Introduction to the MSA

Council Member Orientation

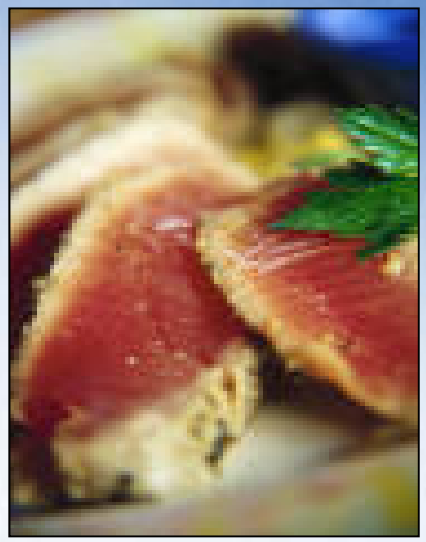
10/23-10/25

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

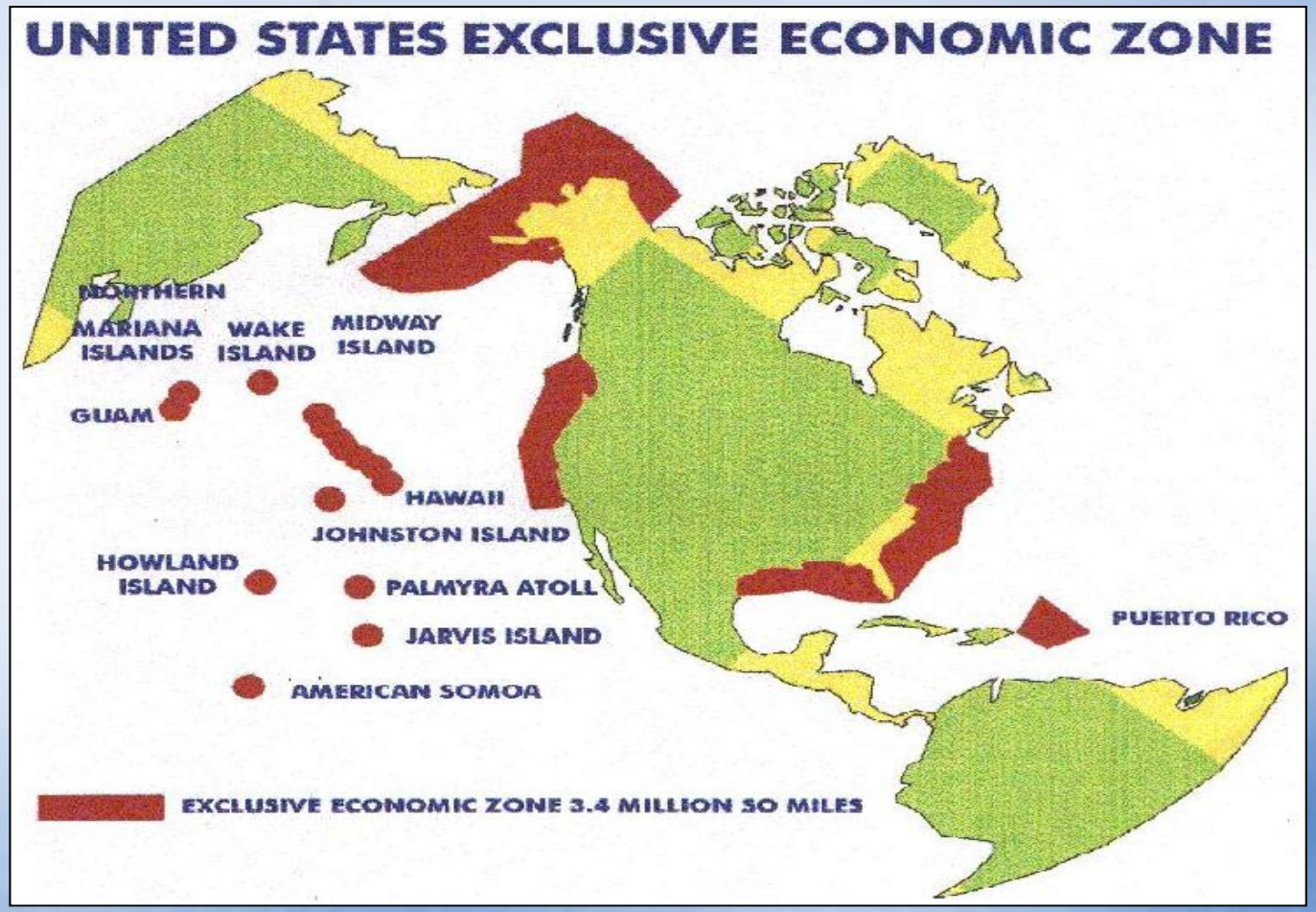


Background and History

- **Pre-1976**
  - State management within territorial waters
  - Foreign fishing in what is now EEZ

1976: FCMA

- Established FCZ/EEZ
- Set management structure



1996: Sustainable Fisheries Act

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

2006: MSRA

- End & prevent **overfishing**
- Strengthen **role of science in management**
- Promote **market-based management** strategies
- Improve **science & data**
- Streamline **environmental review**
- Enhance **international cooperation**
- **Council Member Training**

Structure of the MSA

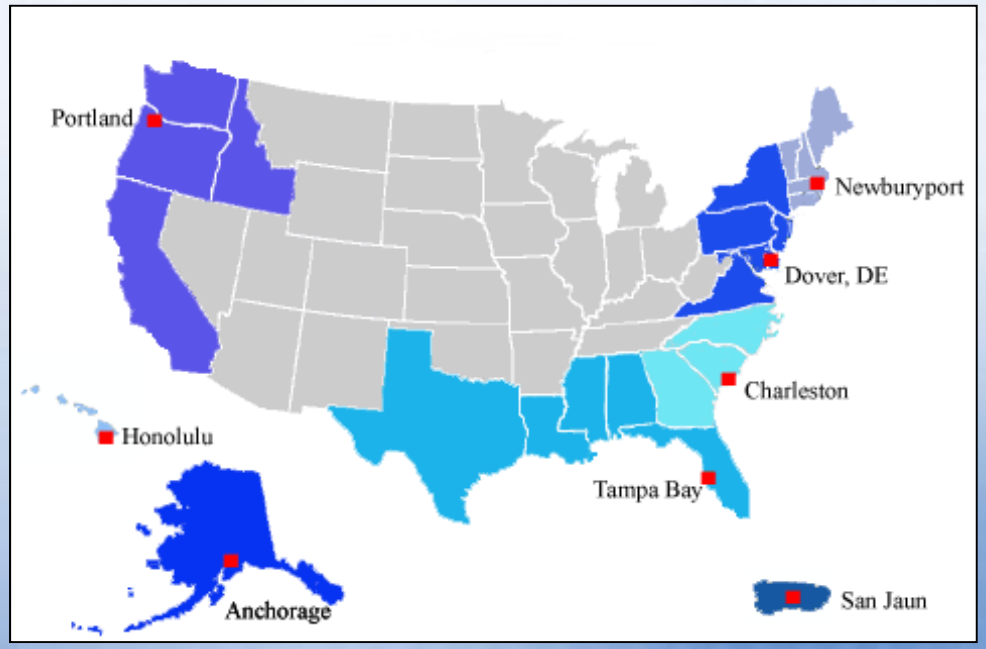
- Councils
- Fishery Management Plans (FMPs)
  - Achieve OY/Prevent Overfishing
  - Additional National Standards
  - FMP Components (Mandatory and discretionary)
  - Other Applicable Law
  - Secretarial Review
- Special Provisions

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**

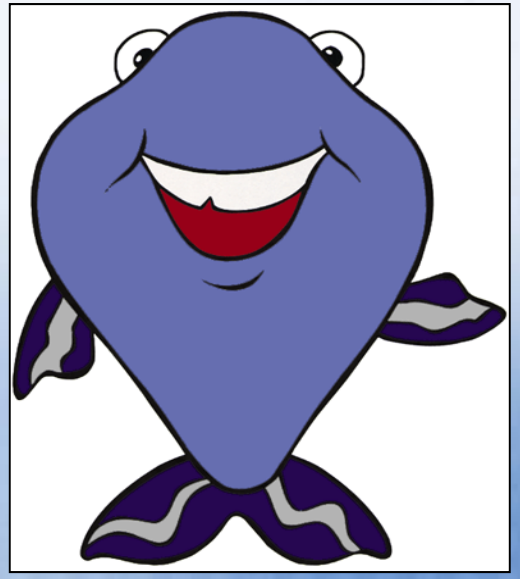
Fishery Management Plans

National Standards

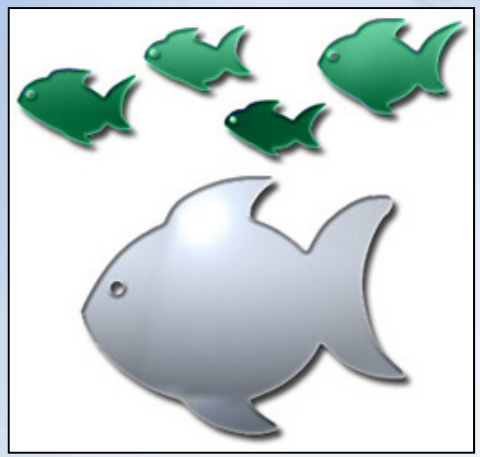
FMP Components (Mandatory and discretionary)

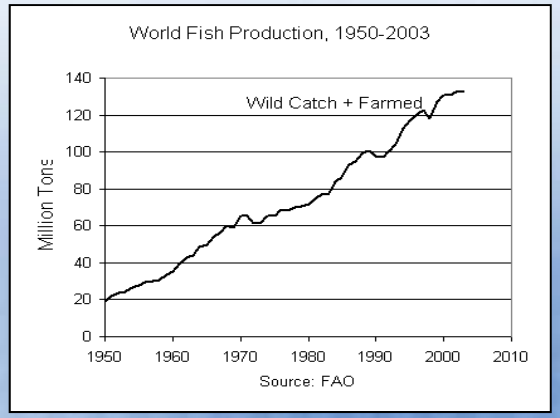
Other Applicable Law

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

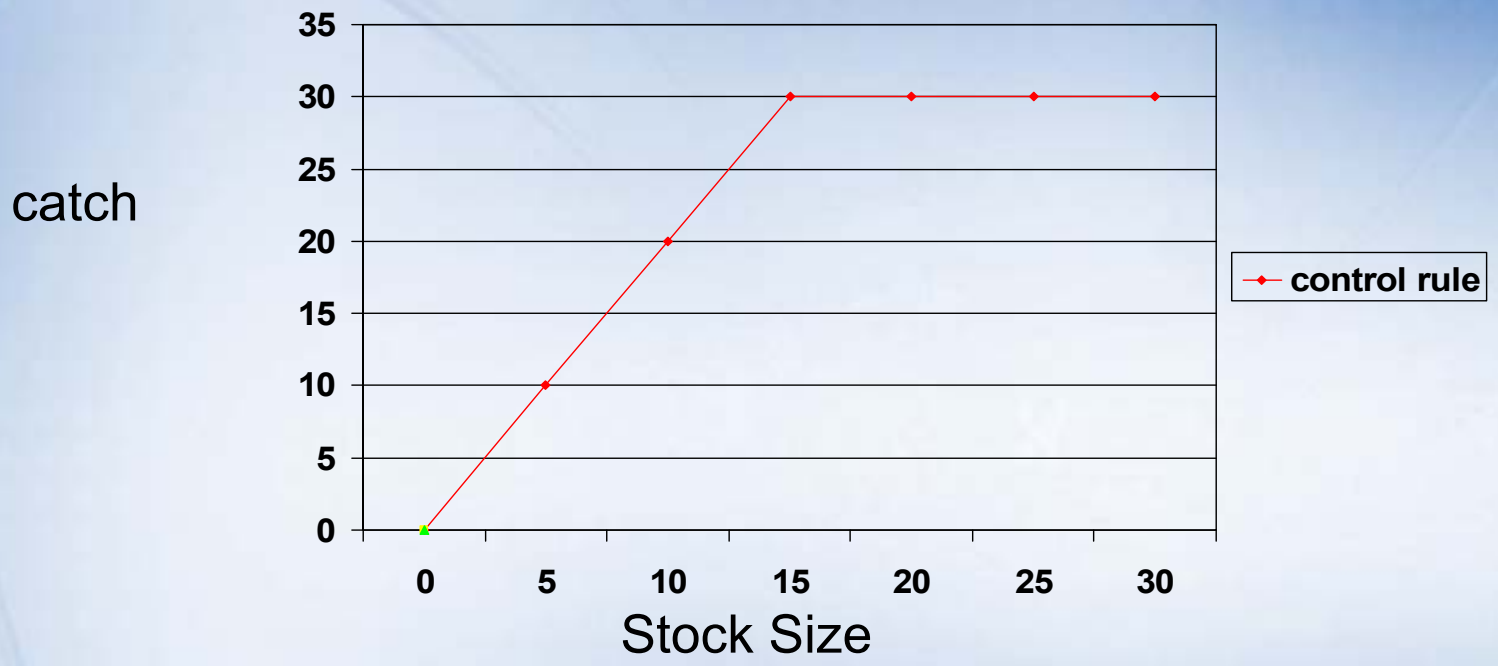
(12) Number, types, and mortality of fish caught and released recreationally; minimize mortality and ensure the extended survival

(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 anadramous 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
- **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

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)

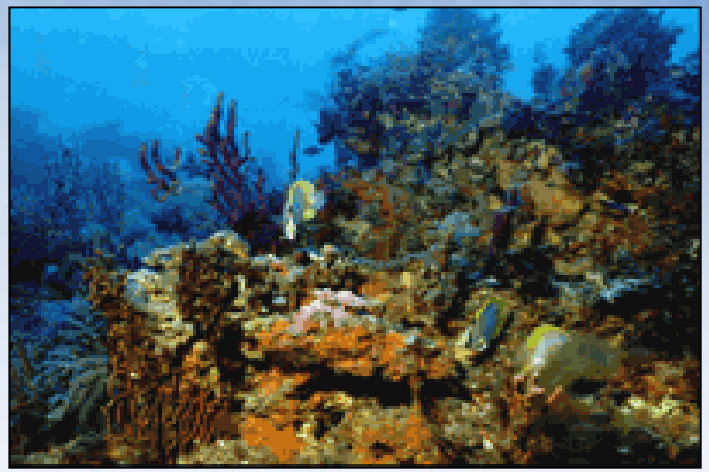
Ending Overfishing

- 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
  - 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



Council Comments

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