

Overview of National Standards Outline

- I. Overview
 - A. 10 National Standards
 - B. National Standard Guidelines
 - C. Case Law/Lessons Learned
- II. National Standards 1 - 10
 - A. National Standard 1 -
 - 1. MSA: Achieve OY/Prevent Overfishing
 - a. Achieve OY
 - i. Greatest overall benefit to Nation
 - a) Food production
 - b) Recreational opportunities
 - c) Marine ecosystems
 - ii. Based on MSY, as reduced by
 - a) Social
 - b) Economic, or
 - c) Ecological factors
 - iii. Must be consistent with rebuilding if overfished
 - b. MSY
 - i. Largest long-term average yield
 - ii. Under prevailing ecological/environmental conditions
 - c. Prevent Overfishing
 - i. Rate of fishing mortality
 - ii. Jeopardizes long-term ability to achieve OY
 - 2. National Standard 1 Guidelines Revised 1/2009: including sweeping guidance relevant to many other sections of the MSA Principle a. Set targets safely below limits
 - a. Control Rules, Targets, and Limits
 - b. Responds to Uncertainty Conservatively
 - c. ACLs and AMs
 - d. Ending Overfishing
 - e. Terminology
 - i. Ecosystem Components
 - ii. SDC
 - iii. Overfishing/Overfished
 - iv. MFMT
 - v. MSST
 - vi. ABC/ABC Control Rule
 - vii. ACL
 - viii. ACT/ACT Control Rule
 - ix. AMs
 - f. Rebuilding and Ending Overfishing
 - i. Minimum and Maximum Time Periods: T_{min} , T_{max} , T_{target}
 - ii. International Overfishing
 - iii. Can overfishing be allowed
 - B. National Standard 2 -
 - 1. MSA: Use Best Available Scientific Information
 - 2. National Standard Guidelines:

Overview of the Fishery Management Process

- a. "Best Available" may be incomplete or allow conflicting interpretations
 - b. Councils should justify choices
 - c. What to do with new data
 - d. SAFE Report
- 3. Case Law
 - a. It is OK to rely on limited data, and to make decisions about which studies to rely on.
 - b. It is not OK to use data that we ourselves have suggested is unreliable without explaining the rationale.
 - c. It is not OK to make a decision based on politics instead of science.
- C. National Standard 3 - Manage Stocks as a Unit
 - 1. MSA: "To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination."
 - 2. National Standard Guidelines
 - a. Discretion in defining management unit
 - i. Depends on FMP's objectives

- ii. May be based on biological, geographic, economic, technical, social, or ecological issues
 - b. Record should explain
 - i. Rationale for selection
 - ii. Impacts of other activities
 - iii. Range, distribution of stocks and fishing practices
- D. National Standard 4 – No discrimination; Rules for Allocations
 - 1. MSA
 - a. Management measures shall not discriminate between residents of different states.
 - b. If necessary to allocate fishing privileges, such allocation shall be:
 - i. Fair and equitable
 - ii. Reasonably calculated to promote conservation.
 - iii. No individual, corporation, or other entity acquires an excessive share of privileges
 - 2. National Standard Guidelines: "Allocation" means –
 - a. Direct and deliberate distribution of the opportunity to participate
 - b. Among identifiable, discrete user groups or individuals
 - c. Incidental allocative effects not included
 - 3. Case Law
 - a. Incidental allocative effects are OK.
 - b. Allocations are OK if necessary to achieve conservation benefits.
- E. National Standard 5 – Efficiency in Utilization
 - 1. MSA: "Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; Except that no such measure shall have economic allocation as its sole purpose."
- F. National Standard 6 – Variations and Contingencies
 - 1. MSA: "Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches."
 - 2. National Standard Guidelines:
 - a. Acknowledge risks of uncertainties and unpredictable events
 - b. Encourage the use of buffers and flexible management strategies
- G. National Standard 7 – Minimize costs; Avoid Duplication
 - 1. MSA: Conservation and management measures shall, where practicable, minimize costs, and avoid unnecessary duplication."
 - 2. National Standard Guidelines
 - a. Not every fishery needs an FMP
 - b. Consider costs: fuel costs, enforcement costs, burdens of collecting data
 - c. Analysis to show benefits justify costs
- H. National Standard 8 – Communities
 - 1. MSA: Measures shall
 - a. Take into account the importance of fishery resources to fishing communities
 - b. Consistent with the conservation requirements of the Magnuson-Stevens Act (including the prevention of overfishing and rebuilding of overfished stocks),
 - c. In order to:
 - i. Provide for the sustained participation of such communities; and
 - ii. To the extent practicable, minimize adverse economic impacts on such communities.

2. National Standard Guidelines
 - a. "Fishing Community" means
 - i. Substantially dependent on the fishery, or
 - ii. Substantially engaged in harvesting or processing to meet social and economic needs
 - iii. Geographically based
 - b. "Sustained Participation" means: "continued access to the fishery within the constraints of the condition of the resource."
 3. Case Law: NS 1 takes precedence over NS 8
- I. National Standard 9 – Bycatch
1. MSA: Conservation and management measures shall, to the extent practicable:
 - a. Minimize bycatch; and
 - b. To the extent bycatch cannot be avoided, minimize the mortality of such bycatch.
 2. National Standard Guidelines: "Bycatch" means:
 - a. "Fish" that are harvested but not sold or kept
 - b. (Does not include birds or mammals)
 - c. Includes economic and regulatory discards and unobserved mortalities
 - d. Does not include legally retained non-target species
- J. National Standard 10 – Safety of Life at Sea
1. MSA: "Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea."
 2. National Standard Guidelines: Councils should recognize that management constraints can put pressure on fishermen to fish in unsafe conditions, and Councils should avoid such pressures where possible.