

# Introduction to the MSA



**Council Member  
Orientation**

**Nov. 1 – 3, 2016**

**Silver Spring, MD**

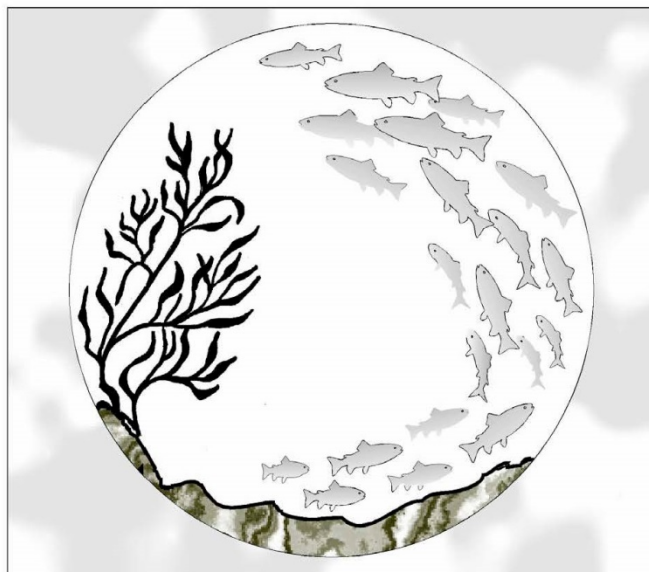
# **Objectives are for you to be able to:**

- **State the MSA's fishery management mission**
- **Describe the MSA's unique approach to fishery management**
- **Locate and Discuss key MSA requirements and Guidance Material**
- **Identify the 10 National Standards**

# The Blue Book



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



U.S. DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
National Marine Fisheries Service

# 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

- Public Trust Resources and Tragedy of the Commons
- 1960 Multiple Use Sustained Yield Act for land-based resources
- Efforts to tighten management control over public forests and lands throughout early 1970's
  - Regulatory programs for Secretaries of Interior and Agriculture, assessments, management plans, advisory boards subject to FACA

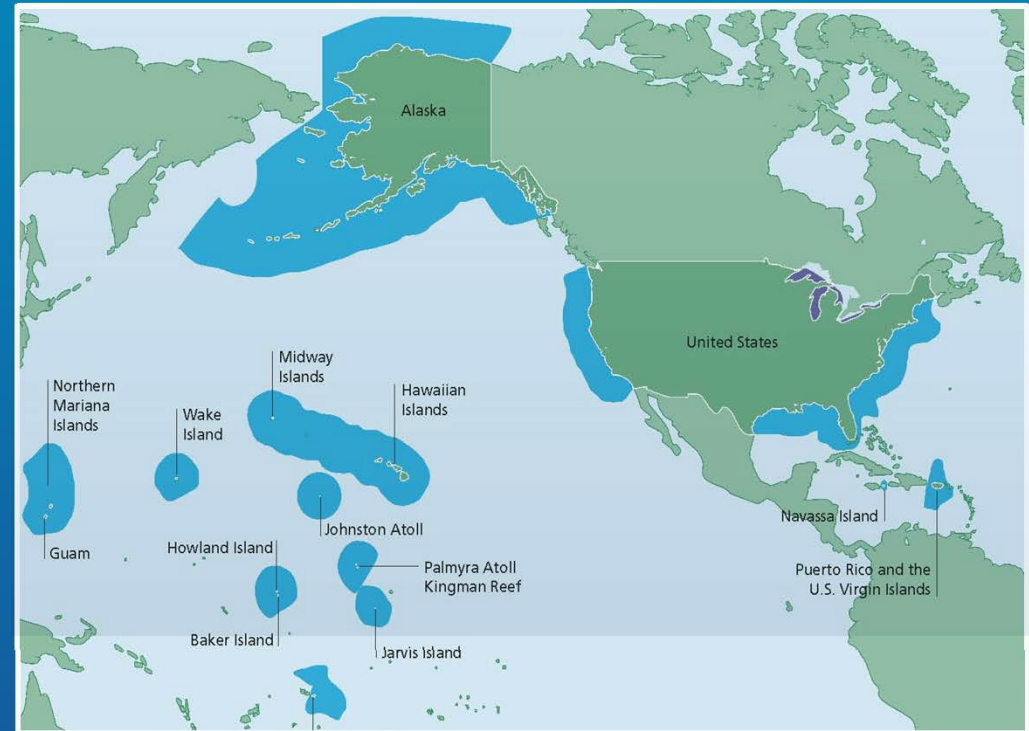
# Background and History

- **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)





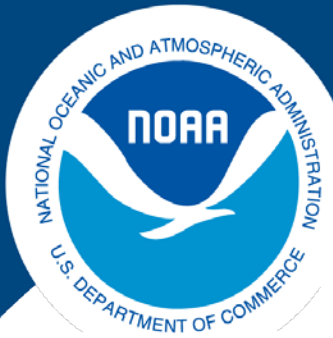
# The MSA Approach to Fisheries Management

- Federal Jurisdiction - EEZ: MSA §§ 2(b)(1)(p. 2); and 3(11) (p. 7)
- National Standards - MSA §§ 301(a)(p. 58)
- Councils - MSA §§ 302(b)(1)(p. 59 – 73)
- Fishery Management Plans (FMPs)
  - MSA §§ 302(h)(1)(p. 67); 303 (p. 74); 304(c) (p.89)
  - Consistent with National Standards
  - FMP Components (Mandatory and discretionary)
  - Other Applicable Law - MSA §§ 303(a)(1)(C) (p. 74); 304(a)(3) 9p. 88)
  - Secretarial Review MSA §§ 303(a) - (b) (p. 88-89).
- Special Provisions

# NMFS Guidance: Determining need for Conservation and Management

- Included in NMFS rule revising NS 1 Guidelines
- October 18, 2016, 81 FR 71858

**-- 50 CFR 600.305(c)**



**NOAA  
FISHERIES**

# Determining which stocks require federal management

## 10 Factors To Consider:

1. The stock is an important component of the marine environment.
2. The stock is caught by the fishery.
3. Whether an FMP can improve or maintain the condition of the stock.
4. The stock is a target of a fishery.
5. The stock is important to commercial, recreational, or subsistence users.
6. The fishery is important to the Nation or to the regional economy.
7. The need to resolve competing interests and conflicts among user groups and whether an FMP can further that resolution.
8. The economic condition of a fishery and whether an FMP can produce more efficient utilization
9. The needs of a developing fishery, and whether an FMP can foster orderly growth
10. The extent to which the fishery is already adequately managed by states, by state/Federal programs, by Federal regulations pursuant to other FMPs or international commissions, or by industry self-regulation, consistent with the Requirements of the Magnuson-Stevens Act and other applicable law.

Requirements

Reference Points

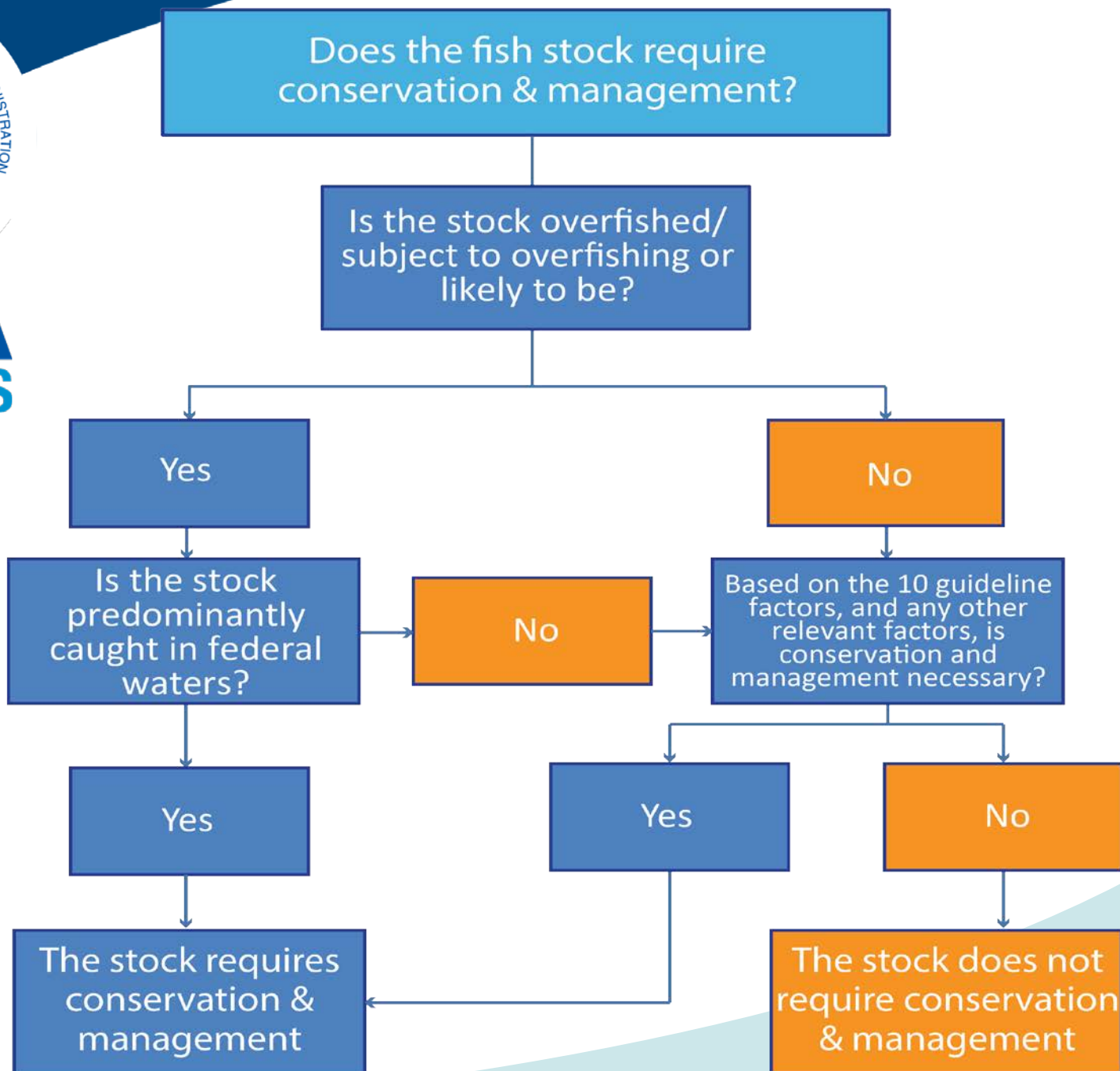
Performance

Wrap-up

# Determining which stocks require federal management



**NOAA**  
**FISHERIES**



# 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





# **The 10 National Standards**

- (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**

# Special Provisions of the MSA

- Secretarial FMPs/amendments (permissive) MSA § 304(c)(p. 89).
- Ending Overfishing MSA § 304(e) (required) (p. 92-93).
- Highly Migratory Species (HMS) MSA § 304(g)(p. 94).
- Essential Fish Habitat MSA §§ 303(a)(7)(p. 75); 305(b)(p. 98-99)
- Emergency Actions MSA §§ 305(c) (p. 99 – 100)
- Tribal rights, native customs, indigenous communities  
(see handout)

# 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





# N.S.1 Guidelines: Rebuilding Guidance

## Minimum and maximum time periods

$T_{\text{MIN}}$  and  $T_{\text{MAX}}$

$T_{\text{target}}$

shortest time to rebuild

cannot exceed  $T_{\text{max}}$

## Adequate Progress

Emergency measures that reduce, but do not end, OFing

What if not rebuilt by  $T_{\text{target}}$

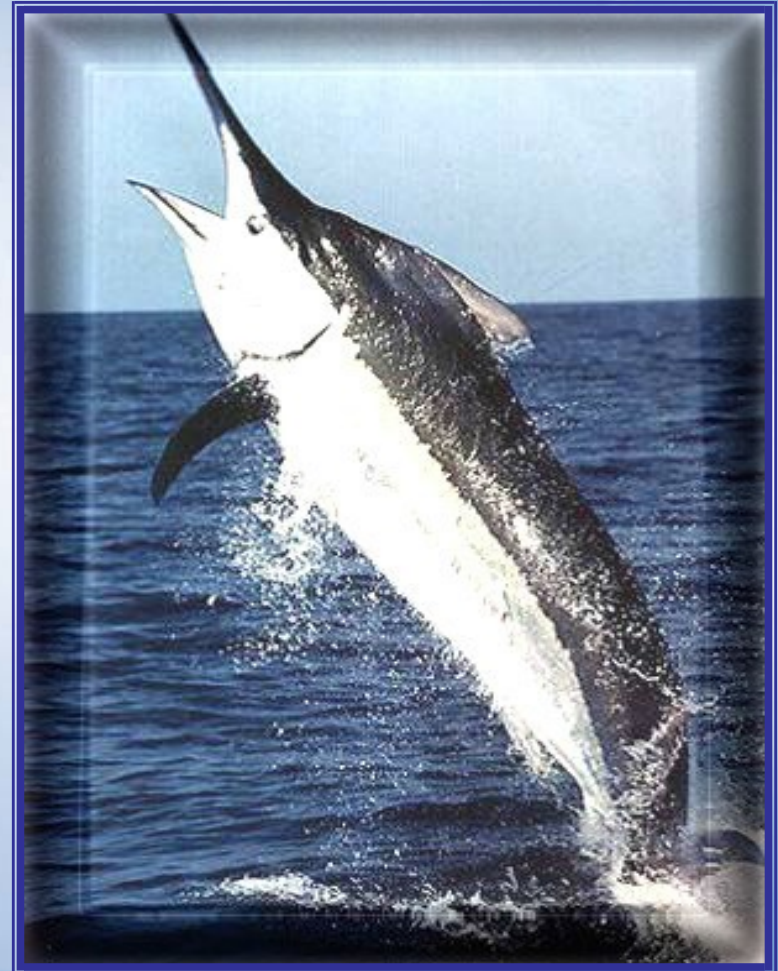
Discontinuing Rebuilding based on new information

--50 CFR 600.310(j)

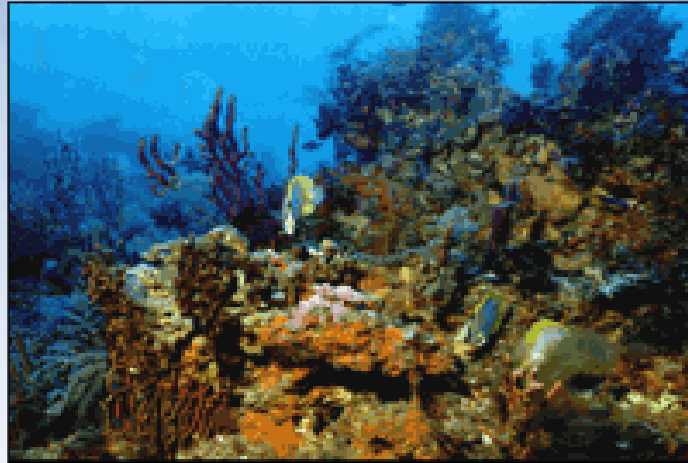


# Highly Migratory Species (HMS)

- **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



# Definitions included in the MSA:

- Section 3 of MSA (pp. 4 – 12)
- Defines 50 terms
- Quick peek:
  - What is “conservation and management”?
  - What is a “fishery”?
  - What is “optimum”?
  - What is “overfished”?
  - What are “charter”, “commercial”, and “recreational fishing”?

# Where to go for Guidance

- **National Standard Guidelines**
- **NMFS Policy Directives System**
- **Operational Guidelines**



# 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**
  - ◆ **Definitions**