

Introduction to the MSA



**Council Member
Orientation**

10/31 – 11/2

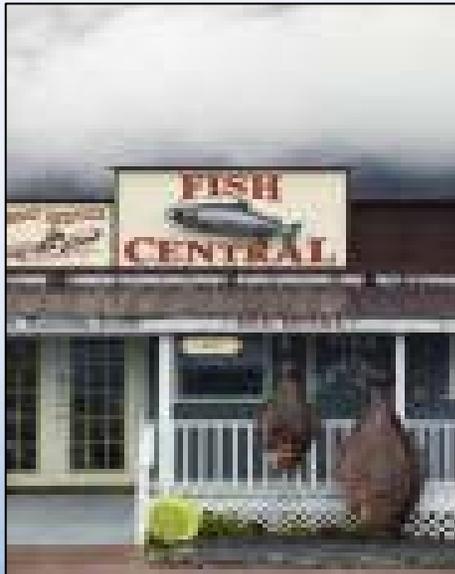
2006

Washington, D.C.

Agenda

- ◆ **The Fishery Management Mission**
- ◆ **Background and History**
- ◆ **Structure of the MSA**
 - ◆ Councils
 - ◆ FMPs
 - ◆ Special Provisions
- ◆ **Parties and Roles**

The Fishery Management Mission



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.”

Background and History

- **Pre-1976**

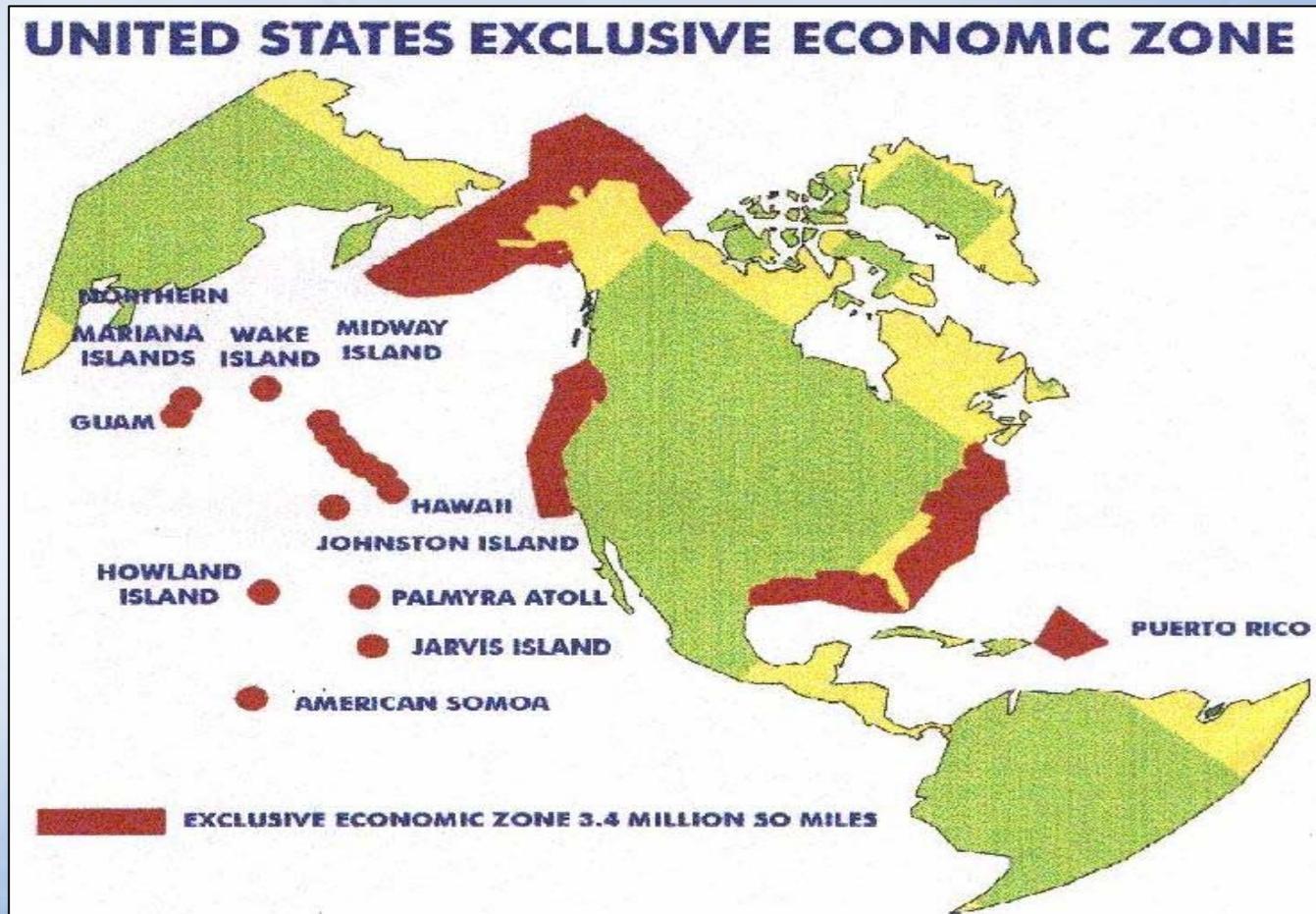
- State management within territorial waters

- Foreign fishing in what is now EEZ



1976: FCMA

- Established FCZ/EEZ
- Set management structure



1996: Sustainable Fisheries Act

- Same Management Structure
- New Name (MSA)
- Increased focus on Sustainability



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

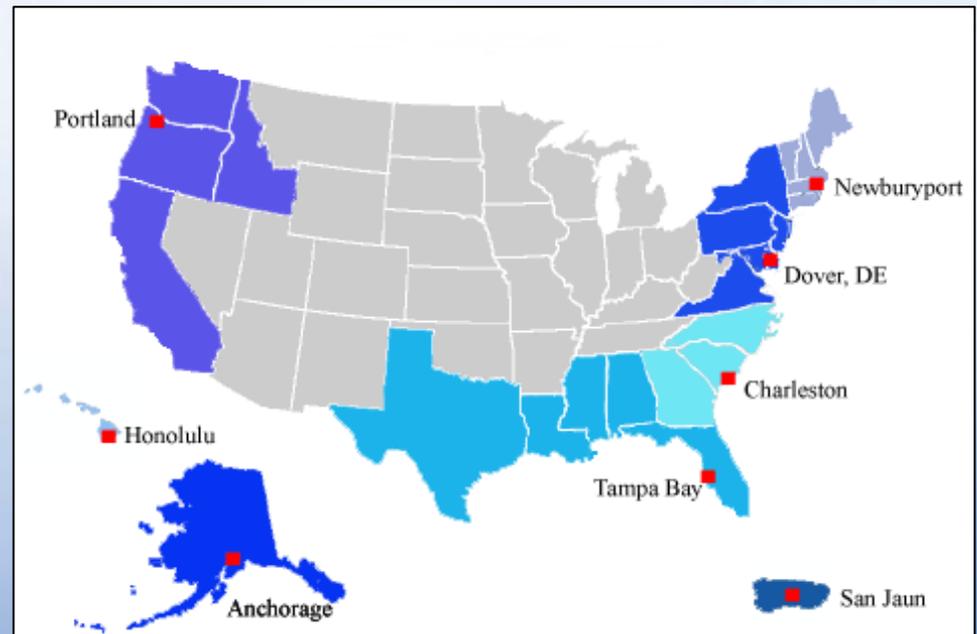
Nominate/Secretary
appoints

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**
 - “For each fishery under its authority that requires conservation and management”
- **Convene Committees and panels**
 - SSC; Fishing Industry Advisory Committee; Other advisory panels
- **Conduct Public Meetings**
 - Allow all interested to be heard
- **Submit Periodic Reports**



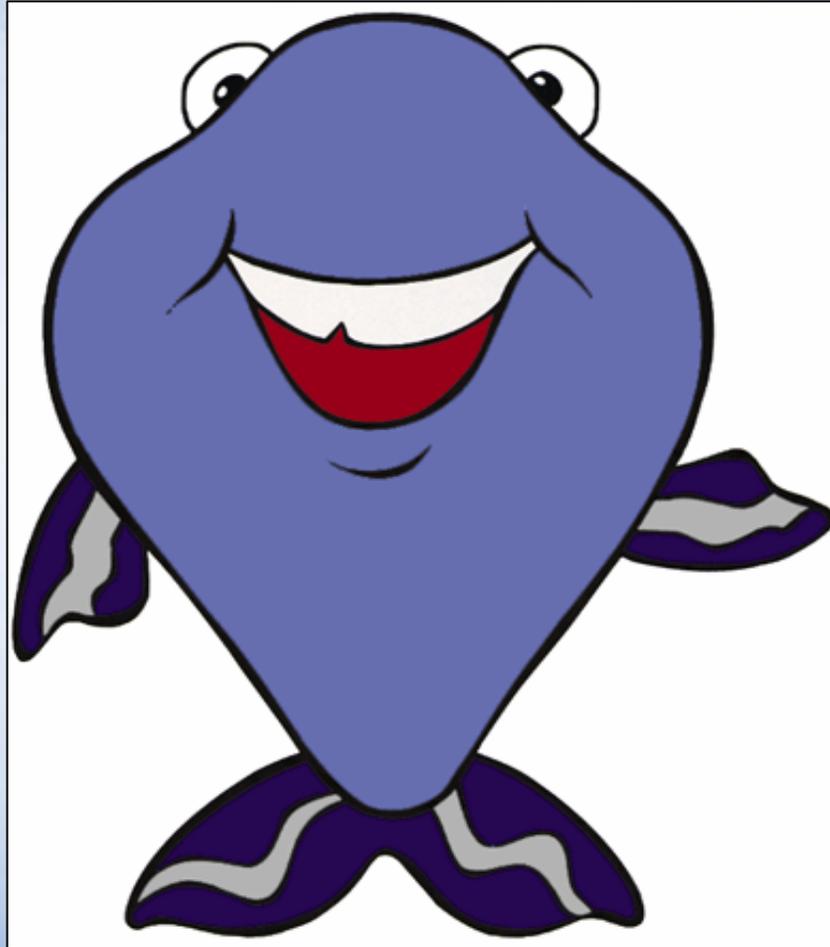
Councils: Procedural Issues

- **FACA exemption**
- **Open public meetings**
- **14-day advance notice of action items**
- **Disclose financial interests/recusal**

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Fishery Management Plans



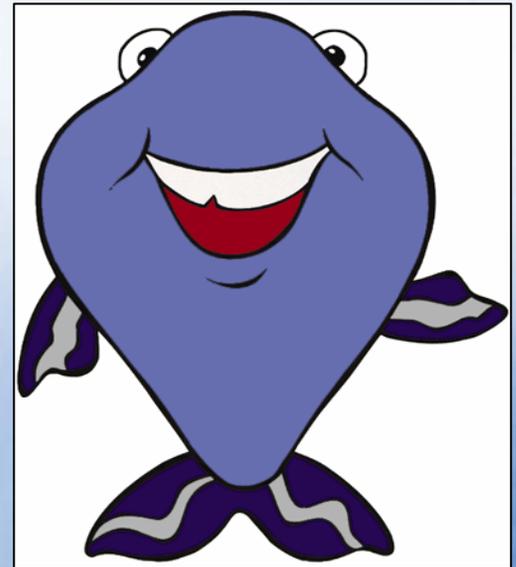
Fishery Management Plans

National Standards

FMP Components (Mandatory and discretionary)

Other Applicable Law

Secretarial Review

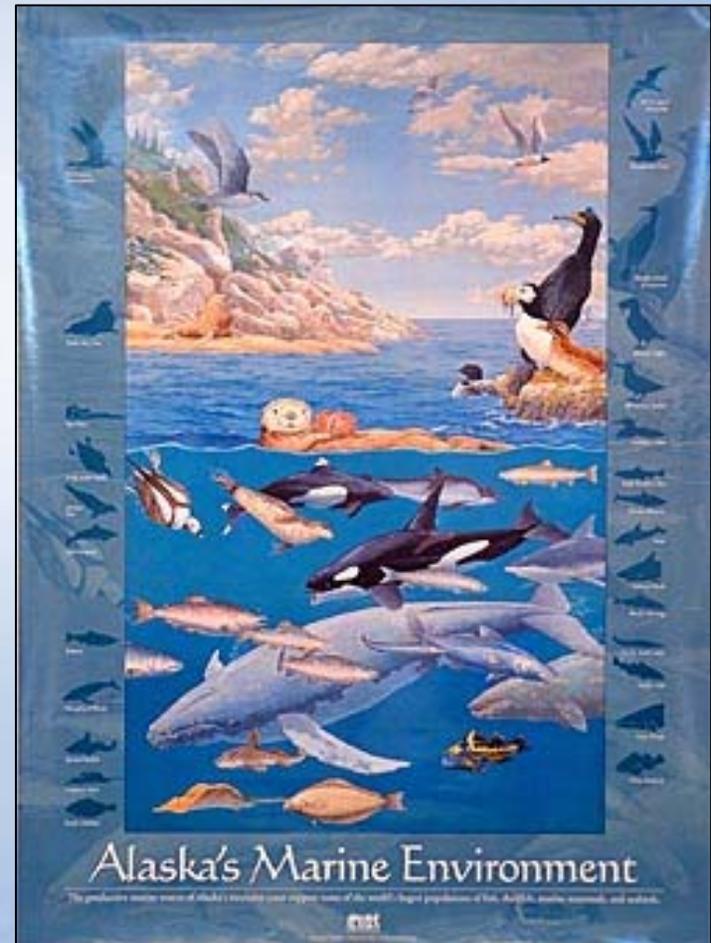


National Standards

- (1) Achieve OY while preventing overfishing**
- (2) Based on 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) Consider and 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 on communities ****
- (9) Minimize bycatch, and bycatch mortality ****
- (10) Promote safety of human life at sea ****

**** contains caveat re: practicability or consistency with conservation requirements.**

OY means: *Food, Recreation, and Ecosystems*



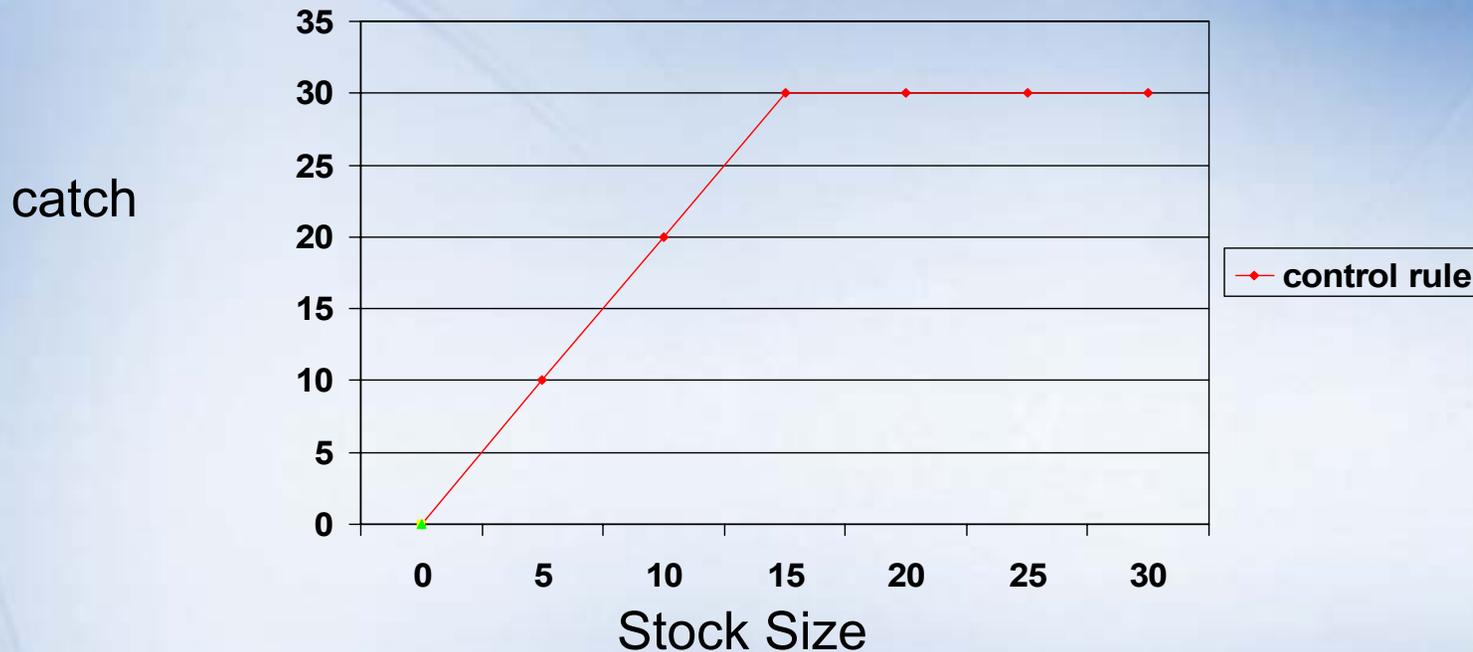
Achieve OY/Prevent Overfishing

- **OY = greatest overall benefit to the Nation**
 - With respect to: Food, recreation, marine ecosystems
 - Based on MSY, as reduced by:
 - Social, economic, or ecological factors
 - Consistent with Rebuilding
- **MSY**
 - Largest long-term average yield
 - Under prevailing ecological conditions
- **Overfishing**
 - Rate of fishing mortality
 - Jeopardizes long-term ability to produce MSY

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.

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**

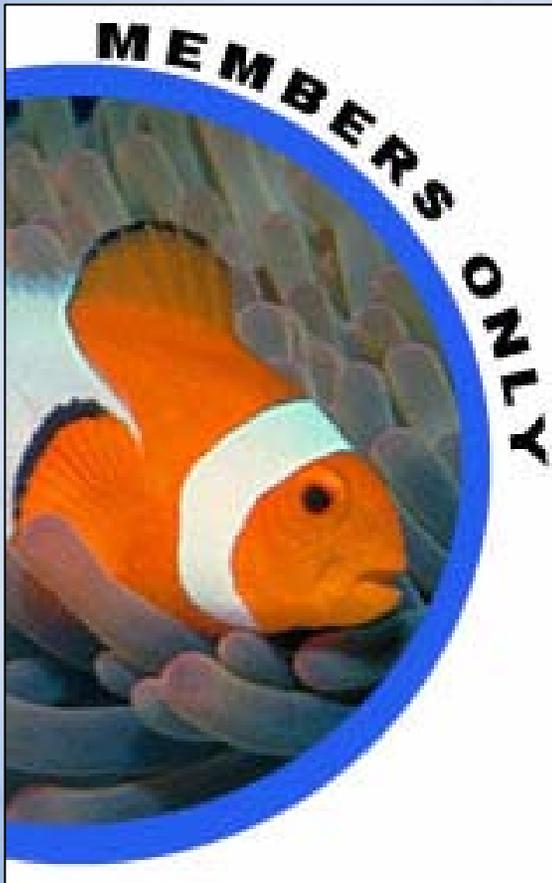
Oceana Case

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**
- (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) Prescribe other measures, requirements, or conditions and restrictions necessary and appropriate for the conservation and management of the fishery**

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.

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
- **APA:** Notice 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

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 - ◆ FMPs
 - ◆ *Special Provisions*
- ◆ **Parties and Roles**

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)



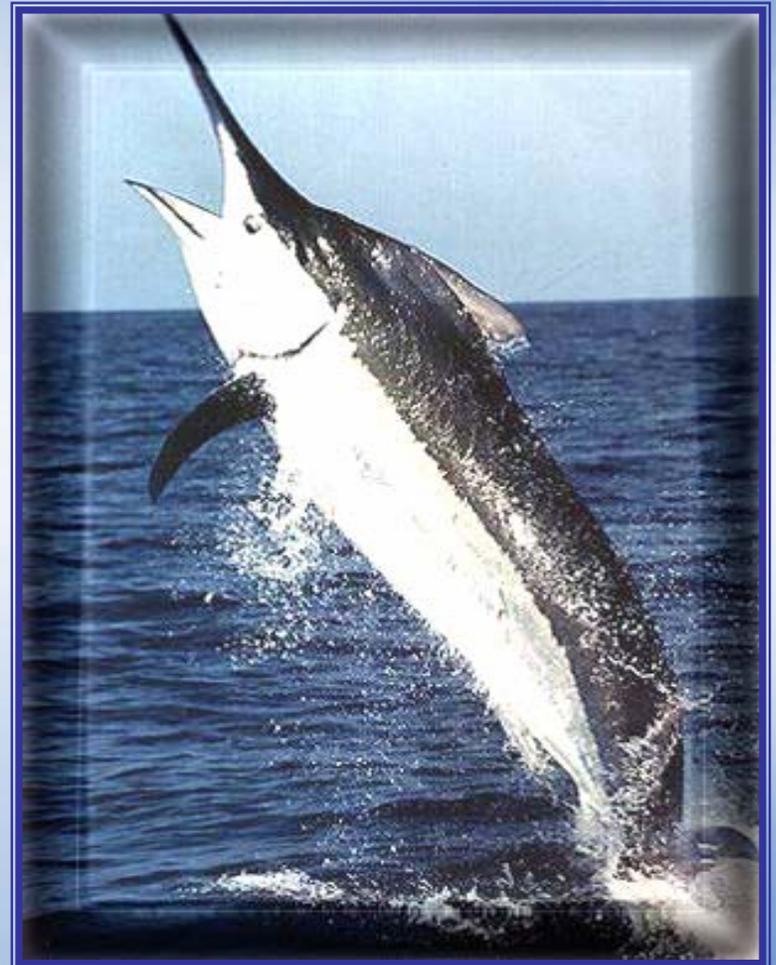
Ending Overfishing

- **Annual Status Report**
- **Detailed timelines**
- **If Council fails to act within one year, Secretary must**
- **Specifies criteria for Rebuilding plans**
 - **As short as possible**
 - **Not exceed 10 years**



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



http://www.nmfs.noaa.gov/habitat/habitatprotection/efh/fish_manage_b.htm

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:** Agencies must consult on actions that may adversely affect EFH
- **Conservation Recommendations/Response:**
 - Secretary must make conservation recommendation for actions that would adversely affect EFH.
 - Action agency must respond within 30 days

EFH Consultations on Council Actions

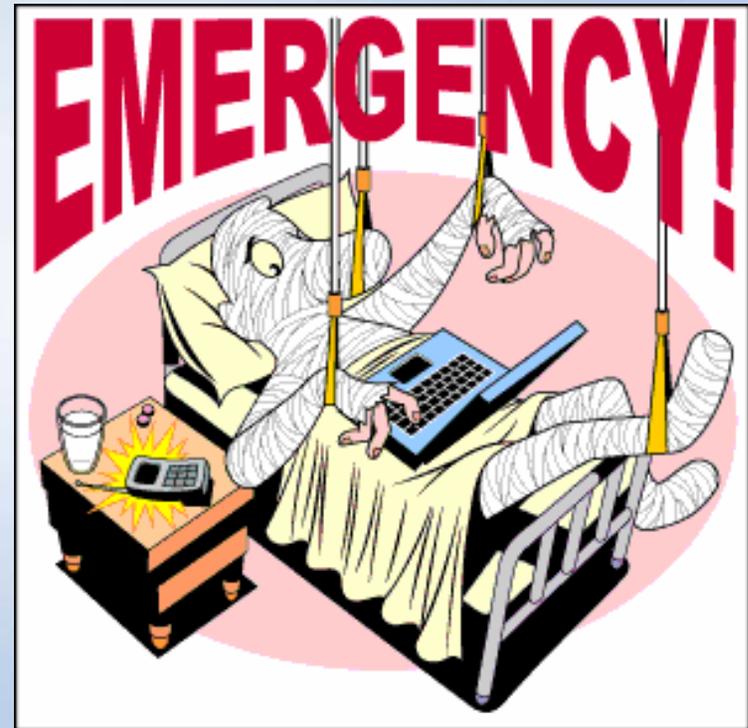
- Decision on whether consultation is needed
- EFH Assessment
- Iterative Process with HC
- Conservation Recommendations if appropriate
- Response within 30 days
- Draft Operational Guidelines



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



Additional Special Provisions

- ◆ Referendum for buyback
- ◆ Referendum for Red Snapper IFQs, etc
- ◆ Alaska and Western Pacific Community Development Programs

Who are the Parties?

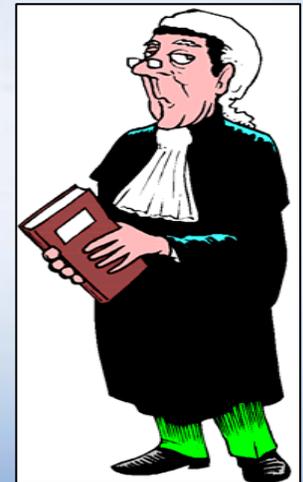


Meeting of the Pacific Fishery Management Council

Councils
and
NOAA
Fisheries



NOAA GC
DOC/GC



Other Agencies

External Forces:
States,
Congress, OMB



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**
- ◆ **Many Parties Involved in Implementation**