



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
GREATER ATLANTIC REGIONAL FISHERIES OFFICE  
55 Great Republic Drive  
Gloucester, MA 01930

September 29, 2022

Dr. Robert W. Scarborough  
Delaware Coastal Programs  
Department of Natural Resources and Environmental Control  
100 West Water Street, Suite 7B  
Dover, DE 19901

RE: Federal Consistency Determination for Amendment 23 to the Mackerel, Squid, and Butterfish Fishery Management Plan

Dear Dr. Scarborough:

We request your review of the subject regulatory action, with regard to its applicability to the Delaware Coastal Zone Management Program (CZMP). We have preliminarily determined that the subject proposed rule is consistent with the enforceable policies of the Delaware CZMP, and request your concurrence.

The Mid-Atlantic Fishery Management Council (Council) adopted Amendment 23 to the Mackerel, Squid, and Butterfish Fishery Management Plan (FMP) at its June 2022 meeting, and the Council submitted Amendment 23 to us on August 19, 2022, for review and approval. Details of this action, including a draft environmental assessment (Draft EA), can be found at <https://www.mafmc.org/actions/atlantic-mackerel-rebuilding-amendment>. We intend to publish a rule proposing regulations to implement Amendment 23 in the *Federal Register* in fall 2022.

If approved, Amendment 23 would revise the Atlantic mackerel rebuilding plan and set the 2023 Atlantic mackerel specifications including a commercial quota, recreational possession limit, modified closure approach, and a river herring and shad catch cap.

Based on a review of Delaware's enforceable coastal zone management policies, and based on the analysis contained in the Draft EA for Amendment 23, we preliminarily determined that the Mackerel, Squid, and Butterfish FMP, and the management provisions it includes, are consistent to the maximum extent practicable with these policies. The management measures implemented under this FMP are intended to conserve fish resources that occur in Delaware state waters by managing catch and preventing overfishing, thereby promoting sustainable utilization.

A general consistency determination was submitted on November 29, 2010, for review by the responsible state agencies under section 307 of the CZMA. The State of Delaware concurred with this determination by letter. Your general consistency determination meant that any actions carried out after your general concurrence, and in accordance with the Mackerel, Squid, and Butterfish FMP and associated provisions, including routine updates to management measures, were also determined to be consistent with the policies of the Delaware CZMP. However, we noted that we intend to reconsider this consistency determination and consult with your agency for amendments or other substantial modification actions to the Mackerel, Squid, and Butterfish FMP, whether through subsequent individual or omnibus actions. Therefore, we are seeking



your concurrence on this action because it is an amendment to the Mackerel, Squid, and Butterfish FMP.

This letter is submitted pursuant to provisions of 15 CFR 930 *et seq.* and section 307 of the Coastal Zone Management Act of 1972, as amended. In accordance with the provisions of 15 CFR 930.41, we are requesting that you advise us of your agreement or disagreement with our determination. In the event that there is no response from your agency within 60 days of receipt of this letter, we will presume your agency's concurrence with our determination of consistency. If you have any questions, please contact Carly Bari at 978-281-9150.

Sincerely,



Michael Pentony  
Regional Administrator