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## Fisheries Service Revised Regulatory Scoping Process November 2011

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**Background:** The current scoping process is a result of a Joint Committee Report (JCR) to the Maryland Senate Budget and Taxation Committee and the House Committee on Appropriations on November 26, 2006. The Report asked for consideration of the following:

- ✓ A more inclusive decision making process and a transparent management strategy is proposed.
- ✓ This initiative should focus on the regulatory process, although some public access to legislative initiatives is desirable.
- ✓ The purpose for this report would be to propose a strategy to improve/increase the role of the public in the fisheries management process, and provide support of additional funding for Fisheries Service.
- ✓ Desire an open public meeting prior to the proposal of a regulation. The public process model employed by the Atlantic States Marine Fisheries Commission (ASMFC), of which Maryland is a member that includes initial public scoping meetings, followed by regulatory proposals with options was suggested. Emergency regulations should be considered only in cases of commission or federal mandates or in response to an immediate threat to a fish resource.
- ✓ Recognition that conservation enforcement should be adequate and consistent.

Since the 2006 JCR report, Fisheries Service began scoping regulatory ideas when still in draft form. This began as two scoping meetings a year, and was expanded to three based upon the recommendation of the 2007 Task Force on Fisheries Management. The three annual scoping meetings have occurred in February, May and September. Additional scoping meetings are held during the year as needed. Draft regulatory ideas are presented at these meetings, posted online prior to the meeting and kept on the draft page for comment. Comments are received and summarized to facilitate decision making on formal regulatory proposal.

**Evaluation of Current Scoping Process:** Based upon limited public participation in the tri-annual scoping meetings, Fisheries Service conducted an evaluation of the current process to identify potential improvements to the public participation process. It was determined that the draft website has been working well in obtaining comments on draft regulatory ideas. However, the website is not particularly effective for notifying the public of potential regulatory ideas because not all interested members of the public are aware of this web page. The scoping meetings are ineffective for notifying the public and for obtaining comment because of poor attendance, unless a draft regulation is controversial. In some instances we have notified the public through a variety of mechanisms (Fisheries Advisory Commissions, website, mailings, flyers, press releases, public notices, etc) but there are still people commenting for the first time after the regulation is proposed. It was concluded that Fisheries Service would benefit from implementing changes to the regulatory scoping process that would improve public engagement.

**Changes to Regulatory Scoping Process:** Fisheries Service determined that the public would benefit from a more multi-faceted regulatory scoping process that incorporates the elements that have proven effective. Our new regulatory scoping process will be more objective-based driven by the specific regulatory issue, and not the one

process fits all issues approach we have been following. Our goal is to ensure the public is knowledgeable of potential regulatory changes, and provided an adequate opportunity for input prior to when a formal regulatory proposal is submitted.

Web-page: Fisheries Service will build on the success of our draft regulatory web page:

<http://www.dnr.maryland.gov/fisheries/regulations/draftregulations.asp> This page allows comments directly via email for constituents who do not have the time to attend a meeting and/or feel uncomfortable speaking in a public forum. Increased promotion of this web page is necessary, and the following actions are being taken:

- When a draft regulatory idea is posted on the regulatory scoping web page, a message with a link to this web page will be posted on the Fisheries Service's front webpage;
- A message and web link will also be posted on Fisheries Service's new Facebook page, and existing twitter account; and
- An email message and web link will be sent to subscribers to Fisheries Service's new email interest list for fisheries news and regulatory updates.
- All of the action described above will be promoted throughout the year, including but not limited to Maryland's annual Sport Fishing Guide Book and constituent news letters / magazines.

Regulatory Forum Page: In addition to the draft web-page, Fisheries will experiment with the creation of a regulatory forum page for controversial regulatory proposals. Fisheries will post a regulatory idea for public comment, the public can submit a comment on the proposal, and a web moderator will make sure the comment contains nothing inappropriate before posting the comment. This will provide a virtual meeting forum for the public to discuss and comment on the proposed regulatory idea.

E-mail Interest List: Fisheries Service will create an e-mail interest list that the public can subscribe to and receive fisheries news and regulatory updates.

Public Meetings: Fisheries Service has learned that a public meeting is not always the best strategy for obtaining public input, and the need for a meeting, and style of meeting, should be assessed based on the specific regulatory issue. Our experience has shown that a meeting is not always needed for non-controversial issues. And, that for complex and controversial issues the public needs adequate time to understand the issue and get their question(s) answered. This is difficult to accomplish at a traditional style public meeting. An 'open house' style meeting which Fisheries Service has had recent success with would be a more appropriate public meeting format for such issues. Therefore, Fisheries Service will begin assessing each regulatory issue to determine the appropriate public meeting format, if needed, and use input from our Fisheries Advisory Commissions to make this determination.

Fisheries Advisory Commissions: Fisheries will continue to present ideas to our Fisheries Advisory Commissions and appropriate working groups, and use their input in developing the regulatory idea. Fisheries service will continue to encourage Commissioners and work group representatives to reach out to their constituents to ensure general awareness and facilitate input. Fisheries will also utilize input from these advisory bodies to determine the controversy level of the regulatory idea. This feedback will be used to determine the appropriate citizen participation strategy(ies). For example, for complex and controversial issues, it may be determined that an open house forum and/or public meeting is necessary along with the web page and regulatory forum page. And, for a non-controversial issue, that the web page and regulatory forum page is adequate, and a meeting is not necessary.