

MSA Outline

- I. Introduction
- II. MSA Overview
 - A. History
 - B. Management Structure
 - 1. Councils
 - 2. FMPs
 - a. National Standards
 - b. FMP Components
 - c. Other Applicable Laws (OALs)
 - 3. Secretarial Review
- III. Procedure and Timing
 - A. Council Process
 - 1. Open Public Meeting
 - 2. 14 day advance publication of action items
 - B. Secretarial Review
 - 1. Strict timeline *MSA 95-day flow chart
 - 2. Limited scope of review (approve, disapprove, partially approve)
 - C. Other Procedural Requirements
 - 1. E.g., Red Snapper IFQ
 - 2. E.g., Buyback Referendum
- IV. Substantive Determinations
 - A. National Standards-Contents/Key Words/Triggers
 - 1. N.S. 1 – Achieve)Y/prevent overfishing
 - a. Define OY
 - i. Greatest Benefit to the Nation
 - a) Food Protection
 - b) Recreation
 - c) Marine Ecosystem
 - ii. Based on MSY as reduced by
 - a) Biological Factors
 - b) Economic Factors, or
 - c) Ecological Factors
 - iii. Must be consistent with rebuilding
 - b. Define MSY
 - i. Largest long-term average yield
 - ii. Under prevailing ecological conditions
 - c. National Standard 1 Guidelines Revised 1/2009: including sweeping guidance relevant to many other sections of the MSA
 - i. Control Rules, Targets, and Limits
 - ii. Responds to Uncertainty Conservatively
 - iii. ACLs and AMs
 - iv. Ending Overfishing

- v. Terminology
 - a) Ecosystem Components
 - b) SDC
 - c) Overfishing/Overfished
 - d) MFMT
 - e) MSST
 - f) ABC/ABC Control Rule
 - g) ACL
 - h) ACT/ACT Control Rule
 - i) AMs
 - vi. Rebuilding and Ending Overfishing
 - a) Minimum and Maximum Time Periods: T_{min} , T_{max} , T_{target}
 - b) International Overfishing
 - c) Can overfishing be allowed
2. N.S. 2 – Based on best available science
 - a. SAFE Report – regularly updated summary of best available info re: fishery.
 - b. Incomplete, conflicting, and new info may be “best available if warranted/justified by record
 3. N.S. 3 – Manage stocks as a unit
 - a. To the extent possible
 - b. Discretion in defining “unit”. May be based on various factors:
 - i. Biological
 - ii. Geographic
 - iii. Economic
 - iv. Technical
 - v. Social
 - vi. Ecological
 - c. Record should address certain factors: range and distribution, fish patterns, alternative definitions, rationale, effects of adjacent activities.
 4. N.S. 4 – Restrictions on Allocations
 - a. FMP shall not discriminate against residents of different states * case law available
 - b. allocations must be:
 - i. Necessary
 - ii. Fair and equitable
 - iii. Calculated to promote conservation
 - iv. Prevent an individual or corporation from acquiring an “excessive share”
 5. N.S. 5 – Efficiency in Utilization
 - a. no measure may have economic allocation as its sole purpose
 - b. where practicable, FMPs shall consider efficiency in utilization
 6. N. S. 6 – FMPs shall take into account variations in fisheries and allow for contingencies
 7. N.S. 7 – Minimize costs and avoid unnecessary *where practicable (Case law available)
 8. N.S. 8 – Fishing Communities
 - a. Consistent with conservation requirements *case law available

- b. Shall consider communities, in order to:
 - i. provide for sustained participation
 - ii. to the extent practicable, minimize adverse economic impacts
 - c. “Fishing Community” means
 - i. geographically based
 - ii. substantially dependent
 - 9. N.S. 9 – Bycatch
 - a. to the extent practicable
 - b. minimize bycatch
 - c. minimize the mortality of bycatch that cannot be avoided
 - d. “bycatch” means:
 - i. Fish harvested but not kept
 - ii. Includes at-sea discards
 - iii. Does not include retained incidental catch
 - iv. “Fish” means marine animal and plant life other than mammals and birds.
 - 10. N.S. 10 – Safety of Life at Sea
 - a. To the extent practicable
 - b. Protect the safety of human life at sea
- B. Mandatory FMP Components
 - 1. Prevention overfishing, protect, rebuild, restore, long-term health and sustainability
 - 2. Description of fishery
 - 3. Specify MSY and OY
 - 4. Specify capacity and domestic harvesting and processing of OY
 - 5. Specify date to be submitted
 - 6. Provide for temporary adjustments
 - 7. EFH
 - a. Describe and identify
 - b. Minimize
 - i. To the extent practicable
 - ii. Adverse impacts from fishing
 - c. Identify other actions to conserve habitat
 - 8. Specify data needed to implement FMP
 - 9. Include “Fishery Impact Statement”
 - 10. Include overfishing definitions
 - a. Specify objective and measurable criteria
 - b. Contain measures to prevent overfishing and rebuild overfished stock
 - 11. Bycatch
 - a. standardize reporting methodology *Case Law
 - b. to the extent practicable, minimize bycatch
 - c. (to the extent practicable), minimize mortality of unavoidable bycatch
 - 12. Catch and Release
 - a. assess type, amount, and mortality
 - b. to the extent practicable, minimize mortality, ensure extended survival
 - 13. Describe sectors
 - a. describe commercial, recreational, and charter sectors
 - b. to the extent practicable, quantify landings trends by sectors

14. Allocate necessary harvest restrictions equitably among sectors
 15. Establish a mechanism for specifying annual catch limits including accountability measures.
- C. Discretionary FMP Components
1. May require permits
 2. Designate time/area management requirements
 3. Restrictions on catch
 4. Gear requirements
 5. Incorporate state measures
 6. Establish Limited Access, if taking into account:
 - a. Present participation
 - i. Control dates
 - ii. Staleness factor
 - b. Historical fishing practices
 - c. Economics of the fishery
 - d. Ability of vessels to fish elsewhere
 - e. Social and cultural framework
 - f. Any other relevant considerations
 7. Required processors to submit data
 8. Required observers
 9. Assess and specify effects of FMP on anadromous fish
 10. Include harvest incentives for reduced bycatch
 11. Reserve a portion of ABC for research
 12. Action to conserve habitat of target and non-target species
 13. -----
 14. Other necessary and appropriate measures
- D. Other Applicable Law: Note that FMPs must comply with other applicable law in order to be approved.
- V. Other MSA Provisions
- A. EFH Provision
 - B. HMS
 - C. Secretarial Plans and Amendments
 1. May if the council fails to act in a reasonable time
 2. May if the Secretary disapproves a council submission and council fails to resubmit
 3. Must if overfished and Council fails to act within 1 year
 4. Special timelines and procedures apply
 - D. Prevention of Overfish and Rebuilding Requirements
 - E. LAPPs
 - F. Emergencies
 1. Secretary may take action without usual MSA process if:
 - i. Emergency or overfishing exists, or interim measures are necessary to address overfishing
 - ii. 180 days, with one extension
 - iii. Other applicable law still apply – must be evaluated.