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida

Other Members: NMFS, PRFC, SAFMC

Chair: Cimino

Other Participants: Giuliano, Pearce

Staff: Tuohy

1. Welcome/Call to Order (*J. Cimino*)
2. Board Consent
 - Approval of Agenda
 - Approval of Proceedings from November 2022
3. Public Comment

4. Consider Approval of Fishery Management Plan Review and State Compliance for Atlantic Cobia for the 2022 Fishing Year (*C. Tuohy*) **Action**
5. Consider Total Harvest Quota for Atlantic Cobia for the 2024-2026 Fishing Years **Final Action**
 - Technical Committee Report (*A. Giuliano*)
 - Consider Setting Total Harvest Quota for 2024-2026
6. Consider Timeline for Potential Review of State Recreational Allocation for Atlantic Cobia **Possible Action**
7. Consider 2022 Spanish Mackerel Stock Assessment Update
 - Presentation of Stock Assessment Report
 - Presentation of Peer Review Report and Response from South Atlantic Fishery Management Council (*J. Carmichael*)
8. Update from the South Atlantic Fishery Management Council on Spanish Mackerel Port Meetings (*J. Carmichael*)
9. Other Business/Adjourn

12:45 – 1:45 PM

Lunch

1:45 – 3:45 PM

East Coast Climate Change Scenario Planning Initiative

1. Welcome/Call to Order (*S. Woodward*)
2. Review Findings from the East Coast Climate Change Scenario Planning Initiative (*T. Kerns*)
 - Overview of Summit
 - Review Draft Possible Action Plan
 - Discuss Next Steps
3. Public Comment
4. Other Business/Adjourn

4 – 5 PM

Tautog Management Board

Member States: Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia

Other Members: NMFS

Chair: Luisi

Other Participants: Weedon, Snellbaker

Staff: Boyle

1. Welcome/Call to Order (*M. Luisi*)
2. Board Consent
 - Approval of Agenda
 - Approval of Proceedings from January 2022
3. Public Comment
4. Consider Approval of Fishery Management Plan Review and State Compliance for the 2022 Fishing Year (*J. Boyle*) **Action**

5. Consider Committee Reports on Commercial Tagging Program and Possible Changes to the Tagging Program **Possible Action**
 - Technical Committee Report (*C. Weedon*)
 - Law Enforcement Committee Report (*K. Blanchard*)
6. Progress Update on the 2025 Tautog Stock Assessment Update (*K. Drew*)
7. Review and Populate Advisory Panel Membership (*T. Berger*) **Action**
8. Elect Vice-Chair **Action**
9. Other Business/Adjourn

Thursday, August 3

8:30 – 9 AM

Spiny Dogfish Management Board

Member States: Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina

Other Members: NMFS

Chair: Meserve

Other Participants: Baker, Newlin, Ferrio

Staff: Boyle

1. Welcome/Call to Order (*N. Meserve*)
2. Board Consent
 - Approval of Agenda
 - Approval of Proceedings from February 2023
3. Public Comment
4. Review Progress on Mid-Atlantic and New England Fishery Management Councils' Joint Action on Monkfish and Dogfish Fisheries to Reduce Atlantic Sturgeon Bycatch (*C. Ferrio*)
5. Consider Approval of Fishery Management Plan Review and State Compliance for the 2021-2022 Fishing Year (*J. Boyle*) **Action**
6. Other Business/Adjourn

9:15 – 10:45 AM

Interstate Fisheries Management Program Policy Board

Member States: Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida

Other Members: DC, NMFS, PRFC, USFWS

Chair: Woodward

Staff: Kerns

1. Welcome/Call to Order (*S. Woodward*)
2. Board Consent
 - Approval of Agenda
 - Approval of Proceedings from May 2023
3. Public Comment
4. Executive Committee Report (*S. Woodward*)
5. Review and Consider Changes to Conservation Equivalency Policy and Technical Guidance Document (*T. Kerns*) **Possible Action**

6. Update on the Risk and Uncertainty Policy Development (*J. Patel*)
7. Committee Reports
 - Atlantic Coast Fish Habitat Partnership (*S. Kaalstad*)
 - Legislative (*A. Law*)
8. Update on the Recreational Sector Separation and Catch Accounting Amendment Timeline (*T. Kerns*)
9. Review Noncompliance Findings, if necessary **Action**
10. Other Business/Adjourn

10:45 – 11:00 AM

Business Session of the Commission

Member States: Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida

Chair: Woodward

Staff: Beal

1. Welcome/Call to Order (*S. Woodward*)
2. Board Consent
 - Approval of Agenda
 - Approval of Proceedings from November 2022
3. Public Comment
4. Review Noncompliance Findings, if necessary **Final Action**
5. Other Business/Adjourn

From: [Mitchell Feigenbaum](#)
To: [Tina Berger](#)
Subject: [External] Comment of Mitchell Feigenbaum (Delaware Valley Fish Co.) for the Eel Management Board Meeting
Date: Friday, July 28, 2023 10:02:31 AM

FOR ELECTRONIC DISTRIBUTION:

July 28, 2023

American Eel Management Board -

Over the years, successive ASMFC Technical Committee (TC) Stock Assessment Subcommittees ("SASCs") for American eel have faced challenging feedback from the Board, public and formal peer review panels. This not surprising, as the SASC's assessment begins with a litany of caveats about the difficulties of assessing American eel using existing approaches.

As is the case in 2023, the SASCs have generally attempted to fit American eel stock assessments into statistical models that were created for another fishery with a vastly different life cycle, a more limited range, repeat spawning and likely facing consistent fishing pressure.

With few to choose from and none clearly suited for American eel, the SASC has again relied on a new stock assessment model for American eel that uses commercial yellow eel harvests as a measure of abundance,

The SASC's continued efforts to create models for eel assessment, such as the MARSS yellow eel index and the and the landings information built into the I/Target, are inherently problematic because -

- Commercial fishing takes place in a small portion of the American eel's vast, panmictic range;

- Commercial fishing efforts for American eel at the yellow eel stage have declined dramatically over the past ten years, and have been almost non-existent since 2020 and Covid-19;

- Even of the few fishery-independent indices of yellow eel abundance built into the SASC's models, most if not all measure local populations in areas where commercial fishing is prevalent. This means the results dramatically underweight areas that are not fished.

Twice since the late 2000's, the U.S. Fish and Wildlife Service found that

American eel is neither endangered or threatened with endangerment.

Notably, the Service relied heavily on recruitment data for American eel, not only sourced from the ASMFC state-mandated Young of Year ("YOY") surveys, but also from Canada.

Further, the Service was aware of powerful evidence of the "rescue effect" inherent in panmixia for American eel. Specifically, random dispersal of offspring from the singular breeding population to areas where adult eels have been blocked, overfished or otherwise compromised, facilitates the quick rebuilding of depleted local populations. This was evidenced by the dramatic restoration of eel populations on the Susquehanna River and Roanoke Rapids once upstream passage was restored.

Notably, the Fish and Wildlife Service's reliance on recruitment data to assess American eel is consistent with ASMFC's science priorities. Before 2000, it was the TC that originated the mandatory YOY surveys for all states hosting a commercial eel fishery. In enforcing these YOY survey requirements, the Management Board can take comfort in knowing that the Fish and Wildlife Service views baby eel recruitment as "the best indicator we have of the species' overall reproductive health."

It is also notable that the TC supports continuation of the YOY reports, but not the requirement of additional analysis of samples. The Board and AP should take a close look at the entire YOY regime to maximize efficiency and meaningful results.

More than twenty years of ASMFC's YOY and other surveys reflect stable levels of American eel recruitment. This is now accepted fact by not only the Fish and Wildlife Service, but the Canadian Department of Fisheries and Oceans. ASMFC does not need another questionable American eel stock assessment based largely on yellow eel catch data to guide its management decisions. ASMFC has demonstrated prudent management of the species based on the totality of population trends and data.

The current coast wide cap for adult eel harvests is set at a level representing the low end of an annual harvest spectrum going back three or more decades. The fact that states have come nowhere near their cap levels in recent years is a reflection of fishing effort that was not merely low, but almost non-existent since 2020.

As the lingering effects of Covid abate, economies recover and commodity prices stabilize, the American eel fishery is poised to rebound, albeit modestly - within the low levels set by caps only a few years ago.

Fishermen hoping to participate in the eel fishery during the country's recovery may find themselves shut out of this fishery if the Board were to

consider further changes to the FMP based on the SASC's latest assessment.

For now, ASMFC has no reason to impose further constraints on this niche fishery, which is already one of the smallest managed by the Commission.

The American eel FMP and the ASMFC's evergreen processes already ensure that this species will convert to quota management if harvests merely reach the bottom end of historic levels.

Respectfully,

/S/

Mitchell Feigenbaum
Delaware Valley Fish Co.
Norristown, PA. 19401
feigen99@yahoo.com

Atlantic States Marine Fisheries Commission

ISFMP Policy Board

*August 3, 2023
9:15 -10:45 a.m.
Hybrid Meeting*

Draft Agenda

The times listed are approximate; the order in which these items will be taken is subject to change; other items may be added as necessary.

1. Welcome/Call to Order (*S. Woodward*) 9:15 a.m.
2. Board Consent (*S. Woodward*) 9:15 a.m.
 - Approval of Agenda
 - Approval of Proceedings from May 2023
3. Public Comment 9:20 a.m.
4. Executive Committee Report (*S. Woodward*) 9:30 a.m.
5. Review and Consider Changes to Conservation Equivalency: Policy and Technical Guidance Document (*T. Kerns*) **Possible Action** 9:40 a.m.
6. Update on the Risk and Uncertainty Policy Development (*J. Patel*) 10:15 a.m.
7. Committee Reports Report 10:20 a.m.
 - Atlantic Coast Fish Habitat Partnership (*S. Kaalstad*)
 - Legislative (*A. Law*) **Action**
8. Update on the Recreational Sector Separation and Catch Accounting Amendment Timeline (*T. Kerns*) 10:35 a.m.
9. Review Noncompliance Findings, if necessary **Action** 10:40 a.m.
10. Other Business 10:40 a.m.
11. Adjourn 10:45 a.m.

The meeting will be held at The Westin Crystal City (1800 Richmond Highway, Arlington, VA; 703.486.1111) and via webinar; click [here](#) for details

Sustainable and Cooperative Management of Atlantic Coastal Fisheries

MEETING OVERVIEW

ISFMP Policy Board
Thursday August 3, 2023
9:15-10:45 a.m.
Hybrid Meeting

Chair: Spud Woodward (GA) Assumed Chairmanship: 10/21	Vice Chair: Joe Cimino (NJ)	Previous Board Meetings: May 3, 2023
Voting Members: ME, NH, MA, RI, CT, NY, NJ, PA, DE, MD, DC, PRFC, VA, NC, SC, GA, FL, NMFS, USFWS (19 votes)		

2. Board Consent

- Approval of Agenda
- Approval of Proceedings from May 3, 2023

3. Public Comment – At the beginning of the meeting public comment will be taken on items not on the agenda. Individuals that wish to speak at this time must sign-in at the beginning of the meeting. For agenda items that have already gone out for public hearing and/or have had a public comment period that has closed, the Board Chair may determine that additional public comment will not provide additional information. In this circumstance the Chair will not allow additional public comment on an issue. For agenda items that the public has not had a chance to provide input, the Board Chair may allow limited opportunity for comment. The Board Chair has the discretion to limit the number of speakers and/or the length of each comment.

4. Executive Committee Report (9:30- 9:40 a.m.)

Background

- The Executive Committee will meet on August 2, 2023

Presentations

- S. Woodward will provide an update of the Executive Committee's work

Board action for consideration at this meeting

- none

5. Review and Consider Changes to Conservation Equivalency: Policy and Technical Guidance Document (9:40-10:20 a.m.) Possible Action

Background

- The Executive Committee (EC) tasked the Management and Science Committee (MSC) to review the *Conservation Equivalency: Policy and Technical Guidance Document*. The Executive Committee requested a series of question regarding conservation equivalency. A sub group of the MSC members and others addressed the EC's questions. Based on these questions and guidance from the EC staff has revised the

guidance document (supplemental materials). The changes provide more structure and details to the document.

Presentations

- T. Kerns will review changes to the *Conservation Equivalency: Policy and Technical Guidance Document*.

Board action for consideration at this meeting

- Approve changes to the *Conservation Equivalency: Policy and Technical Guidance Document*.

6. Update on the Risk and Uncertainty Policy Development (10:15-10:20 a.m.)

Background

- The Policy Board has supported the development of the Risk and Uncertainty Policy Decision Tool. The Risk and Uncertainty Policy Workgroup refined the criteria for the Risk and Uncertainty Decision Tool by testing it with both striped bass and tautog as examples.
- The was Board was not ready to approve a draft Risk and Uncertainty Policy and asked for an additional a test run. At the time, it was determined cobia would be the best species candidate. After review of the red drum stock assessment progress, the WG has found red drum could be a species candidate to test run the decision tool. The red drum assessment will be completed at least a year a head of cobia.

Presentations

- J. Patel will present an update on the policy development

Board action for consideration at this meeting

- None

7. Committee Reports (10:20-10:35 a.m.) Action

Background

- The Atlantic Coast Fish Habitat Partnership will meet the week of July 24, 2023.
- The Legislative Committee has drafted a letter of opposition (**supplemental 2 materials**) to Rep. Lucas's National Oceanic and Atmospheric Administration Act of 2023 (H.R. 3980). The Committee has also been made aware of a bill, the FISHERIES Act (**supplemental 2 materials**), that will address OMB's delays in the Fisheries Disaster Assistance approval process.

Presentations

- S. Kaalstad will provide an update of the ACFHP's work
- A. Law will provide an overview of the discussion on each bill.

Board action for consideration at this meeting

- Approval of the opposition letter to (H.R. 3980) and approval of a letter supporting the FISHERIES Act.

8. Update on the Recreational Sector Separation and Catch Accounting Amendment Timeline (10:35-10:40 a.m.)

Background

- The MAFMC is proposing a change in the timeline of the Recreational Sector Separation and Catch Accounting Amendment due to staff workload. The approval of a scoping document would move from December 2023 to Spring 2024 and shifting scoping hearings from January/February 2024 to Spring/Summer 2024. This would shift the timeline back by a few months for each subsequent step.

Presentations

- Staff will present the new Draft Amendment timeline.

Board discussion for consideration at this meeting

- Provide comments on the new timeline

9. Review Non-Compliance Findings, if necessary Action

10. Other Business

11. Adjourn



Atlantic States Marine Fisheries Commission

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A.G. "Spud" Woodward (GA), Chair

Joseph Cimino (NJ), Vice-Chair

Robert E. Beal, Executive Director

Sustainable and Cooperative Management of Atlantic Coastal Fisheries

Month, day, year

The Honorable Frank Lucas
2405 Rayburn House Office Building
Washington, DC 20515

The Honorable Zoe Lofgren
1401 Longworth House Office Building
Washington, DC 20515

Dear Chair Lucas and Ranking Member Lofgren,

The Atlantic States Marine Fisheries Commission (Commission) is writing in opposition to H.R. 3980, the National Oceanic and Atmospheric Administration Act of 2023.

The Commission is a Compact of the 15 Atlantic coastal states that manages nearshore marine fisheries which occupy multiple states' waters. Congress approved the Compact in 1942, and granted the Commission management authority in 1984 and 1993 through the Atlantic Striped Bass Conservation Act and the Atlantic Coastal Fisheries Cooperative Management Act, respectively. Today, the Commission manages 27 of the coast's most productive and iconic fisheries, nine of which are cooperatively managed with our federal partners.

NOAA Fisheries plays an essential role, not just in the sustainable management of those nine fisheries, but many other species managed by the Commission by providing the states with dependable data. The Commission has partnered with NOAA for decades on surveys, data collection, and stock assessments. If NOAA was removed from the Department of Commerce, the Commission is concerned that these critical data collection programs may not continue to be funded. Failure to continue to collect this data will likely cause significant economic harm to the commercial and recreational fishing industries.

The Department of Commerce itself also plays a role in our management process. The Atlantic Coastal Fisheries Cooperative Management Act (16 USC Ch. 71) gave the Secretary of Commerce some regulatory responsibilities over our fisheries management process. If any one state is not following the requirements of an approved fishery management plan, the Secretary can declare a moratorium on the fishery in that state's waters until they have proper conservation measures in place. The law specifically calls upon the Secretary of Commerce to act as this backstop. Removing NOAA from under Commerce jeopardizes this process and could have drastic impacts on the sustainability of U.S. fisheries.

Oversight by the Department of Commerce also provides member states a pathway to appeal decisions made by the Commission and NOAA. NOAA having access to a cabinet-level position can provide the opportunity to elevate fisheries issues to a level that would otherwise be unattainable.

We understand there are frustrations with other departments within NOAA, however maintaining NOAA Fisheries within the Department of Commerce has many benefits to fisheries management along the Atlantic Coast and, by extension, benefits the states, coastal communities, commercial and recreational fishermen, and consumers of seafood nationwide. Because of the unique needs of the Commission in maintaining sustainable fisheries, we cannot support this bill.

Please let me or my staff know if you have any questions or if the Commission can provide any additional information.

Sincerely,

Robert E. Beal

cc:

L23-XX



(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R. _____

To formally establish within statute an independent scientific research and development agency known as the National Oceanic and Atmospheric Administration, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. LUCAS (for himself and [see ATTACHED LIST of cosponsors]) introduced the following bill; which was referred to the Committee on

A BILL

To formally establish within statute an independent scientific research and development agency known as the National Oceanic and Atmospheric Administration, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “National Oceanic and Atmospheric Administration Act of
6 2023”.

1 (b) TABLE OF CONTENTS.—The table of contents of
2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Purpose.

TITLE I—NATIONAL OCEANIC AND ATMOSPHERIC
ADMINISTRATION

- Sec. 101. Establishment.
- Sec. 102. Functions of the Administrator.
- Sec. 103. Authority of the Administrator.
- Sec. 104. Science advisory board.

TITLE II—GENERAL PROVISIONS

- Sec. 201. Recommendations to Congress.
- Sec. 202. Conforming repeals.
- Sec. 203. Savings provision.
- Sec. 204. Reorganization plan.
- Sec. 205. National Weather Service.
- Sec. 206. Office of Space Commerce.
- Sec. 207. Study.
- Sec. 208. Effective date.

3 **SEC. 2. PURPOSE.**

4 The purpose of this Act is to establish the National
5 Oceanic and Atmospheric Administration as an inde-
6 pendent scientific research and development agency with
7 an overarching statutory framework that focuses on Earth
8 system science, maintaining the Administration’s core
9 mission and functions while allowing it to restructure and
10 prioritize under an organic statute.

11 **TITLE I—NATIONAL OCEANIC**
12 **AND ATMOSPHERIC ADMINIS-**
13 **TRATION**

14 **SEC. 101. ESTABLISHMENT.**

15 (a) ESTABLISHMENT.—There is established in the ex-
16 ecutive branch an independent agency to be known as the

1 National Oceanic and Atmospheric Administration (in this
2 Act referred to as the “Administration”).

3 (b) ADMINISTRATOR.—

4 (1) IN GENERAL.—The Administration shall be
5 headed by an Administrator (in this Act referred to
6 as the “Administrator”), who shall be appointed by
7 the President with the advice and consent of the
8 Senate. The Administrator shall carry out the func-
9 tions described in section 102 and, in the perform-
10 ance of those functions, shall have the authorities
11 described in section 103.

12 (2) AUTHORITY.—Any authority, power, or
13 function vested by law in the National Oceanic and
14 Atmospheric Administration, in the Under Secretary
15 of Commerce for Oceans and Atmosphere, or in any
16 officer, employee, or part of the National Oceanic
17 and Atmospheric Administration, or vested by law in
18 the Secretary of Commerce and delegated to the
19 Under Secretary of Commerce for Oceans and At-
20 mosphere, or their designee, is vested in, and may
21 be exercised by, the Administrator or their designee,
22 as appropriate.

23 (3) REFERENCES.—Any reference in law or
24 regulation to the “Under Secretary of Commerce for

1 Oceans and Atmosphere” shall be deemed to be a
2 reference to the Administrator.

3 (c) POSITIONS.—There shall be in the Administration
4 the following:

5 (1) A Deputy Administrator, to be appointed by
6 the President with the advice and consent of the
7 Senate, who shall carry out such duties as the Ad-
8 ministrator may prescribe.

9 (2) An Associate Administrator for Environ-
10 mental Observation and Prediction, to be appointed
11 by the President with the advice and consent of the
12 Senate.

13 (3) A Chief Scientist, to be appointed by the
14 Administrator.

15 (4) A General Counsel, to be appointed in ac-
16 cordance with section 5316 of title 5, United States
17 Code.

18 **SEC. 102. FUNCTIONS OF THE ADMINISTRATOR.**

19 The Administrator shall—

20 (1) plan, direct, and conduct—

21 (A) atmospheric, oceanic, hydrologic, Great
22 Lakes, coastal, geodetic, geomagnetic, biologi-
23 cal, and social science and research, including
24 monitoring, analyses, education, research to op-
25 erations, and operations to research;

1 (B) Earth observations and space physics
2 operations, which include space-based observa-
3 tions of the earth and sun;

4 (C) ocean exploration, mapping, and char-
5 acterization;

6 (D) atmospheric, terrestrial and space
7 weather, climate, oceanic, hydrologic, Great
8 Lakes, and coastal forecasting;

9 (E) conservation, management, and protec-
10 tion of oceanic, hydrologic, Great Lakes, and
11 coastal resources, and science, research, and
12 analysis related to such resources;

13 (F) oceanic, hydrologic, Great Lakes, and
14 coastal response and restoration;

15 (G) education, outreach, and associated ac-
16 tivities;

17 (H) other areas of research related to the
18 preceding items as determined appropriate by
19 the Administrator; and

20 (I) enforcement of any other provision of
21 Federal law that assigns enforcement authority
22 to the Administration;

23 (2) support the widest practicable participation
24 by the scientific community, including participants
25 in the private sector, academia, Federal, State, local,

1 Tribal, and territorial governmental entities, Indige-
2 nous peoples, and other appropriate domestic and
3 foreign governmental and non-governmental entities,
4 in carrying out the activities described in paragraph
5 (1), including through the acceptance by the Admin-
6 istration of private resources, which may include
7 data, models, vessels, aircraft, satellites, buoys, and
8 other related infrastructure, to carry out such activi-
9 ties;

10 (3) provide for full and open public dissemina-
11 tion of information regarding activities, initiatives,
12 methods, data, and results of the Administration, as
13 appropriate, and in compliance with applicable law,
14 including the acquisition of commercially-sourced
15 data; and

16 (4) establish and promote an inclusive culture
17 of scientific excellence and integrity.

18 **SEC. 103. AUTHORITY OF THE ADMINISTRATOR.**

19 (a) OFFICERS AND EMPLOYEES.—The Adminis-
20 trator, in accordance with title 5, United States Code, may
21 appoint and fix the compensation of such officers and em-
22 ployees as the Administrator determines appropriate,
23 within the regulations and guidelines established by the
24 Office of Personnel Management.

25 (b) PROPERTY.—The Administrator may—

1 (1) procure, acquire, construct, improve, repair,
2 operate, and maintain such laboratories, research
3 and testing sites and facilities, equipment, vessels,
4 aircraft, buoys, satellites, surface observing sites,
5 other similar infrastructure, autonomous or un-
6 manned vehicles, and office and educational facilities
7 as the Administrator deems necessary;

8 (2) lease real and personal property;

9 (3) sell and otherwise dispose of real and per-
10 sonal property and reinvest any proceeds from such
11 sale or disposition of property into recapitalization of
12 property; and

13 (4) provide by contract or otherwise for nec-
14 essary amenities for the welfare of employees and
15 maintenance of property of the Administration.

16 (c) GIFTS.—The Administrator may accept gifts or
17 donations of services for the benefit of the agency, includ-
18 ing money or property, whether real, personal, or mixed,
19 and whether tangible or intangible.

20 (d) CONTRACTS, LEASES, AND AGREEMENTS.—The
21 Administrator may enter into and perform such contracts,
22 leases, agreements (including cooperative agreements), or
23 other transactions as may be necessary in the conduct of
24 the work of the Administration.

1 (e) COOPERATION WITH FEDERAL AGENCIES AND
2 OTHERS.—The Administrator—

3 (1) may use the services, equipment, personnel,
4 land, and facilities of Federal, State, local, Tribal,
5 and territorial governmental entities, Indigenous
6 peoples, and other appropriate domestic and foreign
7 governmental and non-governmental entities, with
8 consent and with or without reimbursement; and

9 (2) shall cooperate with such entities to permit
10 their use of Administration services, equipment,
11 land, and facilities in a manner consistent with the
12 Administration's mission.

13 (f) INTERNATIONAL COOPERATION.—The Adminis-
14 tration, under the foreign policy guidance of the President,
15 may engage in a program of international cooperation in
16 work done pursuant to the Act, and in the peaceful appli-
17 cation of the results thereof, pursuant to agreements made
18 by the President with the advice and consent of the Sen-
19 ate.

20 (g) ADVISORY COMMITTEES.—The Administrator
21 may appoint such advisory committees as the Adminis-
22 trator considers appropriate to provide consultation and
23 advice.

24 (h) OFFICES AND PROCEDURES.—The Administrator
25 may establish within the Administration such offices and

1 procedures as may be appropriate to provide for the great-
2 est possible coordination of its activities with related pub-
3 lic and private agencies and entities.

4 **SEC. 104. SCIENCE ADVISORY BOARD.**

5 (a) IN GENERAL.—There shall be within the Admin-
6 istration a Science Advisory Board, which shall provide
7 such scientific advice as may be requested by the Adminis-
8 trator, the Committee on Science, Space, and Technology
9 of the House of Representatives, or the Committee on
10 Commerce, Science, and Transportation of the Senate.

11 (b) PURPOSE.—The purpose of the Science Advisory
12 Board is to advise the Administrator and Congress on
13 long-range and short-range strategies for research, edu-
14 cation, and the application of science to resource manage-
15 ment and environmental assessment, observation, and pre-
16 diction.

17 (c) MEMBERS.—

18 (1) IN GENERAL.—The Science Advisory Board
19 shall be composed of at least 15 members appointed
20 by the Administrator. Each member of the Board
21 shall be qualified by education, training, and experi-
22 ence to evaluate scientific and technical information
23 on matters referred to the Board under this section.

24 (2) TERMS OF SERVICE.—Members shall be ap-
25 pointed for 3-year terms, renewable once, and shall

1 serve at the discretion of the Administrator. An indi-
2 vidual serving a term as a member of the Science
3 Advisory Board on the date of enactment of this Act
4 may complete that term, and may be reappointed
5 once for another term of 3 years unless the term
6 being served on such date of enactment is the second
7 term served by that individual. Vacancy appoint-
8 ments shall be for the remainder of the unexpired
9 term of the vacancy, and an individual so appointed
10 may subsequently be appointed for 2 full 3-year
11 terms if the remainder of the unexpired term is less
12 than 1 year.

13 (3) CHAIRPERSON.—The Administrator shall
14 designate a chairperson from among the members of
15 the Board.

16 (4) APPOINTMENT.—Members of the Science
17 Advisory Board shall be appointed as special Gov-
18 ernment employees, within the meaning given such
19 term in section 202(a) of title 18, United States
20 Code.

21 (d) ADMINISTRATIVE PROVISIONS.—

22 (1) ADMINISTRATIVE SUPPORT.—The Adminis-
23 trator shall provide administrative support to the
24 Science Advisory Board.

1 (2) MEETINGS.—The Science Advisory Board
2 shall meet at least twice each year, and at other
3 times at the call of the Administrator or the Chair-
4 person.

5 (3) COMPENSATION AND EXPENSES.—A mem-
6 ber of the Science Advisory Board shall not be com-
7 pensated for service on such board, but may be al-
8 lowed travel expenses, including per diem in lieu of
9 subsistence, in accordance with subchapter I of
10 chapter 57 of title 5, United States Code.

11 (4) SUBCOMMITTEES.—The Science Advisory
12 Board may establish such subcommittees of its
13 members as may be necessary. The Science Advisory
14 Board may establish task forces and working groups
15 consisting of Board members and outside experts as
16 may be necessary.

17 (e) EXPIRATION.—Section 14 of the Federal Advisory
18 Committee Act (5 U.S.C. App.) shall not apply to the
19 Science Advisory Board.

20 (f) STRATEGIC PLAN FOR RESEARCH AND DEVELOP-
21 MENT.—Not later than 1 year after the date of enactment
22 of this Act, and once every 5 years thereafter, the Admin-
23 istrator shall consult with the Science Advisory board to
24 develop a strategic plan for research and development at
25 the Administration. The plan shall include—

1 (1) an assessment of the science and technology
2 needs of the Administration based on the Adminis-
3 tration's operational requirements and on input pro-
4 vided by external stakeholders at the national, re-
5 gional, State, and local levels; and

6 (2) a strategic plan that assigns specific pro-
7 grams within the Administration the responsibility
8 to meet each need identified under paragraph (1)
9 and that describes the extent to which each need
10 identified in paragraph (1) will be addressed
11 through—

12 (A) intramural research;

13 (B) extramural, peer-reviewed, competitive
14 grant programs; and

15 (C) work done in cooperation with other
16 Federal agencies.

17 (g) NATIONAL ACADEMY OF SCIENCES REVIEW.—

18 The Administrator shall enter into an arrangement with
19 the National Academy of Sciences for a review of the plan
20 developed under subsection (f).

21 (h) TRANSMITTAL TO CONGRESS.—Not later than 18
22 months after the date of enactment of this Act, the Ad-
23 ministrator shall transmit to the Committee on Science,
24 Space, and Technology of the House of Representatives
25 and the Committee on Commerce, Science, and Transpor-

1 tation of the Senate the initial strategic plan developed
2 under subsection (f) and the review prepared pursuant to
3 subsection (g). Subsequent strategic plans developed
4 under subsection (f) shall also be transmitted to those
5 committees upon completion.

6 **TITLE II—GENERAL PROVISIONS**

7 **SEC. 201. RECOMMENDATIONS TO CONGRESS.**

8 (a) IN GENERAL.—Not later than 1 year after the
9 date of the enactment of this Act, and at any appropriate
10 time thereafter, the Administrator shall provide to the
11 Committee on Science, Space, and Technology of the
12 House of Representatives, the Committee on Commerce,
13 Science, and Transportation of the Senate, and the Com-
14 mittee on Natural Resources of the House of Representa-
15 tives recommendations for technical, conforming, or other
16 amendments necessary—

17 (1) to assist the transition of the Administra-
18 tion to an independent agency; or

19 (2) to further the policy and purpose of this
20 Act.

21 (b) CONSULTATION.—In developing any rec-
22 ommendations pursuant to subsection (a), the Adminis-
23 trator shall consult with the Office of the Law Revision
24 Counsel of the House of Representatives.

1 **SEC. 202. CONFORMING REPEALS.**

2 (a) EFFECT OF REORGANIZATION PLAN.—Reorga-
3 nization Plan No. 4 of 1970 shall have no further force
4 and effect.

5 (b) NOAA OFFICERS.—Subsections (a) and (b) of
6 section 407 of Public Law 99-659 (15 U.S.C. 1503b;
7 1507c) are hereby repealed.

8 **SEC. 203. SAVINGS PROVISION.**

9 (a) EXISTING REQUIREMENTS.—All rules and regu-
10 lations, determinations, standards, policies, agreements,
11 contracts, including collective bargaining agreements, cer-
12 tifications, authorizations, appointments, delegations of
13 authority, results and findings of investigations, and other
14 decisions or actions duly issued, made, or taken pursuant
15 to or under the authority of any statute or executive order
16 which resulted in the assignment of functions or activities
17 to the National Oceanic and Atmospheric Administration,
18 the Under Secretary of Commerce for Oceans and Atmos-
19 phere, or to any officer, employee, or part of the National
20 Oceanic and Atmospheric Administration, or to the Sec-
21 retary of Commerce and delegated to the Under Secretary
22 of Commerce for Oceans and Atmosphere, or their des-
23 ignee, that are in effect immediately before the date of
24 enactment of this Act shall continue in full force and effect
25 after the effective date of this Act until modified or re-
26 scinded.

1 (b) SUITS, APPEALS, JUDGMENTS.—In the case of
2 any action or proceeding relating to the functions or activi-
3 ties described in subsection (a) pending on the date of en-
4 actment of this Act, the rights of the parties at issue in
5 such proceeding shall, to the maximum extent practicable,
6 be undisturbed by this Act. For purposes of any such ac-
7 tion or proceeding, the provisions of Reorganization Plan
8 No. 4 of 1970 and subsections (a) and (b) of section 407
9 of Public Law 99-659 as in effect on the day before such
10 date of enactment shall apply.

11 (c) DISCUSSION OF RESEARCH.—Nothing in this Act
12 shall be construed to limit the ability of an Administration
13 employee to discuss scientific research performed by that
14 employee in accordance with the Administration's sci-
15 entific integrity policies.

16 (d) EXISTING AUTHORITIES UNDER LAW.—Nothing
17 in this Act shall be construed to modify any authority
18 under law existing immediately before the date of enact-
19 ment of this Act, except as explicitly provided herein, in-
20 cluding by—

- 21 (1) altering the responsibilities or authorities of
22 any other Federal agency;
- 23 (2) authorizing or prohibiting the transfer of
24 any program, function, or project from other Fed-
25 eral agencies to the Administration; or

1 (3) expanding, modifying, or superseding any
2 existing regulatory or other authority of the Admin-
3 istration.

4 (e) AUTHORITIES WITH RESPECT TO PUBLIC BUILD-
5 INGS.—

6 (1) IN GENERAL.—Nothing in this Act shall be
7 construed to grant the Administrator any authority
8 to construct, alter, repair, or acquire by any means
9 a public building (as defined in section 3301 of title
10 40, United States Code) or to grant any authority
11 to lease general purpose office or storage space in
12 any building.

13 (2) INTERACTION WITH OTHER SIMILAR AU-
14 THORITIES.—Nothing in this Act shall be construed
15 to diminish any authority the Administrator has im-
16 mediately before the date of enactment of this Act
17 to construct, alter, repair, or acquire by any means
18 a public building (as defined in section 3301 of title
19 40, United States Code) or to diminish any author-
20 ity the Administrator has immediately before the
21 date of enactment of this Act to lease general pur-
22 pose office or storage space in any building (regard-
23 less of whether those authorities are derived from
24 laws, executive orders, rules, regulations, or delega-
25 tions of authority from the Secretary of Commerce).

1 **SEC. 204. REORGANIZATION PLAN.**

2 (a) SCHEDULE.—

3 (1) INITIAL PLAN.—Not later than 18 months
4 after the date of enactment of this Act, the Adminis-
5 trator shall develop a reorganization plan for the Ad-
6 ministration in accordance with this section and
7 shall publish the plan in the Federal Register. The
8 Federal Register notice shall solicit comments for a
9 period of at least 60 days.

10 (2) REVISED PLAN.—Not later than 180 days
11 after the expiration date of the comment period de-
12 scribed in paragraph (1), the Administrator shall
13 transmit to Congress a revised version of the plan
14 that takes into account the comments received. The
15 Administrator shall also publish the revised plan in
16 the Federal Register. The Administrator shall trans-
17 mit and publish, along with the plan, an explanation
18 of how the Administrator dealt with significant
19 issues raised by the comments received.

20 (3) IMPLEMENTATION.—The Administrator
21 shall implement the plan not later than 180 days
22 after the plan has been transmitted to the Congress.

23 (b) CONTENT.—The plan, to the greatest extent prac-
24 ticable, shall—

1 (1) consistent with the other provisions of this
2 Act, maximize the efficiency with which the Adminis-
3 tration carries out the core functions of—

4 (A) science and research;

5 (B) operations;

6 (C) predictions and forecasts;

7 (D) products and services;

8 (E) education and outreach;

9 (F) earth observations and space weather
10 observations;

11 (G) resource management; and

12 (H) enforcement;

13 (2) improve the sharing of research and other
14 information that is of use across programmatic
15 themes; and

16 (3) minimize duplication of effort or overlap-
17 ping efforts and promote coordination among offices.

18 (c) CONSULTATION.—In developing the plan, the Ad-
19 ministrator shall consult with interested parties, including
20 other Federal, State, local, Tribal, and territorial govern-
21 mental entities, Indigenous peoples, and other appropriate
22 domestic and foreign governmental and non-governmental
23 entities, academia, industry, and Administration employ-
24 ees, contractors, and grantees.

1 **SEC. 205. NATIONAL WEATHER SERVICE.**

2 (a) IN GENERAL.—The Administrator shall maintain
3 within the Administration the National Weather Service.

4 (b) MISSION.—The mission of the National Weather
5 Service is to provide weather, water, climate, tsunami, and
6 space weather forecasts and warnings for the United
7 States, its territories, adjacent waters, and ocean areas for
8 the protection of life and property and the enhancement
9 of the national economy. In carrying out the mission of
10 the National Weather Service, the Administrator shall en-
11 sure that the National Weather Service—

12 (1) provides timely and accurate weather,
13 water, climate, tsunami, and space weather fore-
14 casts; and

15 (2) provides timely and accurate warnings of
16 natural hazards related to weather, water, climate,
17 and tsunamis, and of space weather hazards.

18 (c) FUNCTIONS.—The functions of the National
19 Weather Service shall include—

20 (1) maintaining a network of local weather fore-
21 cast offices, river forecast centers, and center weath-
22 er service units;

23 (2) maintaining a network of observation sys-
24 tems to collect weather and climate data;

25 (3) operating national centers to deliver guid-
26 ance, forecasts, warnings, and analysis about weath-

1 er, water, climate, tsunami, and space weather phe-
2 nomena for the Administration and the public;

3 (4) providing information to Federal agencies
4 and other organizations responsible for emergency
5 preparedness and response as required by law;

6 (5) conducting and supporting applied research
7 to facilitate the rapid incorporation of weather and
8 climate science advances into operational tools; and

9 (6) other functions the Administrator deter-
10 mines to be necessary to serve the mission of the
11 National Weather Service described in subsection
12 (b).

13 **SEC. 206. OFFICE OF SPACE COMMERCE.**

14 Subsection (b) of section 50702 of title 51, United
15 States Code, is amended—

16 (1) by striking “The Office shall be headed”
17 and inserting the following:

18 “(1) IN GENERAL.—The Office shall be head-
19 ed”; and

20 (2) by adding at the end the following:

21 “(2) DIRECT REPORT.—The Director shall re-
22 port directly to the Secretary of Commerce.”.

23 **SEC. 207. STUDY.**

24 (a) IN GENERAL.—The Administrator shall contract
25 with the National Academy of Public Administration to

1 conduct a study examining the feasibility and merits of
2 transferring parts or all of the Endangered Species Act
3 (ESA) and Marine Mammal Protection Act (MMPA) man-
4 agement functions into a single agency or department.

5 (b) REPORT.—Not later than 1 year after the date
6 of enactment of this Act, the Administrator shall submit
7 to Congress a report on the results of the study conducted
8 under subsection (a).

9 **SEC. 208. EFFECTIVE DATE.**

10 The provisions of this Act shall take effect on the
11 date that is 6 months after the date of the enactment of
12 this Act.



Cosponsor—The Fishery Improvement to Streamline untimely regulatory Hurdles post Emergency Situation Act (FISHES Act)

Background:

- This bill seeks to improve the federal regulatory processes associated with fishery disaster relief funding within the Office of Management and Budget (OMB).
- After Congress appropriates fishery disaster relief funding, funding may be dispersed IF:
 - 1. NOAA approves the state-submitted spend plan; and
 - 2. OMB approves the state-submitted spend plan.
- Currently, OMB has no incentive to approve the spend plan because OMB has no deadline to approve.
 - Disaster funding process: Congress appropriates funds → Within 14 days, NOAA coordinates with OMB to determine allocation of funds → Within 120 days, State creates and submits spending plan to NOAA → Within 90 days, NOAA approves spend plan and submits to OMB for approval → OMB approves spend plan (but no timeline to do so) → State receives approval to spend funds in accordance with their approved spend plan.
- The State of Florida alone has requested fishery disaster declarations on six different occasions since 2012—however for each occasion, over two years+ had lapsed from the time of approval to when the fishery disaster relief funds were ultimately made available.
- States apply for federal fishery disaster relief for a variety of reasons, including day-to-day extreme weather; water quality issues; hurricanes; etc.
 - Fishery specific impacts include: (1) boats and dockage can be damaged or destroyed; (2) fishing equipment can be lost or destroyed; (3) commercial fishermen and charter captains can lose revenue if they can't host and operate fishing trips; (4) for charter businesses, hotel and restaurant infrastructure may be impacted thus dissuading clients from fishing in the impacted area; (5) fish wholesale dealers lose business; (6) water quality issues impact fish health due to high levels of salinity/HABs in the water.
- If the federal fishery disaster relief funding process is not modernized and streamlined, many fishing businesses and associated small businesses could go out of business before the relief is made available.

Specifics of the FISHES Act:

- This bill seeks to expedite the federal fishery disaster relief funding process by enacting a 30-day decision requirement for OMB to deny/approve the State's spend plan.



To cosponsor **the FISHES Act** or if you have any additional questions, please contact Chris Ploch at chris.ploch@mail.house.gov.

.....
(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R. _____

To require the Director of the Office of Management and Budget to approve or deny spend plans within a certain amount of time, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. DONALDS introduced the following bill; which was referred to the
Committee on _____

A BILL

To require the Director of the Office of Management and Budget to approve or deny spend plans within a certain amount of time, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fishery Improvement
5 to Streamline untimely regulatory Hurdles post Emer-
6 gency Situation Act” or the “FISHES Act”.

1 **SEC. 2. APPROVAL OR DENIAL OF SPEND PLANS.**

2 (a) IN GENERAL.—Notwithstanding any other provi-
3 sion of law, in the case of a spend plan submitted to the
4 Director by the Secretary for approval by the Director
5 pursuant to section 312(a) of the Magnuson-Stevens Fish-
6 ery Conservation and Management Act (16 U.S.C.
7 1861a(a)), the Director shall approve or deny such spend
8 plan not later than 30 days after the date on which the
9 Secretary submits such spend plan to the Director for ap-
10 proval.

11 (b) DENIAL OF SPEND PLAN.—

12 (1) IN GENERAL.—If the Director denies a
13 spend plan under subsection (a) or paragraph (3) of
14 this subsection, the Director shall, not later than 15
15 days after the date of such denial, return such de-
16 nied spend plan to the Secretary with a description
17 of the changes to such denied spend plan that are
18 necessary for the Director to approve such denied
19 spend plan.

20 (2) RESUBMISSION OF SPEND PLAN.—Upon re-
21 ceipt of a denied spend plan under paragraph (1),
22 the Secretary, in consultation with the relevant re-
23 quester with an affirmative fishery resource disaster
24 determination of the spend plan, shall make the nec-
25 essary changes to such spend plan described by the

1 Director under paragraph (1) and resubmit such
2 spend plan to the Director for approval.

3 (3) REVIEW OF RESUBMITTED SPEND PLAN.—

4 Not later than 15 days after the date of the receipt
5 of a spend plan under paragraph (2), the Director
6 shall approve or deny such spend plan.

7 (c) APPROVAL OF SPEND PLAN.—If the Director ap-
8 proves a spend plan under subsection (a) or subsection
9 (b)(3), the Director shall—

10 (1) make such approval publicly available on
11 the website of the Office of Management and Budg-
12 et; and

13 (2) include in such approval—

14 (A) the date on which communication re-
15 garding such spend plan was initiated between
16 the Director and the Secretary;

17 (B) if applicable—

18 (i) the date of each denial of such
19 spend plan under subsection (a) and sub-
20 section (b)(3); and

21 (ii) the date of each resubmission of
22 such spend plan under subsection (b)(2);
23 and

24 (C) the date on which the Director ap-
25 proved such spend plan.

1 (d) DEFINITIONS.—In this section:

2 (1) AFFIRMATIVE FISHERY RESOURCE DIS-
3 ASTER DETERMINATION.—The term “affirmative
4 fishery resource disaster determination” means a de-
5 termination by the Secretary under section 312(a) of
6 the Magnuson-Stevens Fishery Conservation and
7 Management Act (16 U.S.C. 1861a(a)) that a fish-
8 ery resource disaster has occurred.

9 (2) FISHERY RESOURCE DISASTER.—The term
10 “fishery resource disaster” has the meaning given
11 the term in section 312(a)(1)(C) of the Magnuson-
12 Stevens Fishery Conservation and Management Act
13 (16 U.S.C. 1861a(a)(1)(C)).

14 (3) DIRECTOR.—The term “Director” means
15 the Director of the Office of Management and Budg-
16 et.

17 (4) SECRETARY.—The term “Secretary” means
18 the Secretary of Commerce.

19 (5) SPEND PLAN.—The term “spend plan”
20 means a spend plan submitted to the Secretary
21 under section 312(a)(6)(D) of the Magnuson-Ste-
22 vens Fishery Conservation and Management Act (16
23 U.S.C. 1861a(a)(6)(D)) by a requester with an af-
24 firmative fishery resource disaster determination.



Mid-Atlantic Fishery Management Council

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Michael P. Luisi, Chairman | P. Weston Townsend, Vice Chairman

Christopher M. Moore, Ph.D., Executive Director

MEMORANDUM

Date: July 26, 2023

To: Chris Moore, Executive Director

From: Kiley Dancy and Hannah Hart, Staff

Subject: Proposed Timeline Revisions for Recreational Sector Separation and Catch Accounting Amendment

Given our internal discussions regarding staff workload and the planned timeline for the Recreational Sector Separation and Catch Accounting Amendment, we have tentatively revised the amendment action plan for discussion with the Council. These revisions are provided below. We propose shifting the approval of a scoping document from December 2023 to Spring 2024 and shifting scoping hearings from January/February 2024 to Spring/Summer 2024. Depending on the anticipated joint meeting schedule over the next few years, this would shift the timeline back by a few months for each subsequent step. Commission staff are planning to share a similar update with the Policy Board.



Recreational Sector Separation and Catch Accounting Amendment to the Summer Flounder, Scup, and Black Sea Bass and Bluefish Fishery Management Plans

Draft Action Plan

April/2023 Revised July 24, 2023

Amendment Goal: The purpose of this amendment is to review and consider options for managing for-hire recreational fisheries separately from other recreational modes (referred to as sector separation) as well as options related to recreational catch accounting, such as private angler reporting and enhanced vessel trip reporting (VTR) requirements for the summer flounder, scup, black sea bass, and bluefish fisheries. This action aims to address expressed interest in sector separation to make better use of for-hire VTR data, which some anglers perceive as being more accurate than the Marine Recreational Information Program (MRIP) data. In addition, this action considers options to improve recreational catch accounting with the intent to reduce uncertainty in the recreational data. This amendment is being developed by the Mid-Atlantic Fishery Management Council (Council) and Atlantic States Marine Fisheries Commission (Commission).

Types of Measures Expected to be Considered: The Council and the Commission's Interstate Fishery Management Program Policy Board (Policy Board) will review and consider options for managing for-hire recreational fisheries separately from other recreational modes (referred to as sector separation) as well as options related to recreational catch accounting for summer flounder, scup, black sea bass, and bluefish. In previous conversations on these issues, the types of measures for potential consideration included:

Sector separation

- No action/status quo
- Managing the recreational for-hire and private/rental fisheries with separate allocations of catch or harvest, including possible options for:
 - Separate Annual Catch Limits (ACLs) for each recreational sector
 - Separate Recreational Sub-ACLs for each recreational sector
 - Separate Recreational Harvest Limits (RHLs)
- Managing the recreational for-hire and private/rental fisheries with separate management measures (bag limits, size limit, seasons, or other measures). Although this is already done for some species/state/mode combinations, this amendment may consider a more uniform approach to separate measures. If the Council and Policy Board choose to prioritize separate measures over other types of sector separation, an amendment may not be necessary depending on the options considered.

Recreational catch accounting

- No action/status quo
- Mandatory private angler reporting
- Tagging programs (i.e., anglers or groups of anglers are issued tags for specific number of fish each year)
- Mandatory tournament reporting

- Enhanced VTR requirements
- Voluntary angler reporting programs to supplement or enhance recreational survey programs

Fishery Management Action Team (FMAT)/Plan Development Team (PDT)

An FMAT/PDT has been partially formed to assist with development and analysis of potential alternatives. Additional state representatives are expected to be identified by the Board. FMAT/PDT members are listed in the table below. Other Council, Commission, and NOAA Fisheries staff, as well as other experts, will be consulted as needed.

Name	Agency	Role/Expertise
Tracey Bauer	Atlantic States Marine Fisheries Commission	FMAT/PDT Co-Chair
Kiley Dancy	Mid-Atlantic Fishery Management Council	FMAT/PDT Co-Chair
Hannah Hart	Mid-Atlantic Fishery Management Council	FMAT/PDT Co-Chair
Emily Keiley	NMFS Greater Atlantic Regional Fisheries Office	Fisheries policy and legal requirements
Marianne Randall	NMFS Greater Atlantic Regional Fisheries Office	National Environmental Policy Act requirements
Sara Turner	NMFS Greater Atlantic Regional Fisheries Office	Scientific and technical analysis of federal fisheries management
Scott Steinback	NOAA Fisheries Northeast Fisheries Science Center	Recreational fisheries economist
<u>TBD</u>	<u>TBD</u>	<u>Additional state/Technical Committee representatives to be identified by the Policy Board</u>

Expected Amendment Timeline:

This amendment was initiated in October 2020 along with several other [Recreational Reform Initiative Topics](#). However, in February 2021, work on this amendment was put on hold to prioritize development of the Recreational Harvest Control Rule Framework/Addenda. In December 2022 the Council and Policy Board agreed to continue to develop the Recreational Sector Separation and Catch Accounting Amendment.

The expected amendment timeline (as of [January-July 2023](#); assuming an environmental assessment; subject to change) is as follows:

Summer/Fall 2023 <u>Spring/Summer 2023</u>	Form Fishery Management Action Team (FMAT)/ Plan Development Team (PDT)
Summer-Fall 2023 <u>Early 2024</u>	FMAT/PDT develops issues for consideration and draft scoping document. Possible Advisory Panel (AP) and Monitoring Committee discussion.
December 2023 <u>Spring 2024</u>	Council and Policy Board approve a scoping and public information document for public comment
January-February 2024 <u>Spring/Summer 2024</u>	Scoping hearings and comment period
Spring 2024 <u>Summer 2024</u>	APs review scoping comments and provide input to Council and Policy Board on scope of amendment and possible approaches
Spring 2024 <u>Summer 2024</u>	FMAT/PDT reviews scoping comments and AP input and provides recommendations to Council and Policy Board on scope of amendment and possible approaches
Spring 2024 <u>August 2024</u>	Council and Policy Board review scoping comments and FMAT and AP recommendations; define scope of action
Summer 2024 <u>Fall 2024</u>	FMAT/PDT begins to develop draft alternatives
August 2024 <u>December 2024</u>	Council and Policy Board review preliminary alternatives
Fall 2024 <u>Winter/Spring 2025</u>	Continued FMAT/PDT development and analysis of alternatives; AP input on draft alternatives
December 2024 <u>Spring/Summer 2025</u>	Council and Policy Board approve final range of alternatives for inclusion in a public hearing document/Commission draft amendment document
Winter 2025 <u>Fall 2025</u>	FMAT/PDT develops public hearing document/Commission draft amendment document
Spring-December 2025	Council and Policy Board approve public hearing document; Policy Board approves draft amendment document for public comment
Spring/Summer 2025 <u>Winter 2026</u>	Public hearings and comment period
Spring/Summer 2025 <u>Winter/Spring 2026</u>	AP meeting to provide input on preferred alternatives; FMAT/PDT meeting to provide recommendations to Council/Board
August 2025 <u>Spring 2026</u>	Final action
Summer 2026 <u>Fall 2025</u>	Staff develop and submit draft environmental assessment (EA)
Winter-Fall 2026	NMFS and other agencies review EA; final edits completed; Rulemaking and comment periods (4-7 months after EA finalized)
TBD	Target effective date (may or may not need to line up with start of fishing year depending on measures approved)