

Atlantic States Marine Fisheries Commission

Interstate Fisheries Management Program Charter



Healthy, self-sustaining populations for all Atlantic coast fish species or successful restoration well in progress by the year 2015

Proposed Edits May 2013

Preface

This document outlines the standard operating procedures and policies of the Atlantic States Marine Fisheries Commission's Interstate Fisheries Management Program. It was first developed in response to passage of the Atlantic Coastal Fisheries Cooperative Management Act of 1993, which provided the Commission with responsibilities to ensure member state compliance with interstate fishery management plans. The Act authorizes the Secretary of Commerce to pre-empt any state fishery not in compliance with a Commission fishery management plan.

The Charter was first printed in April 1995 and subsequently revised in May 1996, October 2000, and November 2002. It was further edited in April 2001 (to reflect changes in the membership of the Atlantic Menhaden Management Board); July 2003 (to correct for incorrect references); January 2006 (to reflect a policy decision on voting by specific proxies); November 2008 (to reflect the addition of a habitat addendum provision); ~~and~~ August 2009 (minor editorial changes); and May 2013 (to reflect the Technical Support Group Guidance and Benchmark Stock Assessment Process Document).

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Section One. Introduction and Policy

(a) **General.** The Atlantic States Marine Fisheries Commission (Commission) was formed in 1942. The purpose of the Commission is:

....to promote the better utilization of the fisheries, marine, shell and anadromous, of the Atlantic seaboard by the development of a joint program for the promotion and protection of such fisheries, and by the prevention of the physical waste of the fisheries from any cause. It is not the purpose....to authorize the states joining herein to limit the production of fish or fish products for the purpose of establishing or fixing the price thereof or creating and perpetuating monopoly.

(b) **Interstate Fisheries Management Program.** The Commission carries out an Interstate Fisheries Management Program (ISFMP), authorized by Article IV of the Commission's Rules and Regulations.

(c) It is the policy of the Commission that its ISFMP promote the conservation of Atlantic coastal fishery resources, be based on the best scientific information available, and provide adequate opportunity for public participation.

Section Two. Role of the Commission

(a) **General.** The Commission is responsible generally for the Commission's fishery management activities. These activities will be carried out through the ISFMP established under this charter.

(b) **Final Approval Authority.** The Commission will be the final approval authority for:

- (1) Any fishery management plan (FMP) and FMP amendment; and
- (2) Any final determination of a state's non-compliance with the provisions of a Commission approved FMP.

Section Three. ISFMP Policy Board

(a) **Membership.** The membership on the ISFMP Policy Board shall be comprised as follows:

- (1) All member states of the Commission shall be voting members, and shall be represented by all of its Commissioners (or duly appointed proxies) in attendance. The position of a state on any matter before the Policy Board shall be determined by caucus of its Commissioners in attendance;

(2) One representative from the National Marine Fisheries Service and one representative from the U.S. Fish and Wildlife Service shall each be a voting member;

(3) One representative from the Potomac River Fisheries Commission and one representative from the government of the District of Columbia shall each be a member, eligible to vote, on any matter which may impose a regulatory requirement upon their respective jurisdictions; and

(4) One representative of the Commission's Law Enforcement Committee shall be a non-voting member.

(b) **Proxies.** Any Commissioner from a state, or duly authorized representative of a jurisdiction or agency, that is a member of the Policy Board may designate a permanent, ongoing, or specific proxy. A change in the designation of a permanent or ongoing proxy may be made only once during the year. In the case of extenuating circumstances, a Commissioner may appoint specific proxies as needed to ensure representation. Proxies must be from the same state, jurisdiction, or agency as the individual making the designation. The Commission's code of conduct shall apply to all proxies. Only an individual who is serving as a permanent or ongoing proxy may further designate a specific proxy.

(c) The **Chair and Vice-Chair** of the Commission shall respectively be the Chair and Vice-Chair of the ISFMP Policy Board.

(d) **Role and Functions.** The ISFMP Policy Board will be responsible for the overall administration and management of the Commission's fishery management programs. In this regard it will:

(1) Interpret and give guidance concerning the standards and procedures contained in Sections Six and Seven, and generally provide Commission policy governing the preparation and implementation of cooperative inter-jurisdictional fishery management for coastal fisheries of the Atlantic coast;

(2) Establish the priority species to be addressed by the Commission's fishery management program, taking into account the following criteria:

(i) The species constitutes a "coastal fishery resource" as defined in Section 803(2) of the Act;

(ii) The degree to which the species is of importance along the Atlantic coast; and

(iii) The probability that the species and associated fisheries will benefit from cooperative inter-jurisdictional management.

(3) Establish management boards/sections described in Section Four;

- (4) Review and approve declarations of interest in species management by states according to the standards contained in the Commission Rules and Regulations;
- (5) Monitor and review the implementation of FMPs for which no management board or section is currently operational;
- (6) Review and approve action plans, including priorities for activities, for the ISFMP;
- (7) Establish, for any matter that does not come under the purview of an existing management board or section, a committee to provide it with any relevant analysis, reviews, and recommendations;
- (8) Recommend to the Commission that it make a determination of a state's non-compliance with the provisions of a Commission approved FMP, according to the procedures contained in Section Seven;
- (9) Consider and decide upon appeals of states to actions of any management board or section under Section Four(h); and
- (10) Take any other action that is consistent with this Charter and that is necessary and appropriate to carry out the fishery management program of the Commission; except that a final determination of a state's non-compliance with the provisions of a Commission-approved plan must be made by the Commission.

Section Four. Management Boards

(a) **Fishery Management Board.** Upon determining that a need exists in a fishery for the development of an FMP or amendment, the ISFMP Policy Board shall establish a management board for that fishery. A management board may be disbanded by the Policy Board upon a determination that it is no longer needed for the preparation, review, or ongoing monitoring of the implementation of an FMP or amendment.

(b) **Management Board Membership.** The voting membership of each management board shall be comprised as follows:

- (1) Each state with an interest in the fishery covered by the management board shall be a voting member, and shall be represented by all of its Commissioners (or duly appointed proxies) in attendance. The position of a state on any matter before the management board shall be determined by caucus of its Commissioners in attendance;
- (2) A representative from the Potomac River Fisheries Commission and the District of Columbia may each elect to serve as a voting member on any management board in which they have an interest or which may result in the imposition of regulatory requirements on their jurisdictions;

(3) The National Marine Fisheries Service and the U.S. Fish and Wildlife Service may each elect to serve as a voting member of any management board; and

(4) Any one of the Executive Directors/Chairs of the Regional Fishery Management Councils may be invited to be a voting member of an ISFMP species management board when the management board determines that such membership would advance the inter-jurisdictional management of the specific species. When the management area includes more than one Council, the applicable Councils will need to identify one Executive Director/Chair to receive the invitation to participate on that board as a voting member.

(c) **Proxies.** Any Commissioner from a state, or duly authorized representative of a jurisdiction or agency, that is a member of a management board may designate a permanent, ongoing, or specific proxy. A change in the designation of a permanent or ongoing proxy may be made only once during the year. In the case of extenuating circumstances, a Commissioner may appoint specific proxies as needed to ensure representation. Proxies must be from the same state or jurisdiction or agency as the individual making the designation. The Commission's code of conduct shall apply to all proxies. Only an individual who is serving as a permanent or ongoing proxy may further designate a specific proxy.

(d) **Conduct of Meetings.**

(1) Meetings will generally be run according to the current edition of "Robert's Rules of Order."

(2) Any Commissioner or proxy of a Commissioner or duly authorized representative of a jurisdiction or agency that is a member of a management board may make or second any motion; provided that the maker of the motion and second (when necessary) must each come from a different state, jurisdiction, or agency.

(3) Any specific proxy appointed by a Legislative or Governor's Appointee Commissioner may not vote on a final action being considered by a board, section, or committee. For this section a final action will be defined as establishment of quotas, allocations, approval of FMPs/amendments/addenda, emergency actions, and non-compliance recommendations. A specific proxy may participate in the deliberations of the meeting, including making and seconding motions. Specific proxies may vote on preliminary decisions such as issues to be included in a public hearing draft or approval of public information documents. Questions of procedure will be determined by the chair of the meeting upon the advice of the Executive Director or the senior Commission employee in attendance.

(e) **Functions.**

(1) Each management board shall be responsible for the development of an FMP, amendment, or addendum with respect to the fisheries under its jurisdiction as established by the ISFMP Policy Board.

(2) Management boards/sections shall solicit public participation during the process of FMP proposal, development, amendment, or addendum by submitting public information documents and FMP, amendment, or addenda drafts to each interested state for public comment.

(3) A management board may, after the necessary FMP, amendment, or addendum has been approved, continue to monitor the implementation, enforcement, and effectiveness of the FMP, amendment, or addendum or take other actions specified in the applicable document that are necessary to ensure its full and effective implementation.

(4) Each management board shall select its own chair and vice-chair. The chair of management boards/sections will rotate among the voting members every two years, with the vice-chair acceding to the chair.

(f) **Sections under Amendment One.** Under Amendment One to the Compact creating the Commission, one or more states may agree to designate the Commission as a joint regulatory agency; Commissioners of these states shall constitute a separate section for these purposes. In any such instance the following procedures apply:

(1) Agreements among states under Amendment One shall be in writing, and open to participation by all states with an interest in any fishery to which the agreement applies;

(2) All Commissioners from states forming a section under Amendment One shall be members of the section; and

(3) Regulatory authority exercised by the Commission under Amendment One shall be carried out pursuant to an FMP prepared according to this Charter. For these purposes, including determinations of non-compliance under Section Seven, a section shall have the same authority and responsibility as set forth in this Charter for a management board.

(g) **Coordination with Regional Fishery Management Councils.** Each management board shall work with appropriate committees of the Regional Fishery Management Councils and appropriate federal officials to insure that state and federal fishery management programs are coordinated, consistent, and complementary. It will be the policy of the Commission to develop FMPs jointly with Regional Fishery Management Councils wherever applicable

(h) **Appeal Opportunity.** Any state that is aggrieved by an action of the management board may appeal that action to the Policy Board in accordance with Section Three(d)(9).

Section Five. Staff, Management, Technical, and Advisory Support

(a) **Staff Support.** The Commission's Executive Director or the ISFMP Director shall serve ex-officio as non-voting members of all management boards and sections. Commission staff shall serve as ex-officio members of all technical committees and will chair the plan development teams (PDTs) and plan review teams (PRTs). Staff will provide liaison among the PDTs, PRTs, species stock assessment subcommittees, technical committees, and advisory panels and the management boards/sections. Commission staff will also provide liaison among the Committee on Economics and Social Sciences, the Assessment Science, Habitat, [Artificial Reef](#), Law Enforcement, and Management and Science Committees and the management boards/sections, and the Policy Board.

ISFMP and Science Program staffs have specific responsibilities with respect to supporting the activities of the technical support groups. These responsibilities are detailed in the [Guidance Document for ASMFC Technical Support Groups \(approved May 2002\)](#) and [Orientation Manual for the ASMFC Technical Support Group Membership \(approved May 2002\)](#). [Technical Support Group Guidance and Benchmark Stock Assessment Process \(approved February 2013\)](#)

(b) **Committee Organization.** Unless otherwise specified, each group included in this section shall elect its own chair and chair-elect (or vice-chair), which shall rotate bi-annually among the Committee members, with the chair-elect acceding to the chair. Committees shall maintain a record of their meetings compiled by the chair-elect (vice-chair) in consultation with the chair and Commission staff.

(c) **PDTs** shall be appointed by the management boards/sections to draft FMPs, amendments and addenda.

(1) PDTs shall be comprised of personnel from state and federal agencies who have scientific and management ability, knowledge of a species and its habitat, and an interest in the management of a species under the jurisdiction of the relevant management board. Personnel from Regional Fishery Management Councils, academicians, and others as appropriate may be included on a PDT. The size of the PDT shall be based on specific need for expertise but shall generally be kept to a maximum of six persons.

(2) It shall be the responsibility of a PDT to prepare all documentation necessary for the development of an FMP, amendment, or addendum using the best scientific information available and the most current stock assessment information. Each FMP, amendment, or addendum shall be developed by the PDT in conformance with Section Six of the ISFMP Charter.

(3) PDTs shall be tasked directly by the management boards/sections. In carrying out its activities, the PDT shall seek advisement from the appropriate technical committee, stock assessment subcommittee, advisory panel, Committee on Economics and Social Sciences, and the Assessment Science, Habitat, and Law Enforcement Committees, where appropriate.

(4) Following completion of its charge, the management board will disband the PDT.

(d) **PRT** shall be appointed by the management boards/sections to review regulations and compliance. Members should be knowledgeable concerning the scientific data, stock and fishery condition, and fishery management issues. The PRT shall generally be kept to a maximum of six persons.

(1) PRTs will be responsible for providing advice concerning the implementation, review, monitoring, and enforcement of FMPs that have been adopted by the Commission, and as needed be charged by the management board/sections.

(2) Each PRT shall at least annually or as provided in a given FMP, conduct a review of the stock status and Commission member states' compliance for which implementation requirements are defined in the FMP. The PRT shall develop an annual plan review in order to evaluate the adequacy of the FMP. This report will address, at a minimum, the following topics: adequacy and achievement of the FMP goals and objectives (including targets and schedules), status of the stocks, status of the fisheries, status of state implementation and enforcement, status of the habitat, research activities, and other information relevant to the FMP. The PRT shall report all findings in writing to the management board/section for appropriate action. Compliance review shall be consistent with the requirements of Sections Six and Seven of the ISFMP Charter and the respective FMP requirements. In addition to the scheduled compliance reviews, the PRT may conduct a review of the implementation and compliance of the FMP at any time at the request of the management board/section, Policy Board, or the Commission. When a plan amendment process is initiated by the management boards/sections, the PRT will continue its annual review function applicable to the existing plan.

(3) In carrying out its activities, the PRT shall seek advisement from the appropriate technical committee, stock assessment subcommittee, advisory panel, Committee on Economics and Social Sciences, and the Assessment Science, Habitat, Law Enforcement, and Management and Science Committees.

(e) **Assessment Science Committee.** The Assessment Science Committee (ASC) shall be appointed by the ISFMP Policy Board. All agencies should nominate individuals for appointment to the ASC based on stock assessment and population dynamics expertise. Agencies may nominate personnel that require some training prior to official appointment as a committee member. The ISFMP Policy Board should review all nominations and appoint members to the ASC based on expertise, as opposed to agency representation. The ISFMP Policy Board may appoint a limited number of ASC members that are currently being trained in stock assessment methods, with the intent of formalizing the appointment upon completion of training. ASC membership should be kept to a maximum of 25 members and periodic rotation of membership should be considered.

(1) ASC will assist the ISFMP Policy Board in setting overall priorities and timelines for conducting all Commission stock assessments in relation to current workloads.

(2) ASC will provide guidance to species stock assessment subcommittees, technical committees, and management boards on broad technical issues (e.g., stock assessment methods, biological reference points, sampling targets, and other assessment issues common to multiple Commission-managed species).

(3) ~~ASC may provide input and advice to the species stock assessment subcommittees mainly during a benchmark assessment, when a model change and/or a major revision of the data are conducted. Species stock assessment subcommittees will be jointly appointed by the ASC and the technical committee, with membership consisting of a combination of ASC members and technical committee members.~~ The species stock assessment subcommittee will be responsible for conducting the species assessment and will report directly to the species technical committee. ASC ~~will~~ **may** provide overall guidance to the development of the species assessment, but will not be involved in peer review of the assessment. ~~Annual assessments~~ **Assessment updates** will be conducted by the species stock assessment subcommittee, with input ~~on assessment modeling theory~~ from the ASC upon written request.

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~~(4) ASC will provide input and advice to the species stock assessment subcommittees mainly during a benchmark assessment, when a model change and/or a major revision of the data are conducted.~~

(f) **Technical Committees.** A management board/section may appoint a technical committee to address specific technical or scientific needs requested periodically by the respective management board/section, PDT, PRT, or the Management and Science Committee.

(1) A technical committee shall be comprised of state, federal, Regional Fishery Management Council, Commission, university or other specialized personnel with scientific and technical expertise and knowledge of the fishery or issues pertaining to the fishery being managed, and should consist of **only** one representative from each state or agency with a declared interest in the fishery, unless otherwise required or directed by the management board.

(2) Technical committees are responsible for addressing specific technical or scientific needs requested periodically by the respective management board/section, PDT, PRT, or the Management and Science Committee. At times, the technical committee may be requested to provide a technical analysis of species advisory panel recommendations. All requests to the technical committee should be in writing and should include all specific tasks, the deliverable expected, and a timeline for presentation of recommendations to the board/section. Even though the technical committee may respond to requests from multiple committees, the management board/section provides the oversight to technical committee tasks and priorities. When tasked by multiple committees, it is the responsibility of the ISFMP staff in consultation with the technical committee and management board/section chairs to prioritize these tasks.

(3) It shall be the responsibility of a technical committee for addressing specific technical or scientific needs requested by ~~to provide scientific and technical advice to~~ the respective

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management board/section, PDT, and PRT in the development and monitoring of an FMP or amendment as requested in writing, including evaluating fishery-dependent and fishery-independent data, evaluating state monitoring programs, and providing information on the status of the stock and the fishery to the PDT and PRT. At times, the TC may be requested to provide a technical analysis of AP recommendations.

(4) Among its duties, the technical committee shall provide a range of management options, risk assessments, justifications, and probable outcomes of various management options.

(5) The technical committee will coordinate the process of developing stock assessments for Commission-managed species.

(6) It is not the responsibility of the technical committee to conduct a review of the Commission member states' compliance for which implementation requirements are defined in the FMP. This is a responsibility of the PRTs.

(g) **Species Stock Assessment Subcommittees.** Upon the request of a management board/section, ~~the ASC and~~ the technical committee shall jointly appoint individuals with appropriate expertise in stock assessment and fish population dynamics to a species stock assessment subcommittee, which will report to the technical committee and shall continue in existence so long as the management board/section requires.

(1) Membership to a species stock assessment subcommittee will be comprised of technical committee members with appropriate knowledge and experience in stock assessment and biology of the species being assessed. Individuals from outside the TC with expertise in stock assessment or biology of the species may also be nominated and appointed, if necessary, will be comprised of a combination of ASC and technical committee members. The technical committee chair will serve as an ex-officio member of the species stock assessment subcommittee. Overall membership should be kept to a maximum of ~~four~~ six persons, unless otherwise required and directed by the management board.

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(2) The species stock assessment subcommittee is responsible for conducting a stock assessment for use by the PDT in formulation of an FMP, amendment, or addendum; and conducting periodic stock assessments as requested for use by the technical committee in reporting status of the stock to the respective management board. A stock assessment update consists of adding the most recent years of data to an existing, peer-reviewed, and board-accepted stock assessment model without changing the model type or structure. An annual update is defined as an update to the basic landings and survey information, with no change to the assessment model (e.g., data inputs and model have not changed, but one additional year of data has been included in the assessment).

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(3) The species stock assessment subcommittee is responsible for data analysis and preparation of a stock assessment report. Initial input on available data and stock assessment methods may be provided by ASC and TC. Additional input may be

requested of the ASC upon written request of the species stock assessment subcommittee. The species stock assessment subcommittee shall use the best scientific information available and established stock assessment techniques. Stock assessment techniques should be consistent with the current state of scientific knowledge.

(4) The species stock assessment subcommittee will be tasked directly by the technical committee and will report to the technical committee for review and approval of work. All subcommittee recommendations and documents must be approved by the technical committee and forwarded by the technical committee to the management board/section. Any substantive issues and concerns raised by the technical committee during the approval process should be referred back to the species stock assessment subcommittee to be addressed.

(h) **Other Technical Support Subcommittees** (e.g., tagging, stocking – with the exception of ISFMP socioeconomic subcommittees). Upon the approval of a management board/section, the technical committee shall appoint individuals with special expertise, as appropriate, to other technical support subcommittees in order to support technical committee deliberations on specific issues. All technical support subcommittees shall report to the technical committee and shall continue in existence so long as the management board/section requires. All technical support subcommittees should elect their own chair and vice-chair, who will be responsible for reporting to the technical committee. Overall membership should be kept to a maximum of six persons.

(1) Special subcommittees may be required to address specific scientific issues important to the assessment and management of the species. These subcommittees will be tasked directly by the technical committee and will report to the technical committee for review and approval of work. All subcommittee recommendations and documents must be approved by the technical committee before being forwarded to the management board/section. Any substantive issues and concerns raised by the technical committee during the approval process should be referred back to the technical support subcommittee to be addressed.

(i) **Advisory Panels.** A management board/section may at any time establish an advisory panel in conformance with the Commission's Advisory Committee Charter, to assist in carrying out the board's/section's responsibilities. Advisory panels shall also work with PDTs and PRTs, as requested.

(j) **Habitat Committee.** The Habitat Committee is a standing Commission committee appointed at the discretion of the Chair of the Commission ~~on an annual basis~~. The purpose of the Habitat Committee is to review, research, and develop appropriate response to concerns of inadequate, damaged or insufficient habitat for Atlantic coastal species of concern to the Commission. Among its duties for the Commission, the Habitat Committee shall:

(1) Serve as a consultant to the ISFMP regarding habitat on which the species of concern to the Commission are dependent, whether salt, brackish or freshwater;

(2) Provide comment on the habitat sections of FMPs, and provide suggested text for these sections;

(3) Propose habitat mitigation measures, comment on proposed habitat mitigation measures, and proposed alternate measures if necessary to ensure appropriate habitat conservation;

(4) Establish subcommittees or other work groups as are necessary to research various habitat related issues; and

(5) Formulate habitat specific policies for consideration of and adoption by the Commission.

(k) **Artificial Reef Committee.** The Artificial Reef Committee is a standing Commission committee appointed at the discretion of the Commission Chair. The Committee advises the ISFMP Policy Board with the goal of enhancing marine habitat for fish and invertebrate species through the appropriate use of man-made materials. The Committee is comprised of the state artificial reef coordinators, representatives from the National Marine Fisheries Service, and the U.S. Fish and Wildlife Service. The Artificial Reef Committee works in close coordination with Habitat Committee, and reports to the ISFMP Policy Board.

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(l) Law Enforcement Committee. The Law Enforcement Committee (LEC) is a standing Commission committee established by the Commission. LEC carries out assignments at the specific request of the Commission, the ISFMP Policy Board, the management boards/sections, the PDTs, and the PRTs. In general, the Committee provides information on law enforcement issues, brings resolutions addressing enforcement concerns before the Commission, coordinates enforcement efforts among states, exchanges data, identifies potential enforcement problems, and monitors enforcement of measures incorporated into the various interstate fishery management plans. LEC is comprised of law enforcement representatives from each member state, the U. S. Fish and Wildlife Service, the National Marine Fisheries Service, ~~and~~ the U. S. Coast Guard, and US Department of Justice. LEC convenes a working meeting in the spring, meets in conjunction with the Commission's Annual Meeting, and convenes other meetings as needed. Among its ISFMP duties, the LEC shall:

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(1) Provide advice to PDTs regarding the enforceability of measures contemplated for inclusion in FMPs, including enforcement information needed for the Source Document and Background Summary pursuant to Section Six (b)(1)(v)(E); analysis of the enforceability of the proposed measures; and if the FMP provides for conservation equivalency, enforcement procedures for alternative management measures;

(2) Provide advice to each PRT at least annually or as provided in a given FMP regarding the adequacy and effectiveness of states' enforcement of the measures implemented pursuant to the FMP;

(3) Coordinate, among law enforcement personnel, the preparation of reports concerning state law enforcement and compliance in order to ensure these analyses are comparable;

and

(4) Upon request or on its own initiative, provide enforcement advice and information regarding any FMP to any committee, team, board/section, or advisory panel in order to carry out activities under this Section.

| (m) **Management and Science Committee.** The Management and Science Committee (MSC) is a standing committee appointed by the Commission. MSC carries out assignments at the specific request of the Commission, Executive Committee, or the ISFMP Policy Board, and generally provides advice to these bodies concerning fisheries management and the science of coastal marine fisheries. MSC is comprised of one representative from each member state, the National Marine Fisheries Service's Northeast and Southeast Regions, and the U.S. Fish and Wildlife

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Service's Regions 4 and 5 who possess scientific as well as management and administrative expertise. Among its duties for the Commission, MSC shall:

- (1) Serve as the senior review body of the Commission, Executive Committee, and ISFMP Policy Board;
- (2) Provide oversight to the Commission's Stock Assessment Peer Review Process;
- (3) Upon request of the ISFMP Policy Board for any management board/section, review and provide advice on species specific issues;
- (4) Evaluate the state of the science of species interactions and provide guidance to fisheries managers on multispecies and ecosystem issues. Evaluations and/or recommendations should focus on modifying the single-species approach in development of Commission FMPs and/or stock assessments;
- (5) Evaluate and provide advice on cross-species issues and including, but not limited to tagging, invasive species and exotics, fish health and protected species issues; and
- (6) Coordinate Commission technical and scientific workshops and seminars, when requested.

~~(n#)~~ **Committee on Economics and Social Sciences.** The Committee on Economics and Social Sciences (CESS) is a standing Commission committee. CESS members of the Committee shall be appointed at the discretion of the Chair of the Commission. The membership should consist of one representative from each of the 15 member states, two representatives from National Marine Fisheries Service headquarters (one economist and one social scientist), one representative each from National Marine Fisheries Service's Northeast and Southeast Regions, one representative each from the **Atlantic Ceoast Fishery Management Councils**, and one representative from the U.S. Fish and Wildlife Service.

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The Committee shall elect its own chair and vice-chair, which shall rotate biennially among the Committee members, with the vice-chair acceding to the chair. CESS shall maintain a record of its meetings, compiled by Commission staff in consultation with the chair.

The purpose of CESS is to provide socioeconomic technical oversight for both the ISFMP and the Atlantic Coastal Cooperative Statistics Program. Among its duties for the Commission, CESS shall:

- (1) Develop and implement mechanisms to make economic and social science analysis a functioning part of the Commission's decision making process;
- (2) Nominate economists and social scientists to serve on each species technical committee or socioeconomic subcommittee, and PDT, in order to provide technical support and development of socioeconomic sections of FMPs (including amendments and addenda);

- (3) Upon request by species management boards or the Policy Board, provide social and economic advice, information, and policy recommendations to these respective boards;
- (4) Upon request by the Policy Board, provide social and economic advice, information, and policy recommendations to the Policy Board;
- (5) Provide technical recommendations to the social and economic data collection and data management programs of the Atlantic Coastal Cooperative Statistics Program;
- (6) Function as the technical review panel for social and economic analyses conducted by the Commission and the Atlantic Coastal Cooperative Statistics Program; and
- (7) Establish CESS subcommittees or other work groups as are necessary to research various social and economic issues;

(~~on~~) **Other ASMFC Committees.** Other Commission committees, as appointed, shall upon request or on their own initiative provide advice and information to any other committee, in order to carry out activities under this Section.

Section Six. Standards and Procedures for Interstate Fishery Management Plans

(a) **Standards.** These standards are adopted pursuant to Section 805 of the Atlantic Coastal Fisheries Cooperative Management Act (P.L. 103-206), and serve as the guiding principles for the conservation and management programs set forth in the Commission's FMPs. The Commission recognizes that an effective fishery management program must be carefully designed in order to fully reflect the varying values and other considerations that are important to the various interest groups involved in coastal fisheries. Social and economic impacts and benefits must be taken into account. Management measures should focus on conservation while allowing states to make allocation decisions. Fishery management programs must be practically enforceable, including as much as possible the support of those being regulated, in order to be effective. Above all, an FMP must include conservation and management measures that ensure the long-term biological health and productivity of fishery resources under management. To this end, the Commission has adopted the following standards:

- (1) Conservation programs and management measures shall be designed to prevent overfishing and maintain over time, abundant, self-sustaining stocks of coastal fishery resources. In cases where stocks have become depleted as a result of overfishing and/or other causes, such programs shall be designed to rebuild, restore, and subsequently maintain such stocks so as to assure their sustained availability in fishable abundance on a long-term basis.

(2) Conservation programs and management measures shall be based on the best scientific information available.

(3) Conservation programs and management measures shall be designed to achieve equivalent management results throughout the range of a stock or subgroups of that stock.

(4) Management measures shall be designed to minimize waste of fishery resources.

(5) Conservation programs and management measures shall be designed to protect fish habitats.

(6) Development and implementation of FMPs shall provide for public participation and comment, including public hearings.

(8) Fairness & equity.

(i) An FMP should allow internal flexibility within states to achieve its objectives while implemented and administered by the states; and

(ii) Fishery resources shall be fairly and equitably allocated or assigned among the states.

(b) **Contents.** An FMP should be a readily available, concise, and understandable document. It is designed to inform the Commission and the public of the need for and nature of management action, to provide for conservation of coastal fisheries, to allow the public to have effective participation in the management planning process, and to help Commissioners to make decisions on fishery management plans. Additionally, the FMP should facilitate implementation and enforcement of the fishery management program in the individual states. With this in mind, all FMPs of the Commission shall contain the following items:

(1) Management Program Elements:

(i) A statement of the problem being addressed by the FMP, and the objectives to be achieved through implementation, including the social and economic impacts.

(ii) The goals and objectives of the FMP, including a specification of the management unit, a plan-specific definition of overfishing, and, if a stock is determined to be depleted as a result of overfishing and/or other causes, a specific rebuilding program and schedule for the resource.

(iii) A statement of management strategies, options, and alternatives.

(iv) A complete statement of the management measures needed to conserve the fishery, including:

- (A) A detailed statement on a state-by-state basis of each specific regulatory, monitoring, and research requirement that each state must implement in order to be in compliance with the plan; provided that the relative burden of the plan's conservation program and management measures may vary from state to state relative to the importance of the fishery in that state as compared to its importance in other states throughout its range; and provided that each FMP shall address the extent to which states meeting *de minimis* criteria may be exempted from specific management requirements of the FMP to the extent that action by the particular states to implement and enforce the plan is not necessary for attainment of the FMP's objectives and the conservation of the fishery;
- (B) If the FMP so provides, procedures under which the states may implement and enforce alternative management measures that achieve conservation equivalency;
- (C) A complete schedule by which states must take particular actions in order to be in compliance with the plan;
- (D) A specification of the requirements for states' reports on compliance to be submitted to the PRT at least annually or as provided in a given FMP, including the requirement for submission within a specified time line of copies of relevant laws and regulations for the record; and
- (E) A detailed description of penalties and repayments that will result if a state/jurisdiction does not implement any management measure consistent with the compliance schedule established in an FMP, amendment, or addendum.
- (F) A statement of the minimum notification time that the Commission must provide a state/jurisdiction prior to requiring an in-season management adjustment; and establishment of a reporting and tracking system for management changes.

(G) A statement of those recommendations which states should implement in order to conserve fishery resources.

(v) Supporting Summary Information and Analyses:

(A) A review of the resource and its biological status;

(B) A review and status of fish habitat important to the stocks, and ecosystem considerations;

(C) A review of the fishery and its status, including commercial and recreational fisheries and non-consumptive considerations;

(D) A review of the social and economic characteristics of the fishery; and

(E) An analysis of the enforceability of the proposed measures.

(vi) Impacts: A summary evaluation of the biological, environmental, social, and economic impacts of the requirements and recommendations included in the FMP.

(vii) Source Document: In addition to the FMP, the PDT and the staff shall compile a Source Document that contains all of the scientific, management, and other analyses and references utilized in preparation of the FMP.

(2) A management board/section, by 2/3 vote, may extend, after giving the public one month's notice, the period of effectiveness for any FMP or provision that would otherwise expire for a period of up to 6 months, and may be extended for an additional six months, if the management board/section is actively working on an amendment or addendum to address the provisions that would otherwise expire.

(3) Adaptive Management: Each FMP may provide for changes within the management program to adapt to changing circumstances. FMPs, which provide for adaptive management shall identify specifically the circumstances under which adaptive management changes may be made, the types of measures that may be changed, the schedule for state implementation of changes, and the procedural steps necessary to effect a change. Changes made under adaptive management shall be documented in writing through addenda to the FMP. FMPs must provide for public comment in making adaptive management changes. The management board/section shall in coordination with each relevant state, utilizing that state's established public review process, ensure that the public has an opportunity to review and comment upon proposed adaptive management changes.

(4) Technical Addenda: The management board/section may make technical corrections to an approved FMP, amendment, or addendum without use of the public review process.

This flexibility is for the correction of accidental omissions, erroneous inclusions, and/or to address non-substantive editorial issues.

(5) Habitat Addenda: The management board/section may utilize the Adaptive Management (Section Six (b)(3)) to modify/update a habitat section contained in an FMP or Amendment. The modifications to the habitat section will be documented in writing through addenda to the FMP. The adaptive management procedures detailed in the FMP will be used when developing and approving a habitat addendum.

(c) **Procedures.** All FMPs and amendments of the Commission shall be prepared according to the following procedures:

(1) Need for an FMP - Identification of priority species by the Policy Board will initiate the process to create an FMP. A management board or section will be created pursuant to Section Four. The management board or section will appoint a PDT to develop the FMP for a particular species according to the process described in Section Five (c)(1) through (4).

(2) Need for FMP Amendment - Each PRT shall evaluate the adequacy of each respective FMP at least annually and will submit to the management board/section a written report of its findings. The report will address, at a minimum, the following topics: adequacy and achievement of the FMP goals and objectives (including targets and schedules); status of the stocks; status of the fisheries; status of state implementation and enforcement; status of the habitat; research activities; and other information relevant to the FMP. The PRT shall also solicit and consider the input of the relevant advisory panel, in preparation of its report. The PRT may recommend to the management board or section that a PDT be reinstated or convened. Using this information, the management board/section will determine whether the FMP needs amendment, including issues to be addressed, such as updating data, including results of new research or a new stock assessment, needed changes in state rules and/or enforcement, and recommended options and strategies to address the concerns. All Draft FMP Amendments shall be subject to the public comment process described under Section Six (c)(8), and shall be approved by the process described in Section Six (c)(4) through (7).

(3) Public Information Document - The species PDT shall prepare a Public Information Document (PID) containing a preliminary review of biological information, fishery issues, and potential management options for the subject FMP or amendment being prepared. The PDT shall also solicit and consider the advisement of the relevant advisory panel, if any, under the Commission's Advisory Committee Charter, in preparation of the PID. The PDT Chair (Commission staff) shall also prepare appropriate audio-visual material to accompany the PID for presentation to the public. The PID, after approval by the management board/section, shall be made available to each state with an interest in the fishery and where applicable, Regional Fishery Management Councils, for the purpose of soliciting public comment as described in Section Six (c)(8).

(4) Preparation of Source Document and Background Summaries- During review and

consideration of the PID, the PDT will begin to collate and prepare the Source Document as provided in Section Six (b)(1) (vii). After consideration of the reviews of the PID, the PDT shall prepare background summaries as provided in Section Six (b)(1)(v).

(5) Preparation of Draft FMP or Amendment - After consideration of comments and views developed in response to the PID, the PDT, at the direction of the management board/section, will prepare a Draft FMP or Amendment. Upon approval by the management board/section, the Draft FMP shall be referred to all relevant states and, where applicable, Regional Fishery Management Councils, for the purpose of conducting public hearings and soliciting other public comment as described in Section Six (c)(8).

(6) Preparation of the final FMP or Amendment - After consideration of the record developed in receiving comment on the Draft FMP or Amendment, the PDT shall, at the direction of the management board/section, prepare the final FMP or Amendment.

(7) Review and Approval - The management board/section shall approve the FMP or Amendment or refer it back to the PDT for revision. The management board/section will approve revisions to established FMPs (amendment or addendum). Final approval of FMPs and amendments shall be the decision of the Commission.

(8) Public Participation:

(i) The management board/section shall in coordination with each relevant state, utilizing that state's established public review process, ensure that the public has an opportunity to review and comment upon the problems and alternative solutions addressed by the PID (see Section Six [c][3]).

(ii) Upon completion of a draft FMP or amendment and its approval by the management board/section, the Commission shall again utilize the relevant states' established public review process to elicit public comment on the draft. The Commission shall ensure that a minimum of four public hearings are held, including at least one in each state that specifically requests a hearing. A hearing schedule will be published within 60 days following approval of the draft FMP or amendment; hearings may be held in conjunction with state agencies. The hearing document will be made available to the public for review and comment at least 30 days prior to the date of the first public hearing; availability will be announced by a press release issued by the Commission. Written comments will be accepted for 14 days following the date of the last public hearing. The Commission will make the draft FMP or amendment and the accompanying PID widely available to the public, including fishermen, consumers, government agencies and officials, environmental groups, and other interested parties throughout the geographic range of the draft FMP or amendment. Records of the public hearings and summaries of the written comments will be made available at cost to anyone requesting them. Summaries of verbal and written comments will be prepared by Commission staff and provided to Commissioners, the management board/section, and advisory panel members. Copies of the

summaries will be made available to other parties at cost.

(iii) Agendas for meetings of the management board/section, the ISFMP Policy Board, or the Commission, as appropriate, will include an opportunity for public comment prior to the board, section, or Commission taking action on a fishery management issue.

(iv) Public comments will be evaluated and considered prior to deciding what modifications will be made to the draft FMP or amendment, or draft final FMP or amendment, and prior to approval of the FMP or amendment.

(9) Administrative Record - The Commission staff, with support from the PDT, shall be responsible for collating and maintaining the administrative record for all FMPs.

(10) Emergencies - A management board/section may, without regard to the other provisions of Section Six (c), authorize or require any emergency action that is not covered by an FMP or is an exception or change to any provision in an FMP. Such action shall, during the time it is in effect, be treated as an amendment to the FMP.

(i) Such action must be approved by two-thirds of all voting members (i.e., entire membership) of the management board/section prior to taking effect. The decision may be made by meeting, mail, or ~~FAX~~electronic ballot in the case of an emergency.

(ii) Within 30 days of taking emergency action, the states and the Commission shall hold at least four public hearings concerning the action, including at least one in each state that requests it.

(iii) Any such action, with the exception of public health emergencies, shall originally be effective for a period not to exceed 180 days from the date of the management board/section's declaration of an emergency, but may be renewed by the management board/section for two additional periods of up to one year each, provided the board/section has initiated action to prepare an FMP, or initiated action to amend the FMP in accordance with Section Six(c). Emergency actions taken to address a public health emergency shall remain in effect until the public health concern ceases to exist (this determination to be made by the management board/section). The management board/section may terminate an emergency action at any time with approval of two-thirds of all voting members (i.e., entire membership).

(iv) Definition of Emergencies. The provisions of this subsection shall only apply in those circumstances under which public health or the conservation of coastal fishery resources or attainment of fishery management objectives has been placed substantially at risk by unanticipated changes in the ecosystem, the stock, or the fishery.

(11) Joint FMPs with Regional Fishery Management Councils - The Commission

recognizes that fish species and fisheries are transboundary across state and federal jurisdictions, and that proper and efficient fisheries conservation can only be achieved by close coordination between state and federal management systems. The Commission is committed to close cooperation with the Regional Fishery Management Councils in providing for coordinated and compatible fisheries management. To this end, each management board shall work closely with appropriate Council organizations to develop coordinated approaches to management.

(i) A management board may decide with a Regional Fishery Management Council to prepare an FMP jointly with that Council, with the intent that the Council and the Commission will approve the same FMP document. In such instances the management board and the Council will establish the specific procedures and schedules to follow during FMP development, including assignments of staff responsibilities on PDTs, technical committees and other fishery management program staffing and support groups, including advisory panels.

(ii) A management board shall endeavor whether or not a joint FMP is being prepared, to coordinate its meetings, meetings of the relevant advisory panel, and public hearings with relevant Council meetings and hearings.

Section Seven. Compliance

(a) **Implementation and Enforcement** - All states are responsible for the full and effective implementation and enforcement of FMPs within areas subject to their jurisdiction. Each state shall submit a written report on compliance with required measures of a specific FMP in conformance with reporting requirements and schedules specified in the plan, which requirements shall include submission of copies of relevant laws and regulations for the Commission's record. At any time, according to the procedures contained in this Section, the Commission may determine that a state is not fully and effectively implementing and enforcing the required provisions of an FMP, and is therefore not in compliance with that plan. All evaluations, findings, and recommendations regarding compliance determinations shall be in writing.

(b) **Schedule for Reviews** - Implementation and compliance for FMPs will be reviewed according to the Action Plan approved by the ISFMP Policy Board. The schedule shall provide for review of each FMP at least annually, or more frequently as provided in a given FMP. In addition to the scheduled reviews, the PRT may conduct a review of the implementation and

compliance of the FMP at any time at the request of the management board/section, Policy Board, or the Commission.

(c) **Role of the Management Board/Section** - Each management board/section shall, within 60 days of receipt of a state's compliance report, review the written findings of the PRT developed according to the previous subsection. Based upon that written review, as well as other information that it has or may receive, the management board/section may recommend to the Policy Board that a state be found out of compliance, including the rationale for the recommended finding of non-compliance. The recommendation shall specifically address the required measures of the FMP that the state has not implemented or enforced, a statement of how that failure to implement or enforce the required measures jeopardizes the conservation of the resource, and the actions a state must take in order to comply with requirements of the FMP.

(d) **Role of the Policy Board** - The Policy Board shall, within 30 days of receiving a recommendation of non-compliance from a management board/section, review that recommendation of non-compliance. If it concurs in the decision, it shall recommend at that time to the Commission that a state be found out of compliance. A recommendation regarding non-compliance from the Policy Board will be submitted to the Commission in writing provided there is sufficient time between meetings to develop such documentation.

(e) **Review and Determination by the Commission** - The Commission shall consider any recommendation forwarded under Subsection(d), as quickly as possible and within 30 days of receiving a recommendation of non-compliance from the Policy Board. Any state which is the subject of a recommendation for a finding of non-compliance shall be given an opportunity to present written and/or oral testimony concerning whether it should be found out of compliance. The state may request that the Commission's consideration be held at a formal meeting by roll call vote. With the consent of the Commissioners from the state subject to the recommendation, the Commission's decision may be made by ~~mail/FAX ballot~~electronic ballot. If the Commission agrees with the recommendation of the Policy Board, it may determine that a state is not in compliance with the relevant FMP, and specify the actions the state must take to come into compliance. Upon a non-compliance determination, the Executive Director shall within ten working days notify the state, the Secretary of Commerce, and the Secretary of the Interior of the Commission's determination.

(f) **Withdrawal of Determination** - Any state subject to a moratorium that has revised its conservation program in response to a determination of non-compliance may request that the Commission rescind its findings of non-compliance.

(1) If the state provides written documentation to the Commission of implementation of every measure required of it, the withdrawal will be automatic upon issuance of a letter from the Commission Chair to the state, Secretary of Commerce, and the Secretary of the Interior.

(2) If the measures implemented deviate from those required of the state, the state shall provide a written statement on its actions that justify a determination of compliance. The management board/section shall promptly conduct such re-evaluation and make a

recommendation to the Policy Board that the recommendation or determination of non-compliance be withdrawn. Upon the recommendation of the Policy Board, the Commission may withdraw its determination of non-compliance, whereupon the Executive Director shall promptly notify the state, the Secretary of Commerce, and the Secretary of the Interior. The re-evaluation by the Management board/section, review by the Policy Board, and action by the Commission shall be made within 45 days of the receipt by the Commission of the request for reconsideration by the State. It may be made by ~~mail/FAX~~ electronic ballot with the consent of the Commissioners from the subject state.

(g) **Appeal of Compliance Findings** - A state which disagrees with a management board's failure to find a state out of compliance may appeal that finding to the ISFMP Policy Board pursuant to Section Three(d)(9).

(h) **Procedure to Address Management Program Implementation Delays** - Each species management board shall evaluate the current FMP, amendment, and/or addendum to determine if delays in implementation have impacted, or may negatively impact, the achievement of the goals and objectives of the management program. Each of the species management boards, with the assistance of the respective technical committee if necessary, will conduct this evaluation and provide, in writing, a summary of its findings to the ISFMP Policy Board. Each species management board that determines that there is a negative impact due to delayed implementation will provide the ISFMP Policy Board a proposed timeline to develop an amendment or addendum to address delayed implementation.

If the ISFMP Policy Board determines that an amendment or addendum should be developed to address delayed implementation, the amendment or addendum should, at a minimum, include any penalties and repayments for delays in implementation, the minimum notification time that Commission staff must provide a state/jurisdiction prior to requiring an in-season management adjustment; and establishment of a reporting and tracking system for management changes.

Section Eight. Definitions

(a) **Act** - The Atlantic Coastal Fisheries Cooperative Management Act, 1993. 16 U.S.C. Chapter 71, et seq.

(b) **Action plan** - A document prepared annually by Commission staff and approved by the Policy Board to provide priorities and schedules for the specific activities of the ISFMP during a given year.

(c) **Adaptive management** - An iterative process which includes evaluation of the response of the managed fishery and stock to specific management measures and adjusting such measures based on that evaluation.

(d) **Advisory Panel (AP)** - A group of interested and knowledgeable persons convened under the Commission's Advisory Committee Charter to assist in development of an FMP or amendment.

(e) **Assessment Science Committee (ASC)** - A group consisting of experts in fish population dynamics and appointed and convened by a Technical Committee, at the request of a Management Board, to prepare a stock assessment for a specified fish stock using the best scientific data available and established techniques.

(f) **Best scientific information available** - Includes but is not limited to that body of biological, environmental, ecological, economic, and social data concerning the fish stock and fisheries which are the subject of an FMP or amendment, provided that the methods of collecting such information are clearly described and are generally accepted as scientifically valid. Data may come from state, federal, or private databases and from published and unpublished sources. Information that becomes available during preparation of an FMP or amendment should be incorporated to the extent practicable.

(g) **Bycatch** - That portion of a catch taken in addition to the targeted species because of non-selectivity of gear to either species or size differences; may include non-directed, threatened, or endangered and protected species.

(h) **Compliance** - Condition in which a state has implemented and is enforcing all measures required by an FMP. States are presumed to be in compliance unless determined to be out of compliance pursuant to Section Seven.

(i) **Conservation** (from the Act, Section 803[4]) - The restoring, rebuilding, and maintaining of any coastal fishery resource and the marine environment, in order to assure the availability of coastal fishery resources on a long-term basis.

(j) **Conservation equivalency** - Actions taken by a state which differ from the specific requirements of the FMP, but which achieve the same quantified level of conservation for the resource under management. For example, various combinations of size limits, gear restrictions, and season length can be demonstrated to achieve the same targeted level of fishing mortality. The appropriate Management Board/Section will determine conservation equivalency.

(k) **Conservation program** - Enactment of rules or statutes, research, biological monitoring, collection of statistics, stock enhancement, and enforcement activities conducted by a state to maintain, restore, and/or rebuild a fish stock and its habitat.

(l) **De minimis** - A situation in which, under existing conditions of the stock and scope of the fishery, conservation, and enforcement actions taken by an individual state would be expected to contribute insignificantly to a coastwide conservation program required by an FMP or amendment.

(m) **Directed fishery** - Fishing for a stock using gear or strategies intended to catch a given target species, group of species, or size class.

(n) **Emergency** - Unanticipated changes in the ecosystem, the stock, or the fishery which place public health, the conservation of coastal fishery resources, or attainment of fishery management objectives substantially at risk.

(o) **Endangered, threatened, or protected species** – Species that are regulated under the jurisdiction of the federal or a state’s endangered species act (threatened or endangered) or are provided other special protection.

(p) **Fish** (from the Act, Section 803[7]) - "Finfish, mollusks, crustaceans, and all other forms of marine animal life other than marine mammals and birds."

(q) **Fishable abundance** - Numbers of fish in a stock sufficient to provide continuing harvests in the range of historic average levels without overfishing the stock.

(r) **Fishery** (from the Act, Section 803[8])

(1) "One or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, commercial, recreational, or economic characteristics; or

(2) Any fishing for such stocks."

(s) **Fish habitat** - The environment upon which a fish stock is dependent as it conducts its normal life history functions of spawning, feeding, and migration; including biological, physical, and chemical factors which influence the choices of such areas.

(t) **Fishery management** - All activities conducted by a government to improve, restore, rebuild, or maintain fish stocks and fisheries, including statutory action and rule-making, enforcement, research, monitoring, collection of statistics, enhancement, protection, development, and habitat conservation.

(u) **Habitat Committee (HC)** - The principal body, established by the Commission, which advises the Commission on issues of habitat, habitat management, habitat requirements by the managed species, enforceability of proposed habitat management measures.

(v) **Implementation of an FMP** - Conducting a state conservation program that meets all requirements for that state as provided in an FMP or amendment.

(w) **Law Enforcement Committee (LEC)** - The principal body, established by the Commission, which advises the Commission on issues of law enforcement and enforceability of potential management measures, comprised of representatives of each member state, Washington, D.C., National Marine Fisheries Service, U.S. Fish and Wildlife Service, and the U.S. Coast Guard.

- (x) **Management measure** - A statute or rule enacted by a state to conserve a fishery and/or protect its habitat.
- (y) **Management and Science Committee (MSC)** - The principal scientific advisory body of the Commission, comprised of representatives from member states, National Marine Fisheries Service, and U. S. Fish and Wildlife Service.
- (z) **Minimize waste** - Process of taking specific actions, which reduce the effects of fishing activities on non-target resources (habitat and bycatch) and promote full, efficient utilization of the catch.
- (aa) **Non-compliance** - A condition under which the Commission has determined that a state has failed to implement and enforce a conservation program as required in an FMP or amendment.
- (bb) **Non-indigenous species** - A species of fish, plant or other organism that is not native to a particular geographic area.
- (cc) **Overfishing** - In the context of the ISFMP, harvesting from a stock at a rate greater than the stock's reproductive capacity to replace the fish removed through harvest. Each FMP contains a plan-specific definition of overfishing.
- (dd) **Plan Development Team (PDT)** - A group of individuals who are knowledgeable concerning the scientific facts and fishery management issues concerning a designated fish stock and who are appointed and convened by a Management Board to prepare an FMP or amendment and its supporting Source Document.
- (ee) **Plan review** - An evaluation of an FMP, considering adequacy and relevance of the goals and objectives, stock status, fishery status, implementation status, research activities, and recommendations.
- (ff) **Plan Review Team (PRT)** - A group of individuals who are knowledgeable concerning the scientific facts, stock and fishery condition, and fishery management issues concerning a designated fish stock and who are appointed and convened by a Management Board for the purpose of conducting an annual plan review for an FMP.
- (gg) **Public Information Document (PID)** - A document of the Commission which contains preliminary discussions of biological, environmental, social, and economic information, fishery issues, and potential management options for a proposed FMP or amendment.
- (hh) **Range (functional)** - The geographic area utilized by a fish stock and its dependent fishery as defined in an FMP.
- (ii) **Recommendations** - Actions identified in an FMP which should be taken by the states, but are not required, such as enactment of rules, research, monitoring, collection of statistics, and enhancement, which collectively will promote restoration, rebuilding, or maintenance of a stock.

(jj) **Regulatory** - Of or pertaining to any administrative or legislative measure in a sense that requires compliance by individuals involved in the fishery.

(kk) **Requirements** - Actions set forth in an FMP which must be taken by the states specified in such FMP, such as enactment of rules, research, monitoring, collection of statistics, and enhancement, which collectively will promote attainment of the FMP's objectives for restoration, rebuilding, or maintenance of a stock, and are the measures against which compliance is judged. Failure of a specified state to implement a required action may result in a finding of non-compliance under the Act.

(ll) **Source document** - The comprehensive support document to an FMP which is compiled by the Plan Development Team and Commission staff and contains all the scientific, management, and other analyses and references utilized in preparation of the FMP; the Source Document is kept on file with the Commission.

(mm) **State** - (from the Act, Section 803[13]) For purposes of the Act, one of the following East Coast jurisdictional entities: Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida; also includes the District of Columbia, or the Potomac River Fisheries Commission.

(nn) **Stock** - A group of fish of the same species which behave (spawn, migrate, feed) as a unit.

(oo) **Subgroup** - A group of fish from the same stock which consistently conducts itself as an identifiable unit.

(pp) **Target species** - A species or group of species of fish which certain fishing gear or strategies are designed to catch.

(qq) **Technical Committee (TC)** - A group of persons who are expert in the scientific and technical matters relating to a specific fish stock and who are appointed and convened by a Management Board to provide scientific and technical advice in the process of developing and monitoring FMPs and amendments.

(rr) **Trigger** - A measure of a specific attribute of a fish stock or fishery for which values above or below an established level initiates a pre-specified management action.

Whelk Fishery Overview
ISFMP Policy Board
May 2013

Introduction

The Atlantic States Marine Fisheries Commission does not manage whelk, but there is concern with the recent increase in catch and effort in the whelk fishery on the Atlantic Coast and the potential impacts of these trends on the horseshoe crab fishery as horseshoe crab is the primary bait used in the whelk fishery. There are five species of whelk that are harvested on the Atlantic coast channel, knobbed, lightning, common, and pear.

Life History

There is limited information on the life history of whelks. The distribution of channel whelk tends to be in shallower and warmer waters compared to knobbed. Channeled whelk prefer muddier bottom sediment where as to knobbed are often found on sandy bottoms. Channeled whelk tend to be caught in pots because they are scavengers and more likely to seek out bait in pots (Logothetis and Beresoff 2004). Knobbed whelk are more predatory in their feeding habits and like to bury into the substrate, therefore are captured more easily in dredges and trawls (Logothetis and Beresoff 2004). Knobbed whelk tend to be active all hours of the day and channeled whelk show more movement at night in intertidal waters (Magalhaes 1948; Edwards and Harasewych 1988).

Whelk movement is seasonal for food and breeding. Egg masses are found twice a year (March through June and September through October). The whelk has internal copulation and the females glue the egg masses to structure. Larval stages develop within the egg casings before the hatch. Whelk start their benthic life without planktonic larva. Tagging studies have shown that movement is very limited. Exchange between closely situated populations is therefore probably limited which could explain why growth, size and age at sexual maturity can differ significantly from one population to another (Gendron 1992). Females tend to be larger than males. A Georgia study estimated sexual maturity in females at 4 inches (width), age 6 and males 3.5 (width) inches, age 4. A Virginia study estimated females mature at 6.5 inches (length) and age 12 and males at 5 inches (length) and age 9. A Massachusetts study estimated females mature at 3.5 inches (width) and age 9 and males at 2.75 inches (width) and age 6.

Landings

Coastwide landings of all four whelk species have increased 62% since 2005 (Figure 1 and Table 2). Economic data for whelk harvest is not complete. Table 2 indicates the value of the whelk fishery has been increasing in recent years. The status of each state's whelk fishery is listed below.

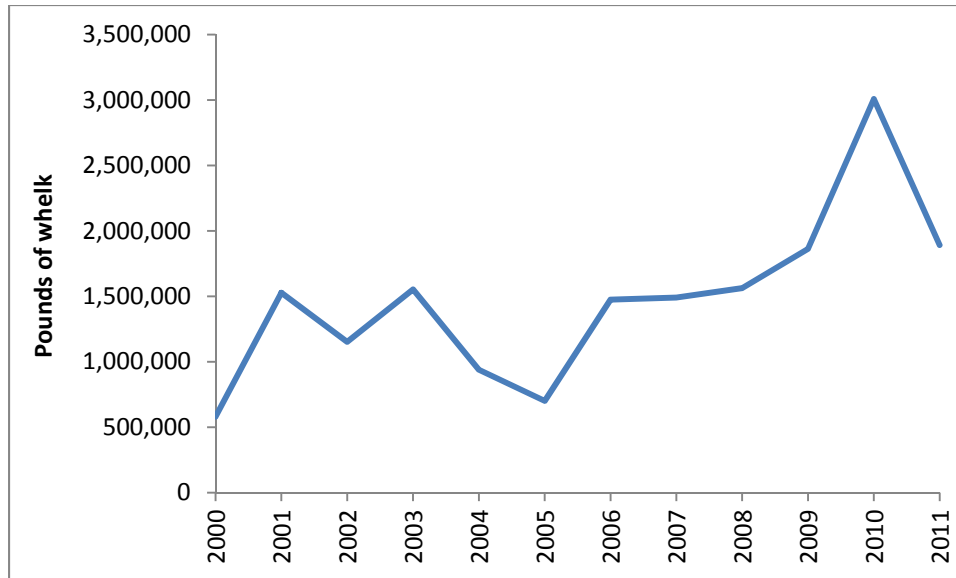


Figure 1: Atlantic Coast landings of all four species of whelk in live pounds from 2000-2011.
 Source: ACCSP Data Warehouse, May 2013.

Table 1. Atlantic Coast landings by state of all four species of whelk in live pounds from 2000-2011.

| | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 |
|--------------|----------------|------------------|------------------|------------------|----------------|----------------|------------------|------------------|------------------|------------------|------------------|------------------|
| ME | | | | | | | 310 | | | | 9,389 | 29,069 |
| MA | 13,209 | 11,840 | 26,968 | 2,551 | 14,562 | 158,152 | 298,301 | 877,561 | 896,348 | 960,385 | 924,380 | 1,003,994 |
| CT | | | | | | | | | | 229,255 | 114,601 | 81,552 |
| RI | | | 119 | | 2,089 | 2,923 | 710,952 | 117,110 | 135,615 | 233,339 | 218,355 | 258,535 |
| NY | | | | | 972 | 555 | 4,077 | | | | | |
| NJ | 31,129 | 20,401 | 172,897 | 387,257 | 310,642 | 198,845 | 195,156 | 21,521 | 157,629 | 6,671 | 1,491,149 | 305,495 |
| DE | 64,079 | 820,935 | 589,795 | 728,582 | 491,182 | 275,718 | 202,835 | 287,647 | 216,835 | 312,583 | 138,038 | 130,933 |
| MD | 4,764 | 8,199 | | | 2,546 | | 546 | | | 22,351 | 27,488 | 5,289 |
| VA | 49,230 | 340,033 | 300,553 | 344,471 | 114,927 | 56,529 | 58,262 | 177,114 | 149,145 | 80,326 | 77,471 | 50,497 |
| NC | | | | | 107 | | | | | | | |
| GA | 418,544 | 325,761 | 61,371 | 90,119 | 2,519 | 2,591 | 2,325 | 922 | 3,431 | 11,285 | 6,584 | 25,877 |
| FL | | | | | | 5,430 | 1,796 | 9,225 | 3,364 | 5,826 | | 26 |
| Total | 580,955 | 1,527,169 | 1,151,703 | 1,552,980 | 939,545 | 700,743 | 1,474,561 | 1,491,100 | 1,562,367 | 1,862,021 | 3,007,455 | 1,891,266 |

Source: ACCSP Data Warehouse, May 2013.

Table 2. Ex-vessel value whelk landings for the Atlantic Coast by State

| | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 |
|--------------|------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| ME | | | | | | | \$168 | | | | \$6,000 | \$16,295 |
| MA | \$21,521 | \$21,640 | \$36,165 | \$4,834 | \$76,537 | \$1,536,293 | \$3,493,789 | \$2,687,275 | \$3,289,120 | \$3,842,534 | \$3,914,231 | \$6,083,074 |
| CT | | | | | | | | | | \$796,466 | \$451,604 | \$482,045 |
| RI | | | \$176 | | \$11,634 | \$25,956 | \$449,414 | \$336,612 | \$407,424 | \$742,070 | \$973,579 | \$1,313,545 |
| NY | | | | | \$5,274 | \$4,856 | \$50,990 | | | | | |
| NJ | \$56,460 | \$44,341 | \$296,173 | \$556,695 | \$473,845 | \$399,031 | \$566,031 | \$41,296 | \$344,354 | \$13,668 | \$222,410 | \$168,762 |
| DE | \$111,470 | \$1,033,272 | \$694,117 | \$1,078,930 | \$690,499 | \$562,078 | \$601,274 | \$539,963 | \$351,833 | \$388,617 | \$271,583 | \$361,076 |
| MD | \$10,047 | \$19,678 | | | \$11,300 | | \$4,857 | | | \$223,798 | \$102,261 | \$18,479 |
| VA | \$118,491 | \$925,947 | \$747,422 | \$558,858 | \$180,555 | \$133,048 | \$614,960 | \$490,217 | \$516,128 | \$303,588 | \$417,168 | \$265,600 |
| NC | | | | \$318 | | | | | | | | |
| GA | \$275,679 | \$245,330 | \$47,626 | \$69,334 | \$2,837 | \$2,658 | \$2,873 | \$1,167 | \$4,580 | \$11,247 | \$9,860 | \$33,995 |
| FL | | | | | | \$8,104 | \$1,894 | \$9,427 | \$3,530 | \$5,870 | | \$126 |
| Total | \$593,668 | \$2,290,208 | \$1,821,679 | \$2,268,969 | \$1,452,481 | \$2,672,023 | \$5,786,250 | \$4,105,956 | \$4,916,968 | \$6,327,857 | \$6,368,696 | \$8,742,997 |

Source ACCSP Data Warehouse, May 2013

Maine

There is an emerging fishery in the Gulf of Maine targeting the waved or common whelk (not included in the landings figure above). Whelks in Maine have traditionally been landed as an incidental by-catch of the lobster fishery, with only a handful of harvesters utilizing specially designed whelk traps in a directed effort. The product is typically shipped live for mostly ethnic (oriental) markets in Boston and New York City. Although no official records existed, landings in past years were routinely less than fifty tons (in shell) per year. During the 1990s, however, there was demand from Asian markets to dramatically increase Maine waved whelk landings to levels that could quickly deplete the base stock. Low-level processing began in at least one coastal community in response to these markets, and a plant in Portland was equipped to process much larger quantities. There were efforts in at least three areas of the coast (Portland, Matinicus, and Lubec) to improve the harvesting, processing and marketing potential of whelks. The ME DMR recognized the immediate need for research on this emerging fishing resource. An emergency regulation was implemented in July 1996 and a permanent regulation was effected on September 1996 to provide time for assessment of the new whelk industry. In 2009, the regulation was amended to require a whelk permit endorsement, to identify commercial whelk harvesters. Preliminary landings data for 2011 based on buyer reports show about 40,500 pounds of whelks were landed in 2011, and harvesters were paid about \$24,600 for those landings.

Massachusetts

Since 2006, annual whelk landings in Massachusetts have increased dramatically from around 2 million pounds to over 2.5 million pounds in some years. Effort has also increased during that time period. This increase in effort is not due to latent permit holders becoming active, but rather already active permit holders fishing longer and harder, particularly in Nantucket Sound. Landings have and total number of trap hauls have more than doubles in the sound over the last five years. In 2011 only 55.5% of the potential pots permitted were actively fished. With the ex-vessel price of conch doubling in last 5 years, there is a substantial financial incentive for latent permit holders to start fishing.

At the current minimum shell width for channeled whelk of 2 ¾", none of the females in Massachusetts coastal waters are sexually mature. The life history characteristics of channeled whelk, specifically the slow maturation, slow growth rate and lack of a dispersal mode for larvae, make them especially prone to depletion. There is no evidence to suggest that the fate of channeled whelk in Massachusetts will be any different if the high harvest rates of sexually immature whelk continue. This is supported by the dramatically declining trend of channeled whelk relative abundance in the MADMF trawl survey as well as anecdotal reports from commercial fishermen who report that portion of Buzzards Bay and Nantucket Sound are already devoid of whelk.

Rhode Island

Rhode Island has monitored its whelk fishery since 2006. Landings have increased 150% from around 300,000 pounds in 2006 to almost 750,000 pounds in 2011.

New York

Permits that require NY fishermen to submit their landings via vessel trip reports have only been required to include all species they fish for since 2010. Therefore, prior to 2010 whelk landings

were only reported voluntarily on vessel trip reports. Any trends in landings may be a result of increased reporting. However, market prices for whelk are at all time highs and wholesaler ads have appeared in local papers promising top price for any sized whelk or horseshoe crab for the past 2 years. Some sea sampling partners who no longer consider lobster to be economically viable have converted their lobster traps to whelk pots. Vessel trip reports since 2010 indicate many other lobstermen have also switched to whelk.

New Jersey

New Jersey allows harvest of whelk through two fisheries/permits. There is a directed whelk fishery in New Jersey through a lobster/fish/conch pot license. There is also harvest allowed in the blue crab fishery (both dredge and pot). New Jersey does not have mandatory reporting but harvest is collected when reported. Harvest has increased in recent years and the majority of the harvest has been in the blue crab dredge fishery. In recent years the majority of the harvest has been in the blue crab dredge fishery. There is a 5 inch minimum size limit. The state also has gear, area, and harvest time restrictions.

Delaware

In 2007, Delaware's size limit for whelks increased from 5" to 5 ¼" by regulation. Each ensuing year, the size limit was increased ¼" until reaching 6" in 2010. This 6" size limit was based on a number of factors. Delaware Division of Fish and Wildlife (DDFW) research revealed biological traits that were highly sensitive to overfishing, namely slow growth, low reproductive potential, and extended age to maturity and recruitment into the fishery. By 2006, Delaware saw a "boom and bust" profile unfolding; a huge explosion in landings occurred in 2001, followed by falling fishery CPUE and landings every year after 2003. At the time, data suggested that only 12% of the spawning biomass was being conserved at the 5" size limit under the current high harvest levels. Lastly, the number of eligible dredge licenses was about to double in 2006, necessitating action by the DDFW to prevent overfishing.

Fishery effort has dropped considerably since that harvest peak in the early 2000s due to declining stock abundance. Lower prices for whelk and high fuel prices also contributed to this trend.

Virginia

Whelks are managed using permits, size limits, possession and limits, gear restrictions and a bycatch provision for the crab fishery. The number of trips harvesting whelk decreased from a high of 2,990 in 1994 to a low of 1,020 in 2009. In 2012 preliminary data indicate 1,421 trips harvest 852,012 pounds of whelk the third highest harvest since 1993. In the last 5 years harvest has been greater than 600,000 pounds.

North Carolina

There are no specific harvest restrictions for whelk in North Carolina. In recent years the majority of the harvest is from Core Sound, Bogue Sound and Pamlico Sound, with a small amount of harvest from the ocean and other waters. In the early 2000 a larger portion of the harvest came from ocean waters. The main gears used for harvest include: crab pots, by hand or rake, clam trawl/dredge, and gill nets. CPUE has reached a time series high of 250 pounds per trip, while the value per pound has remained low since about 2002 (approximately 18 cents per

pound). Landings declined steadily from the 1990s and has seen a increase in the last few years. The number of participants in the fishery has also increase in the recent years.

South Carolina

Whelks are landed as bycatch in the blue crab pot fishery and in a directed large mesh trawl fishery in winter. As horseshoe crab cannot be used as bait in South Carolina, crab pots are baited primarily with menhaden. There is no directed potting for whelk. Total landing of whelk from the state fluctuate widely primarily due to changes in the market price but have remained below 1,000 bushels/ year in each of the last 7 years

Georgia

The Georgia Department of Natural Resources' (GADNR) Coastal Resources Division first authorized the commercial harvest of whelks in 1980 (Belcher et al. 2001). In the winter months after the penaeid shrimp fishery closes, some shrimp boats swap gear to fish for whelks in offshore areas using trawl nets with larger stretch mesh and heavier chains. The commercial offshore whelk-trawling season usually occurs January through March in Georgia with intertidal hand gathering occurring in spring and fall and crab trap harvesting of whelks as a by-catch occurring throughout the year. Landings declined in the mid- 2000s but have begun to increase since 2009. In addition oyster and northern quahog fishers gather whelks by hand during the spring and fall from the intertidal oyster reefs and clam farm plots. Commercial whelk regulations in include permits, area and seasons, and net sizes.

Fishery Management

The increases in catch and effort in the whelk fishery raises questions about its long term sustainability. A species' resiliency to exploitation is dependent on growth rate, rate of sexual maturation, fecundity, mode of dispersal (for adults and larvae), and its size and age relative to when it recruits to the fishery. Whelks are slow growing, slow moving and aggregate in large groups for spawning making them vulnerable to overfishing. European fisheries for whelk have shown high catches and effort in the beginning until the resource is diminished and no longer viable to harvest.

The management of whelk in the Atlantic Coastal states is not consistent but include: limits on participation and effort, minimum shell width, gear requirements, harvest timing, and season and area closures. The effectiveness of regulations may not be consistent in all states. The current limits on participation and effort in some states may not be effective at limiting the exploitation rate due to latency in states with participation and effort limits as well as a poorly defined relationship between pots fished and pot hauls. In addition, the effectiveness of the current biological measures is not certain because it is based on market/processing considerations, not on biological information in some states.

There is limited information on the migratory patterns of whelk. With the data that is known, it is likely that there is little movement of whelk across multiple states, as well as there is no planktonic life stage. With limited movement multistate management may not have as significant of an impact on the population as it would on a migratory species. Also because there is varying size and age at maturity in different areas a uniform size limit may not be effective (unless the smallest measure was put in place).



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HABITAT COMMITTEE Report to ISFMP Policy Board for May 2013

The State of New York hosted the recent Habitat Committee meeting at the SUNY Stony Brook's Childs Mansion in Old Fields, New York from May 9-10, 2013. The Committee heard

- Updates from ACFHP and the Artificial Reefs Committee;
- Reviewed its progress toward completing its 2013 Action Plan tasks;
- Discussed the Commission's Strategic Plan and the direction of the Habitat Program;
- Erik Martin presented The Nature Conservancy's "Aquatic Connectivity Project" (for more information see the article in 2012 edition of *Habitat Hotline Atlantic*);
- Continued to discuss habitat bottlenecks for Commission managed species with poor stock status;
- Planned for the next issue of *Habitat Hotline Atlantic*; and
- Discussed next installment of the Habitat Management Series - Habitat Considerations for Nearshore and Estuarine Aquaculture

American Lobster Habitat FMP Section

The Habitat Committee (HC) reviewed a draft of the lobster habitat section written by Dr. Jason Goldstein. A new draft will be written based the HCs comments and then the American Lobster Technical Committee will have an opportunity to review the draft habitat section. After the TC review, the HC will develop content for the monitoring, management and research recommendation sections of the FMP outline. The HC intends to complete the lobster habitat section before the August American Lobster meeting. At which time the Board may consider the document for an addendum.

Black Drum Habitat FMP Section

The HC reviewed the Draft Black Drum FMP and submitted a memo to the South Atlantic Board offering minor changes to the current habitat information for Final FMP. Additionally, the HC is recommending the development of a Sciaenid Omnibus Habitat Source Document, akin to the Alosine Habitat Source Document. The information development for the Sciaenid habitat source document may provide more specific habitat information for black drum than what is currently provided in the draft FMP. Upon completing the new source document, a habitat addendum may be appropriate.

Habitat Program Guidance (aka Operational Procedures Manual)

The HC is working on revisions to the Habitat Program's Operational Procedures Manual, which now be referred to as the Habitat Program Guidance. These revisions are in response to the recommendations from the Habitat Program Review and to comply with the guidelines in the *Technical Committee Guidance and Assessment Process* document. The new document includes a goal for the Program (rather than a mission and vision), a better description of the chair, vice chair, committee members and coordinator responsibilities, a description of the annual work plan, which monitors the HC's progress towards completing their action plan tasks, as well as many other revisions. The HC anticipates that the revisions will be complete in time for the August Policy Board meeting.