

Other Applicable Laws (OALs)



There are three main types of requirements that apply: procedural, substantive, and timing.

1. **Procedural:** Required procedures/steps you must go through, e.g., public comment periods, required notices, and specified steps such as the Secretarial review process under the MSA.
2. **Substantive:** There are some requirements that do constrain our discretion and may affect the final decision. For instance, if an action may affect endangered species, the agency must be able to determine that the action will not “jeopardize the continued existence of the species.” If this determination cannot be made, the action cannot be taken.
3. **Timing:** Several statutes include specific provision regarding time periods within which certain decisions must be made, or otherwise mandating adherence to a certain schedule. For example, the MSA requires that a final decision on a Council-recommended FMP be made within 95 days of transmission. The APA requires a 30-day cooling off period between promulgation of a final rule and its effective date.

Considerations: Somewhere in the gray area between substantive and procedural requirements are various provisions mandating that the agency “consider” certain issues on the record. While these requirements do not affect the agency’s ultimate decision-making discretion, the agency must nevertheless consider and document these issues. Examples include the RFA’s mandate to consider economic impacts on small entities and to consider and take comment on alternatives; and NEPA’s requirement to consider environmental impacts and alternatives.

The main legal requirements that we must address in context of developing fishery management actions under the MSA are set forth below. Most contain a mixture of procedural and substantive requirements that can affect the timing and the outcome of fishery management decisions. Each of these statutes will be discussed in more detail in this course.

- APA
- MSA
- NEPA
- ESA
- MMPA
- EFH
- RFA, CRA, and EO 12866 and 13272
- CZMA
- EO 13132
- PRA
- DQA
- FOIA