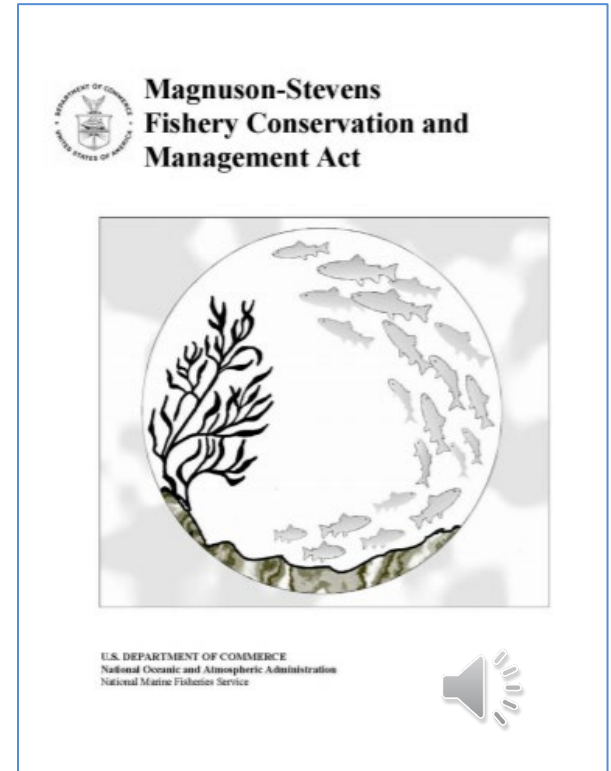


Introduction to the Magnuson-Stevens Act (MSA)



Learning Objectives

- State the MSA's fishery management mission
- Understand the MSA's unique approach to fishery management
- Identify the 10 National Standards
- Locate key [MSA](#) requirements and [guidance materials](#)



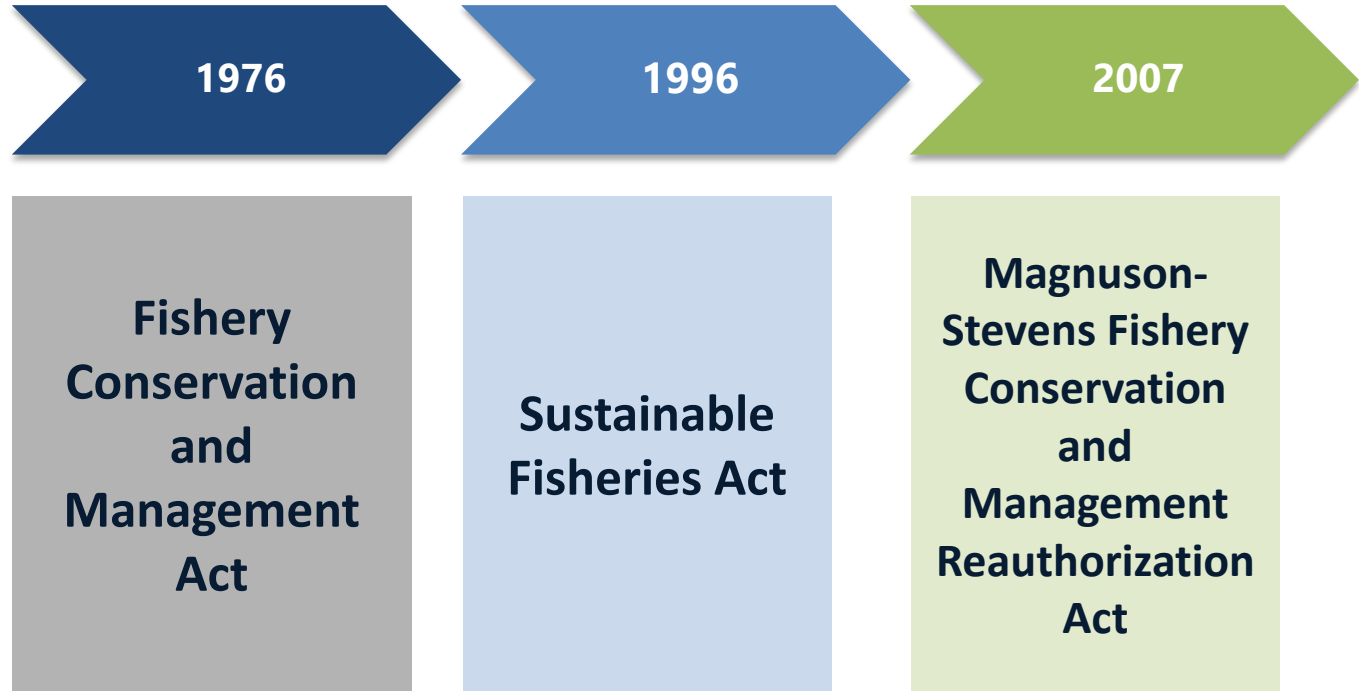


The Mission | “The Congress finds and declares....[see page 1 of MSA]”

“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.”



History of the MSA





The History | Pre-1976

- Natural resource management and environmental movement
- Number of new federal public laws and agencies formed

Architect of the Capitol



For example:

- Multiple Use Sustained Yield Act (1960)
- National Environmental Policy Act (1969)
- Clean Air Act (1970)
- Clean Water Act (1972)
- Marine Mammal Protection Act (1972)
- Endangered Species Act (1973)



The History | Pre-1976

- State fisheries management and territorial waters (0-12 miles)
- > 12 mi massive foreign fleet fishing virtually unregulated





Magnuson and Stevens





Fisheries Conservation and Management Act (1976)

- Expanded Federal Jurisdiction – Exclusive Economic Zone
- Established National Standards
- Created the [Councils](#) (NOAA Fisheries/Councils Process)
- Requirements for Fishery Management Plans (FMPs)
 - Consistent with National Standards
 - Mandatory and Discretionary Components
- Relation to Other Applicable Laws (OALs)
- Secretarial Review
- Special Provisions



Sustainable Fisheries Act | 1996

- Specific stock status determination criteria (MFMT; MSST)
- Stock rebuilding requirements
- Clarified the definition of Optimum Yield
- Added 3 national standards
- Essential Fish Habitat (EFH; Designations and Consults)



Jonathan Kellogg, IAN Image Library



Magnuson-Stevens Fishery Conservation and Management Reauthorization Act | 2007

- Emphasis on accountability and science
- End overfishing immediately
- Annual catch limits (ACLs) and accountability measures (AMs)
- Strengthened role of Scientific and Statistical Committees (SSCs)



History of the MSA

1976

**Fishery
Conservation
and
Management
Act**

1996

**Sustainable
Fisheries Act**

2007

**Magnuson-
Stevens Fishery
Conservation
and
Management
Reauthorization
Act**

Reauthorization

?

Regional Fishery Management Councils (www.fisherycouncils.org)

North Pacific

ALASKA

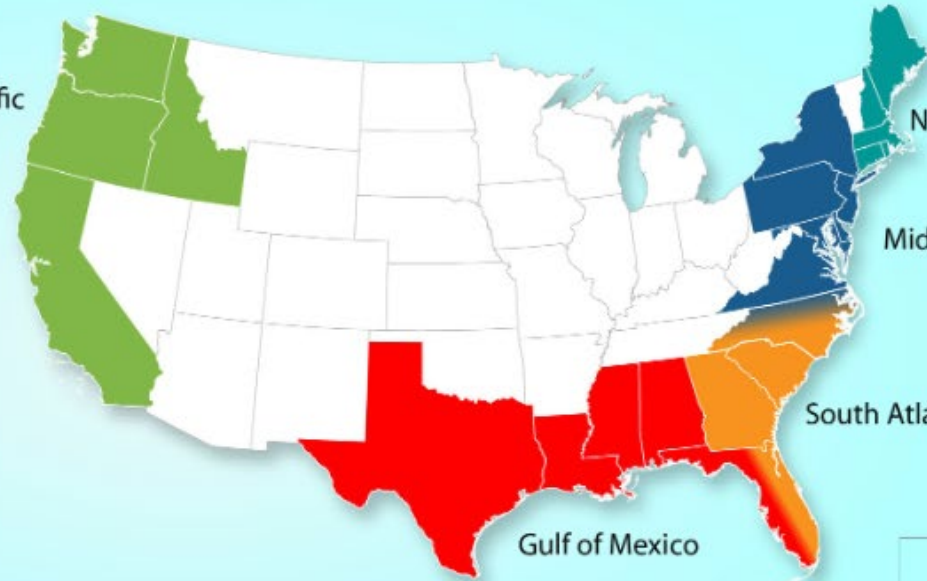


Western Pacific



1. Guam; 2. Commonwealth of the Northern Mariana Islands (CNMI); 3. Wake Island; 4. Midway Atoll; 5. Johnston Island; 6. Hawaiian Islands; 7. Palmyra Atoll and Kingman Reef; 8. Jarvis Island; 9. Baker and Howland Islands; 10. American Samoa.

Pacific



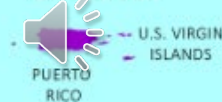
New England

Mid-Atlantic

South Atlantic

Gulf of Mexico

Caribbean



NOTES:

- **Washington** and **Oregon** have representatives on both the Pacific and North Pacific Fishery Management Councils.
- **North Carolina** has representatives on both the South Atlantic and Mid-Atlantic Councils. The jurisdictional boundaries for managed species are generally at the North Carolina/Virginia border, with a few exceptions.
- **Florida** has representatives on the South Atlantic and Gulf of Mexico Fishery Management Councils.



National Standards | In Brief

1. Prevent overfishing while achieving optimum yield
2. Use best scientific information available
3. Manage individual stocks throughout their range
4. Allocation of privileges to fish must be fair and equitable
5. No such measure shall have economic allocation as its sole purpose
6. Allow for variation among and contingencies in fisheries, fishery resources, and catches
7. Minimize costs, avoid duplication, where practicable
8. Account for importance of fishery resources to fishing communities
9. Minimize bycatch or mortality from bycatch
10. Promote safety of human life at sea





National Standards Guidelines

<https://www.fisheries.noaa.gov/topic/laws-policies#magnuson-stevens-act>



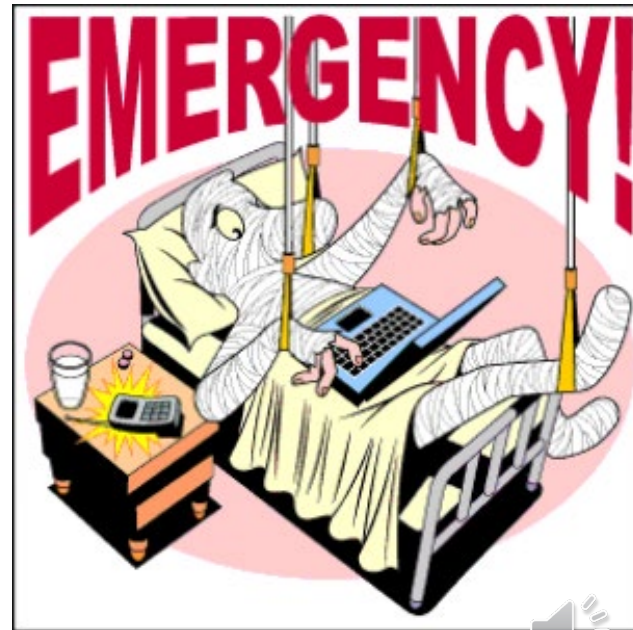
Other Provisions of the MSA

- Secretarial FMPs/Amendments
 - Special secretarial authorities
 - Emergency actions and interim measures
 - Atlantic Highly Migratory Species
 - A fishery requires action and a Council does not take action
 - A Council action is disapproved/partially disapproved and the Council fails to act



Other Provisions of the MSA

- Emergency actions
 - Unforeseen circumstances and serious fishery issues
 - Benefits must outweigh normal public process
 - Specific criteria: substantial damage and/or loss (ecological, economic, social)



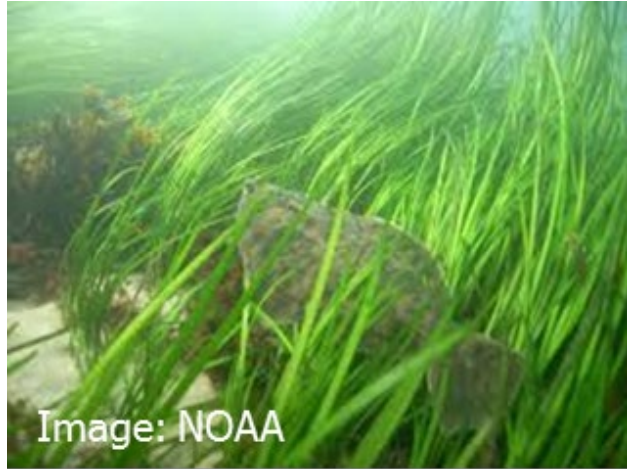
Other Provisions of the MSA



- Atlantic Highly migratory species (HMS) management
 - Tunas, marlin, oceanic sharks, sailfishes, swordfishes, etc.
 - Secretarial responsibility
 - Consult with Councils
 - Advisory Committees



Other Provisions of the MSA



- Tribal rights, native customs, indigenous communities
 - Recognize the unique needs and circumstances which make fisheries resources important to these groups
- Essential Fish Habitat
- Other good “bits and pieces” in the MSA



Fisheries Governance

- Fisheries governance is a **wicked problem** and a problem of scale
- No one-size-fits-all solutions
- Never actually know when problem is solved – ongoing, intractable, evolving issues

Jentoft & Chuenpagdee 2008



Image Source:

https://www.nrdc.org/sites/default/files/styles/one_half_content/public/media-uploads/blog-ocean-planning.jpg?itok=QXFpIMbK



Fisheries Governance

- National regulatory framework that supports a Council process designed to address issues at appropriate scales
- Strong MSA standards and science-based decisions
- Stakeholder driven solutions
- Evolutionary process
- This is what we do!





Welcome to the Council!

Jessica Coakley

jcoakley@mafmc.org or jessica.coakley@noaa.gov



Questions

Was there widespread domestic support for the MSA passing in 1976?

Yes. There was domestic support for the MSA, particularly among the US commercial fishing industry. With the MSA, no longer could foreign flotillas and Russian factory trawlers “annihilate” US fishing grounds as they did in the 1960s and early 1970s.

The New York Times

200-Mile Limit, Starting Tuesday, Cheers New England's Fishermen

By John Miner Special to The New York Times

Feb. 27, 1977



Questions

Was there widespread domestic support for the MSA passing in 1976?

Foreign entities must negotiate under the MSA for access through joint ventures and may only harvest what US fishermen cannot catch. The State Department played a very active role in the early years following the passage of the MSA in 1976. The Councils have the specific responsibility under the MSA to prepare comments on applications for foreign fishing that are transmitted to it.

In addition, significant money was invested in capitalizing the US fleets after the MSA was passed.

Questions

Any pushback from international bodies on the 1976 MSA?

After World War II (1945) American foreign policy was open seas and open skies. The US Military, including military vessels, wanted to be unimpeded by regulation around the globe. However, this policy meant other nations claimed similar rights. The 1976 MSA establishing the EEZ was done over the opposition of both the State Department and Department of Defense.

In the 1950s and 1960s, the Russians spent massive amounts of money investing and building a new type of fishing vessel, the factory processor ship. Despite heavy investment, the Russians could not displace Japan as the world's largest fish producer. These Russian fleets fished around the globe, including very close to US shores.

The worldwide acceptance and enforcement of a 200 mile EEZ (which was first introduced in Latin America) became customary international law and gave nation states total jurisdiction over their resources within 200 miles from the shore.

Questions

Any pushback from international bodies on the 1976 MSA?

The United States, Canada, Norway, the European Economic Community (EEC) and the USSR all made the 200-mile EEZs their standard. With these countries support, it soon became the internationally recognized standard.

Many people were surprised the USSR showed support for the 200-mile EEZ as their landings would likely decline as a result of reduced fishing access globally. However, USSR Navy interests and protection of its own economic zone were of greater priority than their fishing industry interests.

Questions

How does the process under the MSA compare to others around the world?

The MSA is unquestionably one of the most successful conservation laws in the world. It balances economic, social, and ecological interests with bottom-up input from stakeholders and top-down oversight from regulators. While many other countries have processes for stakeholder engagement (such as advisory groups), none compare to the stakeholder driven process of the Councils – with the Council composition itself reflecting those interests directly.

Questions

What could reauthorization of the MSA mean for the Councils?

A reauthorization could mean the addition of new requirements, modifications to current systems, processes or roles, or even prohibit certain practices or management tools.

For example, the 1996 reauthorization required essential fish habitat be designated for all the managed stocks for the first time. Also in 1996, Congress placed a moratorium on new Individual Fishing Quota (IFQ) programs until at least October 1, 2000. In 2007, although many Councils were already using input (effort) and output (landings/catch) controls for their fisheries, their management systems and terminology needed to be modified to address the new statutory requirements and guidance related to ABCs, ACL, AMs, and the roles of the SSCs.

Questions

Can you highlight some processes the Councils use for handling uncertainty?

The Council may address uncertainty both explicitly or implicitly, qualitatively or quantitatively. All the Councils follow a process to address scientific and management uncertainty in setting annual catch limits and accountability measures and when applying the Council risk policies for overfishing.

Application could be formulaic (e.g. applying an ABC Control Rule), or through expert advice such as the SSCs or technical and industry advisors. In addition, the Council may do things like taking stepwise approaches (e.g. implement a slight increase in a trip/possession limit, see the performance for a few years, and then make another adjustment). Fisheries management in the face of uncertainty is the norm and not the exception.

Questions

Does the national standard for minimizing bycatch and bycatch mortality preclude a total retention policy like they have in place for some pelagic fisheries in Europe?

NS9 requires that conservation and management measures shall, to the extent practicable (1) Minimize bycatch; and (2) To the extent bycatch cannot be avoided, minimize the mortality of such bycatch. NS9 and its associated regulatory guidelines did not specify any particular conservation and management measures related to bycatch, such as total retention. NOAA Fisheries' "National Bycatch Reduction Strategy" identifies approaches to minimize the amount of bycatch, as well as minimize the mortality, serious injury, and adverse impacts of bycatch that do occur. The Strategy also states that reducing bycatch can include actions that increase utilization of fish that would otherwise be economic discards. However, it does not specifically address full retention approaches such as those that have been applied in other countries.