

# Introduction to the MSA



**Council Member  
Orientation**

**10/28-10/30**

**Silver Spring, MD**

# The Fishery Management Mission

*“The Congress finds and declares [that]..... A national program for the conservation and management of the fishery resources of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, to facilitate long-term protection of essential fish habitats, and to realize the full potential of the Nation's fishery resources.”*

# The Fishery Management Mission



# Background and History

- **Pre-1976**

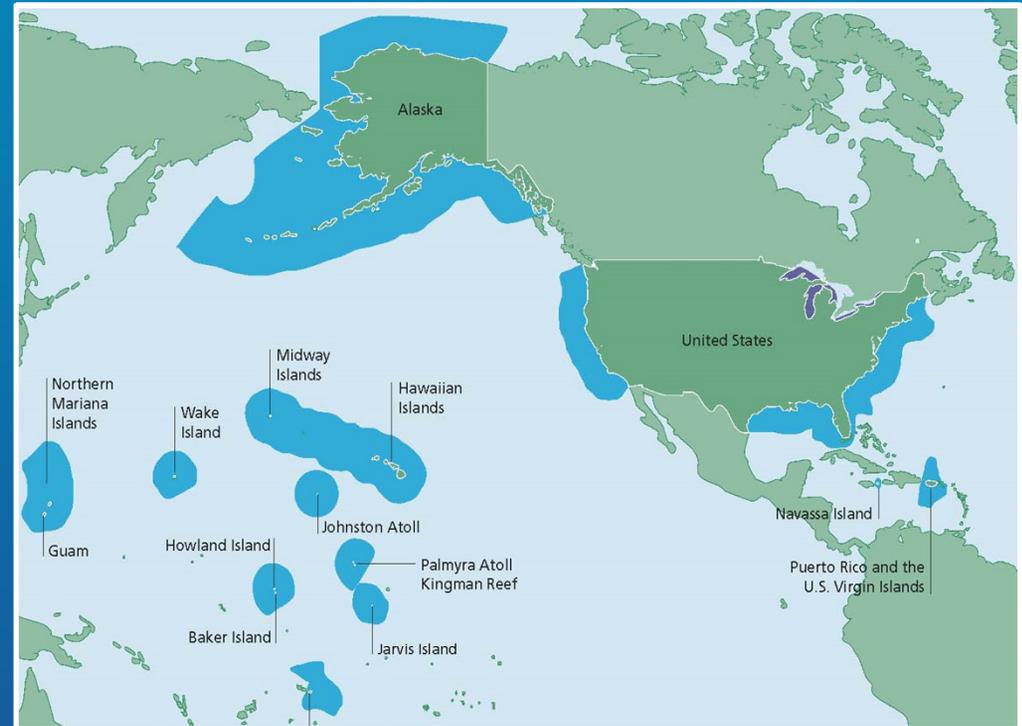
- State management within territorial waters

- Foreign fishing in what is now EEZ



# 1976: FCMA

- Established FCZ/EEZ
- Set management structure
- User-group self regulation
- Congress sets policy parameters/objectives; Councils design management; NMFS implements
- Policy: Expand domestic capacity and achieve OY (MSY as modified)



# Evolving Objectives

- 1996 Sustainable Fisheries Act –
  - Changed “optimum yield” (not exceed MSY)
  - Rebuild overfished stocks **within 10 years**
  - 3 new national standards
  - Essential Fish Habitat
- 2007 Magnuson-Stevens Reauthorization Act: increased accountability and emphasis on science
  - End overfishing **immediately** (and prevent)
  - **Annual Catch Limits** (ACLs) and Accountability Measures
  - Strengthens role of Science (SSCs)
- 37 years after FMCA, councils operating within vastly different policy parameters and mandates



# Structure of the MSA

- Councils
- Fishery Management Plans (FMPs)
  - Achieve OY/Prevent Overfishing
  - Additional National Standards
  - FMP Components (Mandatory and discretionary)
  - Other Applicable Law
  - Secretarial Review
- Special Provisions

# 8 Regional Councils

## Governors

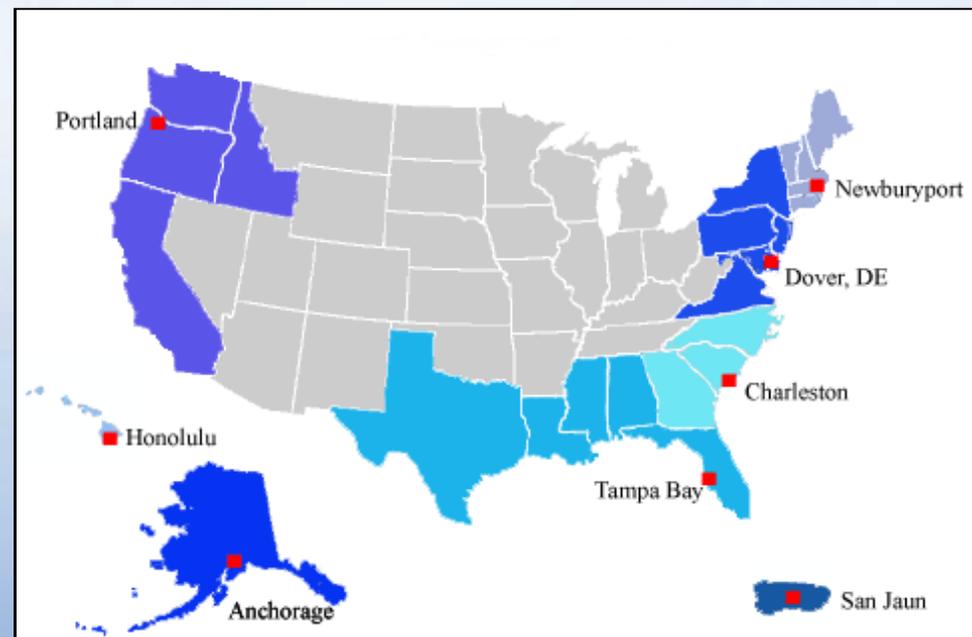
Nominate/Secretary  
appoints

## Special Representation

E.g., North Carolina on  
Mid-Atlantic; Tribal seat on  
Pacific

## Qualifications

- Knowledgeable about fisheries
- Fair and balanced apportionment



# Council Functions

- **Prepare and submit FMPs/amendments**
- **Convene Committees and panels**
  - SSC; Fishing Industry Advisory Committee; Other advisory panels
- **Conduct Public Meetings**
- **Submit Periodic Reports**
- **Set ACLs based on science**
- **Develop, with SSC, research priorities**



# Fishery Management Plans

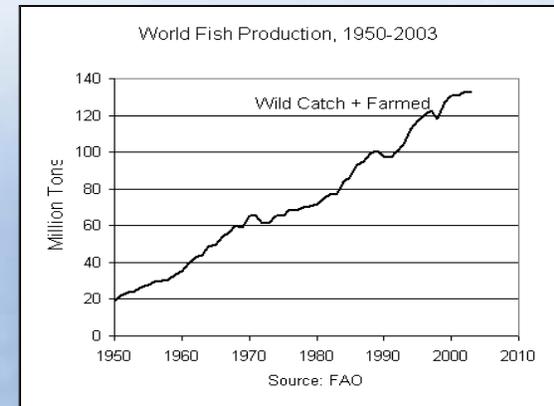
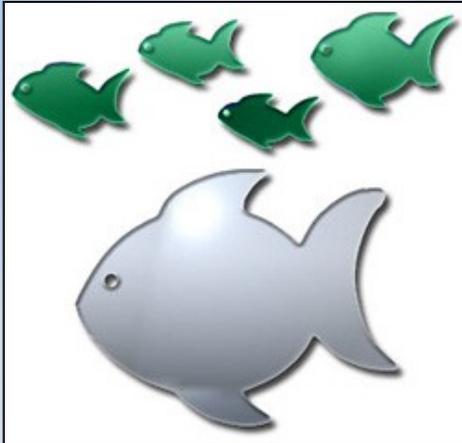
National Standards

FMP Components (Mandatory and discretionary)

Other Applicable Law

Secretarial Review

# The National Standards: Ten Policy Objectives



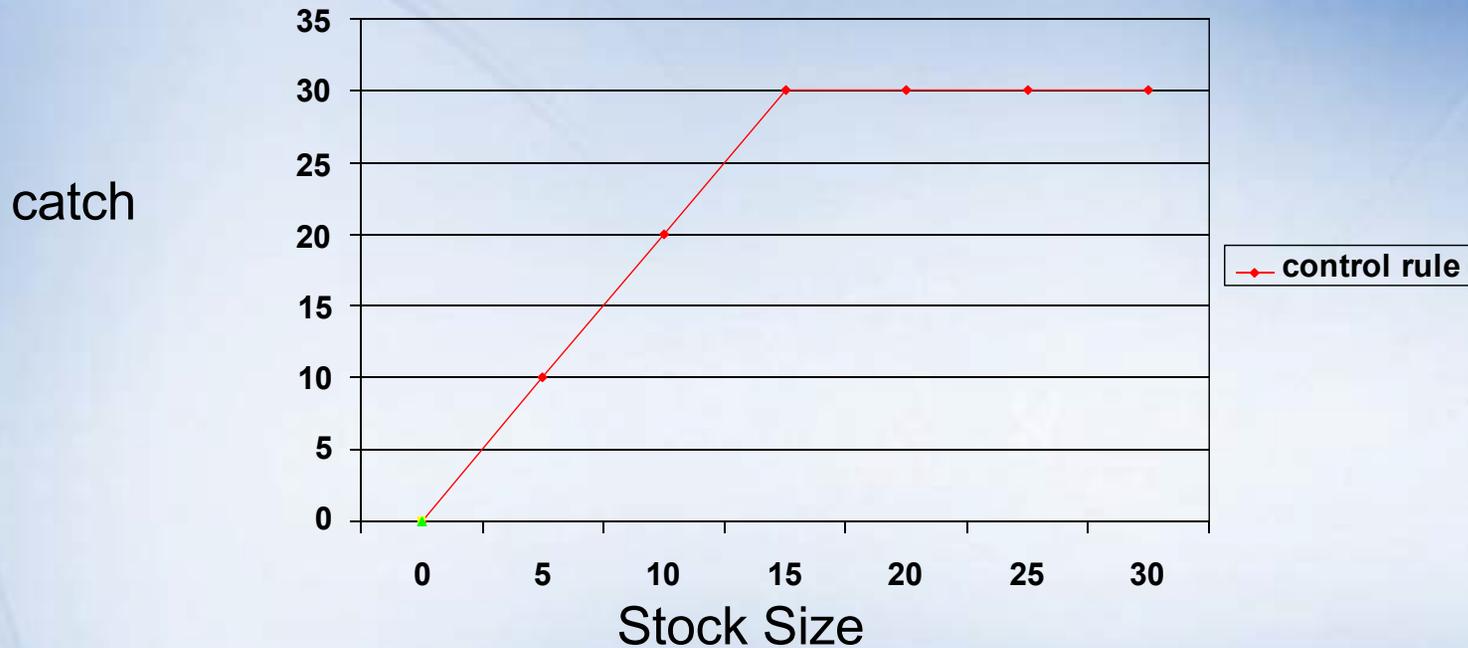
# What do they Say?

- (1) Achieve OY and prevent overfishing**
- (2) Best available scientific information**
- (3) Manage stocks as a unit**
- (4) Allocations fair and equitable, promote conservation, and prevent excessive shares**
- (5) Consider efficiency in utilization; not have economic allocation as sole purpose**
- (6) Allow for variations and contingencies**
- (7) Minimize costs, avoid duplication**
- (8) Consider fishing communities to provide for their sustained participation and to minimize adverse economic impacts**
- (9) Minimize bycatch, and bycatch mortality**
- (10) Promote safety of human life at sea**

# Required FMP Components

- (1) Prevent overfishing; rebuild; protect, restore, promote long-term health and stability**
- (2) Description of the fishery**
- (3) Specify MSY and OY**
- (4) Specify capacity and domestic harvest and processing of OY**
- (5) Specify the data to be submitted**
- (6) Temporary adjustments to address unsafe ocean conditions**
- (7) Essential fish habitat: identify, minimize impacts from fishing.**
- (8) Specify the scientific data needed to implement the plan**
- (9) Fishery impact statement**
- (10) Overfishing definitions**
- (11) Bycatch: reporting methodology and measures to minimize**
- (12) Number, types, and mortality of fish caught and released recreationally; minimize mortality and ensure the extended survival**
- (13) Describe sectors (commercial, recreational, and charter); quantify landings trends by sector**
- (14) Allocate restrictions and benefits fairly and equitably among sectors.**
- (15) Establish a mechanism for setting ACLs and AMs**

# Overfishing Definitions



- Tied to overall approach for ending overfishing
- FMPs must specify objective and measurable criteria

# Essential Fish Habitat (EFH)

## FMP's Must

- Identify and Describe
- Minimize adverse effects from fishing

## EFH Consultations

(Action Agencies Must...)



# Bycatch



- **Standardized reporting methodology to assess (SBRM)**
- **Minimize bycatch**
- **Minimize mortality of unavoidable bycatch**

# Oceana Case

The mandatory components  
must be **EXPLICITLY** written  
into the FMP.

# Discretionary FMP Components

- (1) Require permits and fees**
- (2) Designate zones and times where fishing restrictions apply (area-based)**
- (3) Establish restrictions on catch, sale, and transshipment,**
- (4) Include gear requirements**
- (5) Incorporate State measures**
- (6) Establish a limited access system**
- (7) Require processors to submit data**
- (8) Require observer coverage**
- (9) Assess and specify the effect of the FMP on anadromous fish**
- (10) Include harvest incentives for reduced bycatch**
- (11) Reserve a portion of the allowable biological catch for use in research**
- (12) Conserve target and non-target species and habitat**
- (14) Prescribe other measures, requirements, or conditions and restrictions necessary and appropriate for the conservation and management of the fishery**

## 303(b)(2): Area-based Management

- MSRA requires that area closures must:
  - Be based on science
  - Include criteria to assess benefit
  - Include timetable for review
  - Be based benefit/impact analysis
- MSRA allows closures to protect corals

# Limited Access Programs



Must address:

- present participation,
- historical practices and dependence,
- economics
- ability of vessels to switch fisheries,
- cultural and social framework, and
- other relevant considerations.

## **New section 303A: LAPPs**

MSRA allows Councils to recommend "Limited Access Privilege Programs" in fisheries managed under limited access.

# Other Applicable Law

- **RFA:** IRFA/FRFA, Publication of Summary
- **ESA:** Biological Opinion
- **PRA:** OMB Clearance, Notice and Comment
- **CZMA:** Letters to States, State Concurrence
- **DQA:** Pre-dissemination Review Form Notice
- **APA:** and Comment, 30 Day Delay
- **NEPA:** EIS or EA/FONSI
- **EOs 12866, 13272:** Economic Impact Analysis
- **EO 13132:** Consult with States

# Secretarial Review of FMPs

- **Strict Timelines**

- 95 days for FMPs/amendments

- **Limited Scope**

- 3 possible outcomes
  - Approve
  - Disapprove
  - Partially approve



- **Criteria for Approvability**

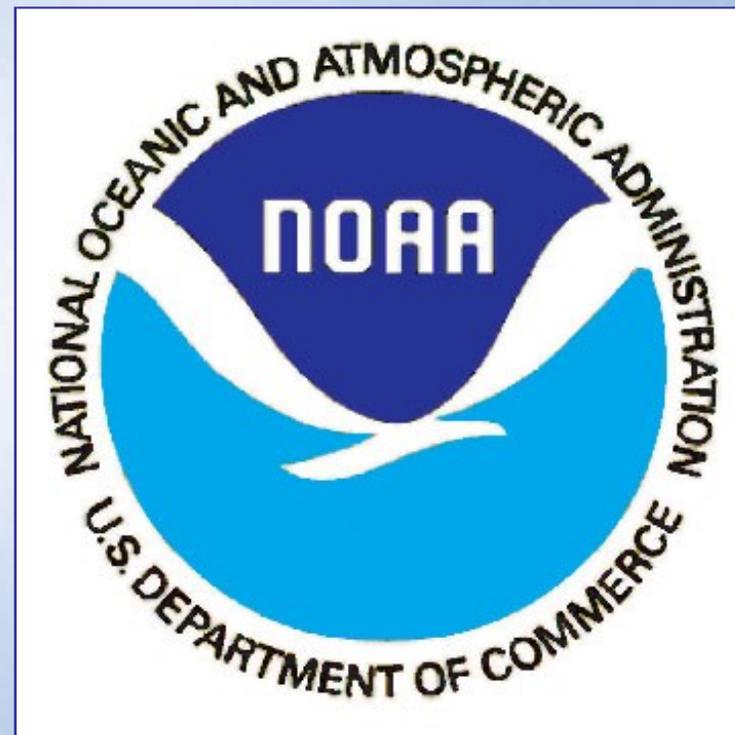
- National Standards
- FMP Components
- Other applicable law
- Disapproval must be based on inconsistency with law

# Special Provisions of the MSA

- Secretarial FMPs/amendments
- Ending Overfishing
- Highly Migratory Species (HMS)
- Essential Fish Habitat
- Emergency Actions
- Other

# Secretarial FMPs/amendments

- **The Secretary may prepare an FMP if:**
  - A fishery requires management and a Council fails to act
  - The Secretary disapproves a Council submission and Council fails to submit revision
  - Special Secretarial authority (e.g., HMS, overfishing)



# Ending Overfishing

- **Annual Status Report**
- **Detailed timelines**
- **If Council fails to implement within 2 years, Secretary must**
  - **Specifies criteria for Rebuilding plans**
    - **End overfishing immediately**
    - **Rebuild in as short a time as possible**



# Highly Migratory Species (HMS)

- **Centralized management for Atlantic HMS**
  - Tuna, marlin, oceanic sharks, sailfishes, and swordfish
- **Primary responsibility rests with Secretary**
- **Consult with Councils**
- **Utilize Advisory Committees**



# Essential Fish Habitat



## Council Comments

- May comment on agency actions that may affect habitat
- Must make recommendations on actions likely to substantially affect habitat of anadromous fish

## Consultations:

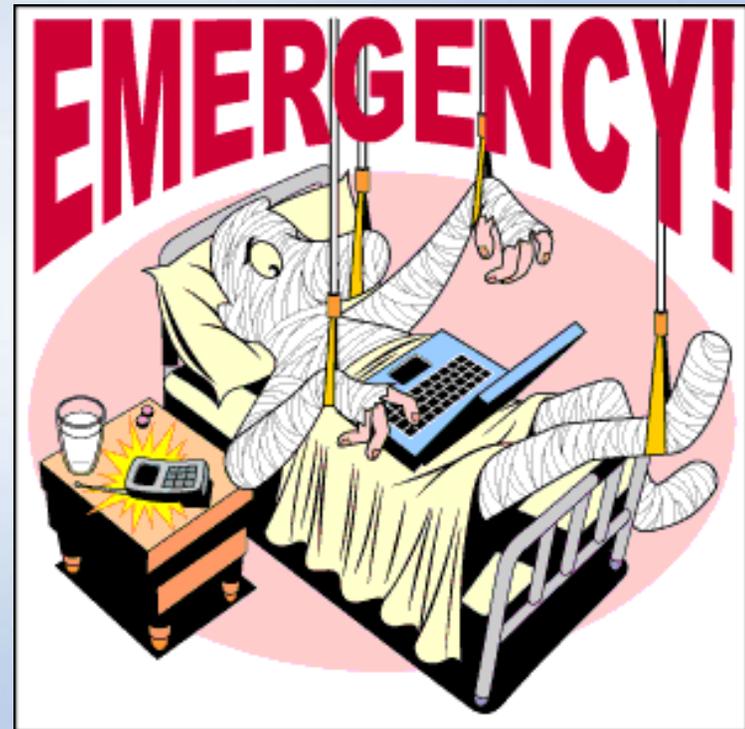
- Action agencies must consult

## CRs/Response:

- NMFS makes conservation recommendation for actions that would adversely affect EFH.
- Action agency must respond within 30 days

# Emergency Actions

- **Is it an Emergency?**
  - Unforeseen circumstances
  - Serious problems in fishery
  - Benefits outweigh normal public process
- **Is Emergency Procedure justified?**
  - Substantial damage and loss
  - For specific reasons:
    - Ecological
    - Economic
    - Social



# Recap: the MSA

- ◆ **Our Mission/Competing Objectives**
- ◆ **Evolution towards more holistic approach**
- ◆ **Basic Structure and Goals**
  - ◆ **Councils**
  - ◆ **FMPs: OY, National Standards, FMP Components, other applicable law, Secretarial review**
  - ◆ **Special Provisions**