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Atlantic States Marine Fisheries Commission

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Atlantic States Marine Fisheries Commission

Vision: Sustainably Managing Atlantic Coastal Fisheries



Compact & Rules and Regulations

February 2016

ATLANTIC STATES MARINE FISHERIES COMPACT
Public Law 539, 77th Congress
Chapter 283, 2nd Session, 56 Stat. 267
As Amended by Public Law 721, 81st Congress
Approved August 19, 1950

AN ACT
(An Act creating the Atlantic States Marine Fisheries Commission)

Granting the consent and approval of Congress to an interstate compact relating to the better utilization of the fisheries (marine, shell and anadromous) of the Atlantic seaboard and creating the Atlantic States Marine Fisheries Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the consent and approval of Congress is hereby given to an interstate compact relating to the better utilization of the fisheries (marine, shell and anadromous) of the Atlantic seaboard and creating the Atlantic States Marine Fisheries Commission, negotiated and entered into or to be entered into under the authority of Public Resolution Numbered 79, Seventy-sixth Congress, approved June 8, 1940, and now ratified by the States of Maine, New Hampshire, Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland and Virginia, which compact reads as follows:

The contracting states solemnly agree:

ARTICLE I

The purpose of this compact 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 of this compact 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.

ARTICLE II

This agreement shall become operative immediately as to those states executing it whenever any two or more of the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia and Florida have executed it in the form that is in accordance with the laws of the executing state and the Congress has given its consent. Any state contiguous with any of the aforementioned state and riparian upon waters frequented by anadromous fish, flowing into waters under the jurisdiction of any of the aforementioned states, may become a party hereto as hereinafter provided.

ARTICLE III

Each state joining herein shall appoint three representatives to a Commission hereby constituted and designated as the Atlantic States Marine Fisheries Commission. One shall be the executive officer of the administrative agency of such state charged with the conservation of the fisheries resources to which this compact pertains or, if there be more than one officer or agency, the official of the state named by the governor thereof. The second shall be a member of the legislature of such state designated by the said Commission or Committee on Interstate Cooperation of such state, or if there be none, or if said Commission on Interstate Cooperation cannot constitutionally designate the said member, such legislator shall be designated by the governor thereof; provided, that if it is constitutionally impossible to appoint a legislator as a commissioner from such state, the second member shall be appointed by the governor of said state in his discretion. The third shall be a citizen who shall have knowledge of the interest in the marine fisheries problem, to be appointed by the governor. The Commission shall be a body corporate with the powers and duties set forth herein.

ARTICLE IV

The duty of the said Commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances and conditions as may be disclosed for bringing about the conservation of, the prevention of the depletion and physical waste of the fisheries, marine, shell and anadromous of the Atlantic seaboard. The Commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their respective jurisdictions to promote the preservation of those fisheries and their protection against overfishing, waste, depletion or any abuse whatsoever and to assure a continuing yield from the fisheries resources of the aforementioned states.

To that end, the Commission shall draft and, after consultation with the Advisory Committee hereinafter authorized, recommend to the governors and legislatures of the various signatory states, legislation dealing with the conservation of the marine, shell and anadromous fisheries of the Atlantic seaboard. The Commission shall, more than one month prior to any regular meeting of the legislature in any signatory state, present to the governor of the state its recommendations relating to enactment to be made by the legislature of that state in furthering the intents and purposes of this Compact.

The Commission shall consult with and advise the pertinent administrative agencies in the states party hereto with regard to problems connected with the fisheries and recommend the adoption of such regulations as it deems advisable.

The Commission shall have power to recommend to the states party hereto the stocking of the waters of such states with fish and fish eggs, or joint stocking by some or all of the states party hereto, and when two or more of the states shall jointly stock waters the Commission shall act as the coordinating agency for such stocking.

ARTICLE V

The Commission shall elect from its number a Chair and a Vice Chair and shall appoint, at its pleasure, remove or discharge such officers and employees as may be required to carry the provisions of this compact into effect, and shall fix and determine their duties, qualifications and compensation. Said Commission shall adopt rules and regulations for the conduct of its business. It may establish and maintain one or more offices for the transaction of its business and may meet at any time or place but must meet at least once a year.

ARTICLE VI

No action shall be taken by the Commission in regard to its general affairs except by the affirmative vote of a majority of the whole number of compacting states present at any meeting. No recommendation shall be made by the Commission in regard to any species of fish except by the affirmative vote of a majority of the compacting states which have an interest in such species. The Commission shall define what shall be an interest.

ARTICLE VII

The Fish and Wildlife Service of the Department of the Interior of the Government of the United States shall act as the primary research agency of the Atlantic States Marine Fisheries Commission, cooperating with the research agencies in each state for that purpose. Representatives of the said Fish and Wildlife Service shall attend the meetings of the Commission.

An Advisory Committee to be representative of the commercial fishermen and the salt water anglers and such other interests of each state as the Commission deems advisable shall be established by the Commission as soon as practicable for the purpose of advising the Commission upon such recommendation as it may desire to make.

ARTICLE VIII

When any state other than those named specifically in Article II of this compact shall become a party thereto for the purpose of conserving its anadromous fish in accordance with the provisions of Article II, the participation of such state in the action of the Commission shall be limited to such species of anadromous fish.

ARTICLE IX

Nothing in this compact shall be construed to limit the powers of any signatory state or to repeal or prevent the enactment of any legislation or the enforcement of any requirement by any signatory state imposing additional conditions and restrictions to conserve its fisheries.

ARTICLE X

Continued absence of representation or of any representative on the Commission from any state party hereto shall be brought to the attention on the governor thereof.

ARTICLE XI

The states party hereto agree to make annual appropriations to the support of the Commission in proportion to the primary market value of the products of their fisheries, exclusive of cod and haddock, as recorded in the most recent published reports of the Fish and Wildlife Service of the United States Department of the Interior, provided no state shall contribute less than two hundred dollars per annum and the annual contribution of each state above the minimum shall be figured to the nearest one hundred dollars.

The compacting states agree to appropriate initially the annual amounts scheduled below, which amounts are calculated in the manner set forth herein, on the basis on the catch record of 1938. Subsequent budgets shall be recommended by a majority of the Commission and the cost thereof allocated equitably among states in accordance with their respective interests and submitted to the compacting states.

SCHEDULE OF INITIAL STATE CONTRIBUTIONS

MAINE	\$700.
NEW HAMPSHIRE	200.
MASSACHUSETTS	2300.
RHODE ISLAND.....	300.
CONNECTICUT.....	400.
NEW YORK	1200.
NEW JERSEY	800.
DELAWARE.....	200.
MARYLAND	700.
VIRGINIA	1300.
NORTH CAROLINA	600.
SOUTH CAROLINA	200.
GEORGIA	200.
FLORIDA.....	1500.

ARTICLE XII

This compact shall continue in force and remain binding upon each compacting state until renounced by it. Renunciation of this compact must be preceded by sending six months notice in writing of intention to withdraw from the compact to the other states party hereto.

SECTION 2. Without further submission of said compact, the consent and approval of Congress is hereby given to the States of Connecticut, North Carolina, South Carolina, Georgia and Florida, and for the purpose of the better utilization of their anadromous fisheries, to the

States of Vermont and Pennsylvania, to enter into said compact as signatory States and as parties thereto, in addition to the States which have now ratified the compact.

SECTION 3. The Atlantic States Marine Fisheries Commission constituted by the compact shall make an annual report to Congress not later than sixty days after the beginning of each regular session thereof. Such report shall set forth the activities of the Commission during the calendar year ending immediately prior to the beginning of such session.

SECTION 4. The right to alter, amend or repeal the provisions of Sections 1, 2, and 3 is hereby expressly reserved, (approved May 4, 1942); provided that nothing in this compact shall be construed to limit or add to the powers or the proprietary interest of any signatory state or to repeal or prevent the enactment of any legislation or the enforcement of any requirement by a signatory state imposing additional conditions and restrictions to conserve its fisheries. Added by P.L. 721, 81st Congress, 2nd Session, approved August 19, 1950.

AMENDMENT NUMBER ONE

The States consenting to this amendment agree that any two or more of them may designate the Atlantic States Marine Fisheries Commission as a joint regulatory agency with such powers as they may jointly confer from time to time for the regulation of the fishing operations of the citizens and vessels of such designating States with respect to specific fisheries in which such States have a common interest. The representatives of such States on the Atlantic States Marine Fisheries Commission shall constitute a separate section of such Commission for the exercise of the additional powers so granted provided that the States so acting shall appropriate additional funds for this purpose. The creation of such section as a joint regulatory agency shall not deprive the States participating therein of any of their privileges or powers or responsibilities in the Atlantic States Marine Fisheries Commission under the general compact. (Consented to by P.L. 721, 81st Congress, 2nd Session, approved August 19, 1950.)

RULES AND REGULATIONS

Originally adopted June 5, 1942, and amended September 18, 1942; September 24, 1943; September 30, 1949; November 15, 1955; September 28, 1962; October 18, 1967; October 6, 1971; November 1, 1972; October 8, 1976; October 4, 1984; September 29, 1988; November 14, 1990; and November 18, 1993. Complete revision adopted October 24, 1996, and amended December 18, 2003 and February 4, 2016.

FORWARD

In accordance with the provisions of Article V of the Compact entered into by and among the states of the Atlantic coast, and as assented to by Act of Congress entitled *An Act granting the consent and approval of Congress to an interstate Compact relating to the better utilization of the fisheries (marine, shell and anadromous) of the Atlantic seaboard and creating the Atlantic States Marine Fisheries Commission (Public Law 539, Seventy-Seventh Congress, approved by the President on May 4, 1942,);* and as amended by the member states, such amendment being assented to by Act of Congress (*Public Law 721, 81st Congress, approved by the President August 19, 1950*); the Atlantic States Marine Fisheries Commission, created by the states through that Compact hereby adopts the following rules and regulations for the conduct of its business.

Article I. NAME AND POWERS

SECTION 1. MEMBERSHIP; COMMISSIONERS. (A) The Commission is designated the *Atlantic States Marine Fisheries Commission* in accordance with the Compact and will be referred to herein as the Commission. The members of the Commission are the states that have ratified the Compact. Each member state is represented on the Commission by three Commissioners, chosen in accordance with the terms of the Compact and the State's implementing legislation. A state's Commissioners shall constitute its delegation to the Commission, which shall select one of them to act as delegation Chair. Unless a specific alternative procedure is established by the Commission, its decisions shall be made by the majority of the member states present and voting at any meeting.

(B) Code of Conduct. Commissioners appointed by the states are responsible for upholding the integrity of the Commission and its member states. No Commissioner shall engage in criminal or disgraceful conduct prejudicial to the Commission, any other Commissioner or any other State. No Commissioner shall have a direct or indirect financial interest that conflicts with the fair and impartial conduct of official duties. The Executive Committee shall have the sole authority to consider allegations of breaches of this code, including appeals from Commissioners alleged to be in violation herewith. In the case of a breach, the Executive Committee may direct the Chair to notify the appropriate appointing authority in the Commissioner's home state.

SECTION 2. POWERS AND DUTIES. The Commission is a fact finding and deliberative body with the power to make recommendations to the member states and to the Congress of the United States. The Commission conducts programs to promote cooperation and coordination among the member states as they implement their relative responsibilities under state law for protecting the public's interest in marine, estuarine and anadromous fisheries. Through the Interstate Fishery Management Program (see Article VI), the Commission provides for the coordinated conservation and management of coastal fisheries. In so doing, the Commission prepares and modifies fishery management plans and determines compliance by the participating states with regard to the mandatory recommendations contained in those plans. The Commission also actively promotes the coordinated collection, maintenance and dissemination of fishery statistics; supports the role of states in carrying out fisheries research; emphasizes the role of essential habitat in the productivity of fisheries; carries out projects to promote restoration of sport and commercial fisheries and threatened and endangered populations; develops policy on emerging fishery issues; provides an opportunity for states to coordinate law enforcement activities; partners with the federal fishery management agencies and the Regional Fishery Management Councils as appropriate to most effectively manage fishery resources; and conducts studies and other programs and activities to support state and federal marine fishery and conservation agencies.

Article II. MEETINGS

SECTION 1. MEETINGS. Annual, semi-annual and other meetings of the Commission shall be held at the call of the Chair. Upon the written request of five states, submitted to the Executive Director, the Chairman shall call a meeting of the Commission. The Commission shall also conduct meetings of committees, sections, boards, advisory panels or other groups such as are established to assist in carrying out the Commission's responsibilities. Such meetings shall be called by the Executive Director with the approval of the Commission Chair. The Executive Committee shall establish guidelines for meetings, including meetings conducted by conference call or teleconference. A public notice will be provided at least two weeks prior to all meetings of the Commission and its various bodies, and at least 48 hours notice will be provided for any meetings held by conference call or teleconference; provided exceptions to these notice requirements may be granted by the Commission Chair. In order for a board or section to take action there must be prior public meeting notification of the action. Action that occurs during quarterly meeting weeks must be notified 4 days prior to the first day of the meeting. Action that occurs outside of the quarterly meetings must be notified 48 hours prior to the meeting.

SECTION 2. ABSENCE OF COMMISSIONERS. The Commission depends upon the active participation of all of its Commissioners for the success of its programs. The Commission, through the Chair and the Executive Director, shall encourage all Commissioners to fully participate in Commission affairs and meetings. The Chair shall ask the Executive Director to notify the state's Executive Committee member of the unexplained absence of any Commissioner from two consecutive meetings of the Commission.

Article III. QUORUM, VOTING AND PROCEDURE

SECTION 1. QUORUM. The presence of Commissioners representing a majority of the state members shall constitute a quorum at a meeting of the Commission, and any state shall be recorded as present when represented by one or more of its Commissioners. A quorum for any committee, board, section or other group meeting under the authority of the Commission shall be a majority of the members of such body, provided that any such body may petition the Executive Committee in advance for approval of an alternative quorum procedure. The conduct of meetings of the Commission or any other body established under its authority shall be governed by the current edition of Robert's Rules of Order, Newly Revised, except a Board or Section will need a two-third's vote of all the voting members (i.e. entire membership) to amend or rescind any final actions regardless of prior notice. A two-thirds majority vote will be defined by the entire voting membership, however, any abstentions by the federal services will not be considered when determining the total number of votes. For this section, a final action will be defined as: setting fishery specifications (including but limited to quotas, trip limits, possession limits, size limits, season, area closures, gear requirements), allocation, final approval of FMPs/amendments/addenda, emergency actions, conservation equivalency plans, and non-compliance recommendations. 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.

SECTION 2. VOTING. Voting in any meeting of the Commission, or any of its sections, shall be by states, one vote per state, with the vote of each state being determined by the majority of that state's delegation of Commissioners who are present. Voting in all other committees, boards or other groups shall be by individual members. The Executive Committee may approve any exceptions to this rule. Any time a Commissioner casts a vote on a body on behalf of a state, consultation should occur first, if practical, with the other Commissioners from that state.

SECTION 3. PROXIES. A Commissioner may designate a proxy in one of three ways. A permanent proxy will be considered to replace the Commissioner for all purposes and shall be treated as the Commissioner in all respects. An ongoing proxy will be considered to replace the Commissioner whenever the designating Commissioner is not in attendance. A board specific proxy will be considered to replace the Commissioner for only the designated boards. A meeting specific proxy will be considered to replace the Commissioner only for the specific meeting. For all members of any committee, board, section or other group meeting under the authority of the Commission who are not Commissioners, only a specific proxy may be given. No person may, by proxy, vote more than once on any issue.

Article IV. OFFICERS AND COMMITTEES

SECTION 1. OFFICERS. The officers of the Commission shall consist of a Chair and a Vice Chair as provided in Article V of the Compact; and an Executive Director as hereinafter provided. In the absence or disability of the Chair, the Vice Chair shall have all the power and authority of the Chair. The Chair and Vice Chair shall be elected at the Annual Meeting to serve until their successors have been duly elected and qualified at the next Annual Meeting. The

Chair and Vice Chair shall be eligible for reelection. If the Chair leaves office prior to the expiration of the term, the Vice Chair shall become Chair; and the Executive Committee shall select a new Vice Chair.

SECTION 2. EXECUTIVE COMMITTEE. There shall be an Executive Committee composed of the Chair; the Vice Chair; the respective chairs of the State Legislators Section, and the Governors' Appointees Section; and the chairs of the member state delegations not represented by the Chair and Vice Chair. The Executive Committee shall have full power to approve formal administrative policies of the Commission; to dismiss the Executive Director; to approve the formal position of the Commission on legislation; to provide for the orderly administration of the Commission's affairs; and generally to act in place of the Commission in the interim between meetings. The Chair and Vice Chair of the Commission shall serve respectively as the Chair and Vice Chair of the Executive Committee.

SECTION 3. LEGISLATORS AND GOVERNORS' APPOINTEES. The Commissioners who are state legislators and Governor's appointees shall organize the State Legislators' Section and the Governors' Appointees Section. Each of these sections shall elect its own chair, and vice chair who shall become chair when that position is vacated. Each section shall coordinate among its members to assure effective participation in and input to the Commission's decisions.

SECTION 4. BOARDS AND COMMITTEES. The Chair of the Commission shall establish such other boards and committees as he deems appropriate for the conduct of the Commission's affairs, and shall designate the Chair and Vice Chair of such bodies.

SECTION 5. ADVISORY COMMITTEE. The Executive Committee shall develop, and revise as it deems necessary, a charter for the Commission's Advisory Committee; giving due regard to the needs of the Commission and its state members to conduct effective public outreach consistent with program needs and available funding.

SECTION 6. EXECUTIVE DIRECTOR. There shall be an Executive Director who shall serve as the Executive Secretary of the Commission designated in the Compact that created the Commission. The Executive Director serves at the pleasure of the Commission under the terms of a contract negotiated by the Commission Chair in consultation with the Executive Committee. During the period of the employment contract, the Executive Director may be relieved of responsibilities by the Executive Committee, according to the terms of the contract. The Executive Director shall be the chief executive officer of the Commission and perform all the duties customarily performed by a secretary and a treasurer. The Executive Director shall keep all records of the Commission's business and meetings, and its finances, supervise and direct any staff, enter into contracts and agreements on behalf of the Commission, and under the guidance and control of the Chair, manage all affairs of the Commission.

SECTION 7. HONORARY COMMISSIONERS. Honorary non-voting Commissioners may be appointed to Commission membership, as deemed appropriate by the Commission. There can be Honorary Chairmen, as well as Honorary Executive Committee members.

Article V. FINANCE

SECTION 1. FISCAL YEAR. The fiscal year of the Commission shall run from July 1 through June 30.

SECTION 2. BUDGET AND APPORTIONMENT AMONG STATES. (A) The Executive Director shall estimate the cost of operating the Commission during the ensuing fiscal year and shall submit such estimates to the Commissioners. The Executive Committee shall approve the budget for expenditure of the Commission for the ensuing fiscal year, and shall determine the formula for apportioning the costs of operating the Commission among the member states. Such estimates and apportionments shall be reported each year by the Commission in its Annual Report, which shall be sent to the Governor and Commissioners of the member states.

(B) The Executive Director shall, in the name of the Commission, at least thirty days prior to the beginning of each fiscal year, make formal request of the member states to transfer to the Commission funds equal to the state's apportioned share of the expenses of the Commission for the succeeding fiscal year. Such funds when received shall be deposited by the Executive Director in such bank or banks or other financial institutions as shall be duly designated as the official depository or depositories of the Commission in accordance with SECTION 5 of this Article.

SECTION 3. EXPENSES OF COMMISSIONERS. The expenses of Commissioners to and from Commission, Section, Panel, Board or Committee meetings shall be borne by their respective states, provided that the Commission may pay such expenses upon the authorization of the Executive Committee.

SECTION 4. DISBURSEMENTS. Disbursements from the Commission's funds shall be made at the direction of the Executive Director. The Chair, Vice Chair, Executive Director, or Comptroller designated by the Executive Director, may sign and issue checks. The Executive Committee shall approve policies for the administration of the finances of the Commission.

SECTION 5. BANKS AND FINANCIAL INSTITUTIONS. The Chairs, Vice Chairs and Executive Director of this Commission shall from time to time designate such bank or banks, or other financial institutions, as shall be the official depository or depositories of the Commission and each such depository is authorized and directed to pay checks and other orders for payment of money, including those drawn to the individual order of a signer, when signed by the Chair, the Vice Chair, Executive Director or Comptroller of this Commission.

SECTION 7. BOND. The Chair, Vice Chair, Executive Director and Comptroller of this Commission shall each give a bond protecting the Commission in such form and in such amounts, respectively, as shall be approved by the Executive Committee of the Commission. The costs of such bonds shall be defrayed out of the Commission's funds.

Article VI. INTERSTATE FISHERY MANAGEMENT PROGRAM

SECTION 1. THE INTERSTATE FISHERIES MANAGEMENT PROGRAM. The Commission shall carry out a program to promote the cooperative and coordinated development and implementation of conservation programs for Atlantic coastal fisheries. This shall be known as the Interstate Fishery Management Program (ISFMP).

SECTION 2. ISFMP POLICY BOARD. The ISFMP shall be carried out through an ISFMP Policy Board, according to the terms of a written charter. The ISFMP Policy Board shall have the authority and responsibility to adopt, and from time to time, amend said charter, including establishing its own membership. In carrying out the ISFMP, the Policy Board shall be responsible directly to the Commission.

SECTION 3. CHARTER. The ISFMP Charter shall provide that fishery management plans, and any actions taken according thereto, promote conservation, use the best scientific information available, and provide adequate opportunity for public input. The Charter shall also provide that actions taken by states under Amendment One to the Compact establishing the Commission shall be carried out through the ISFMP.

SECTION 4. FISHERY MANAGEMENT PLANS. Fishery management plans, and any actions of the Commission or the ISFMP Policy Board taken according thereto, shall be considered “recommendation[s] . . . in regard to any species of fish,” according to the requirements of Article VI of the Compact establishing the Commission. Each state that is a member of the Commission shall have the opportunity to participate in the ISFMP with respect to each fishery in which it has an interest.

SECTION 5. INTEREST IN FISHERY. A state shall be deemed to have an interest in a fishery if, according to the latest published statistics or available records of the National Marine Fisheries Service or equivalent state statistics, it meets any of the following criteria:

- (a) Such fish are found customarily in its territorial waters;
- (b) Such fish are customarily or periodically in the territorial waters of such state for the purpose of spawning or in transit to and from spawning grounds; or
- (c) The citizens of the state are recorded as having taken 5 percent or more of the total Atlantic coast catch of the species of fish in any of the five preceding years.

Article VII. AMENDMENT OF RULES AND REGULATIONS

These rules and regulations may be amended at any regular meeting of the Commission by the affirmative vote of a majority of the member states, provided due notice thereof has been given in the call of the meeting.