

# Federal Fisheries Regulatory System

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# Presentation Highlights

- Overview of Magnuson-Stevens Act
- Federal regional councils and role
- NOAA Fisheries' role
- How the regulatory process works
- Overview of other applicable law
- Information sources and contacts

# Magnuson-Stevens Fishery Conservation and Management Act

- Enacted in 1976 as the nation's primary law governing fisheries in federal waters
- Extended US jurisdiction to 200 mi (3-200 mile Exclusive Economic Zone)
- Established national standards and protocol for development of fishery management plans and their implementation, including consistency with other applicable law
- Established 8 regional councils charged with the development of policy and conservation and management measures of the nation's fisheries, with oversight by NMFS

## MSA – cont.

- Initial focus of the MSA was to extend federal jurisdiction and management of foreign fisheries within the EEZ and promote the development of domestic fisheries
- Amended under the Sustainable Fisheries Act in 1996; focus shifted to science based management of domestic fisheries

## **MSA – 1996 amendments enacted mandates for more proactive management strategies**

- Minimize bycatch (discards)
- Prevent overfishing and rebuild overfished stocks
- Protect essential fish habitat (EFH)
- Enhance research
- Improve monitoring and compliance
- Greater consideration of coastal communities and safety during development of proposed management measures

## New MSA Reauthorization Signed by President January 12, 2007

- Preserves and strengthens regional fishery management councils
- Mandates use of annual catch limits to prevent overfishing
- Establishes guidelines for limited access privilege programs (LAPPs)
- Realigns environmental review process under NEPA with the MSA
- Strengthens role of science in decision making
- Improves data collection for better management

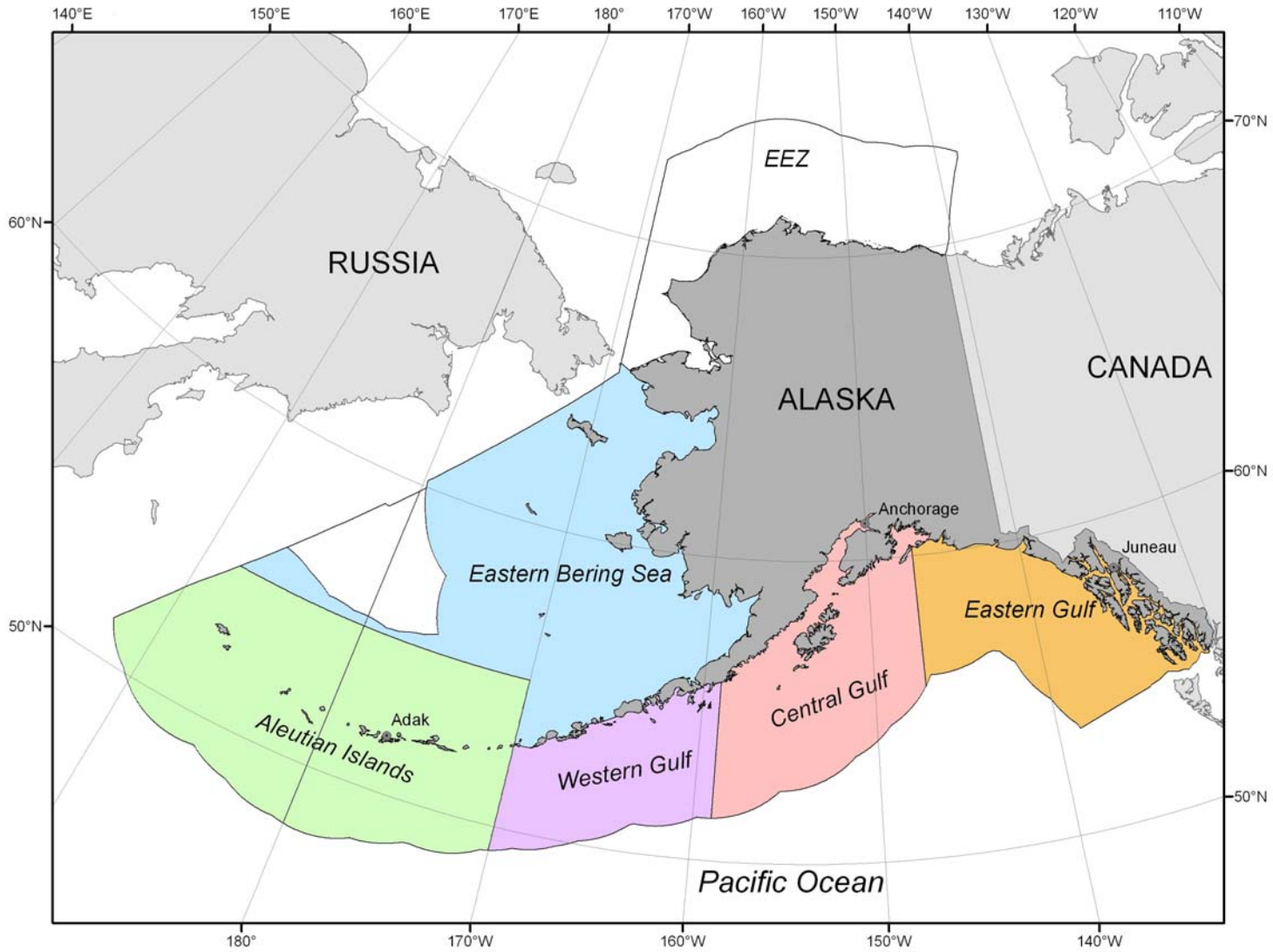
# Role of Councils

- Eight regional fishery management councils play a major role in developing fishery management plans and supporting regulations for each of the nation's coastal fisheries in need of management and conservation. The MSA sets out standards and guidelines for the management plans, but leaves the councils with significant discretion in implementing them.

# Federal Jurisdiction off Alaska

- Generally does not extend into State of Alaska waters (within 3 nm from shore) nor beyond the EEZ (200 nm from shore)
- Federal requirements outside the EEZ can be extended to vessels operating with a federal fisheries permit (e.g., VMS and other monitoring requirements)
- Federal management of the Pacific halibut fishery is extended throughout US waters
- Coordination between State and federal management organizations important and reliant on stakeholder input.

## Exclusive Economic Zone (EEZ) in the waters off Alaska.



# Role of NMFS

- The National Marine Fisheries Service within the Department of Commerce has oversight authority over the management recommendations developed by the regional councils. NMFS implements, monitors, and manages the fisheries consistent with the approved management plans developed by the councils.

# North Pacific Fishery Management Council (NPFMC)

- Origin: The NPFMC is one of 8 regional councils established by the Fishery Conservation and Management Act of 1976. The NPFMC is unique in that jurisdiction is specific to waters off only one state.
- Structure: 11 voting members: AK (6), WA (3), OR (1), and 1 from NMFS; and 4 non-voting members (USFWS, USCG, PSMFC, DOS).
- Function: The Council maintains 5 fishery management plans (BSAI Groundfish, GOA Groundfish, BSAI King and Tanner Crabs, Scallop, and Salmon).
- Process: The NPFMC meets 5 times/year, concurrently with its:
  - Advisory Panel (20 members from various constituencies)
  - Scientific and Statistical Committee (14 scientists from academia and federal/state agencies)
  - Public testimony is taken at all meetings, for all issues.

# NPFMC Management Partnerships

- NOAA Fisheries: Alaska Region Office and Alaska Fisheries Science Center
- Alaska Department of Fish & Game
- Alaska Board of Fisheries
- International Pacific Halibut Commission
- Pacific States Marine Fisheries Commission
- U.S. Coast Guard
- U.S. Fish & Wildlife Service

# Who Does What

- Propose changes - Public & stakeholders identify management or conservation issues and concerns; provide input for proposed change
- Policy Development —NPFMC guided by AP, SSC, public comment, NOAA Fisheries, NOAA General Counsel.
- Analyses—NPFMC staff, NOAA Fisheries, or contractor, depending on issues and work load.
- Regulations—NMFS Alaska Region staff in consultation with NOAA Enforcement, ADF&G, U.S. Coast Guard and NOAA General Counsel.

# Keys to Successful Fishery Mgt.

- Transparent public process that incorporates diverse views into decision making
- Management recommendations at regional level
- Council meetings provide opportunity for written and oral testimony; decisions rely on informed stakeholder input
- Council decisions made by recorded vote in public forum after public comment and input from SSC and AP

## Successful Fishery Mgt. (cont)

- Council recommendations submitted to Secretary of Commerce (NMFS) for review, additional public comment and approval
- Decisions by NMFS must conform with MSA and other applicable law
- Federal regulatory process may take a year or longer to implement

# NPFMC Decision Process

- Proposal presented to NPFMC from public or stakeholder group
- Council consideration for analysis based on need and competing workload priorities
- Council initiates analysis of alternatives and options

## NPFMC Decision Process (cont.)

Analysis proceeds through:

- Initial review (further refines alternatives if necessary)
- Public review and comment
- Final council decision (selection of preferred alternative)

## Preparation of Council Action for Submission to SOC

- NPFMC/AKR staff complete draft analysis
- NMFS staff prepares draft regulations and other documentation supporting NPFMC action
- NOAA General Counsel review and clearance of proposed action for publication and public comment
- NPFMC submits action to SOC for review and approval

## SOC review and approval process

- Proposed FMP amendment published for 60-day public review and comment; associated regulations published for 45-30 day public review and comment
- SOC approves, disapproves, or partially approves proposed FMP amendments
- Final rule published with summary of comments and NMFS' response
- Effective 30 days after publication

# Other Applicable law

Many laws and Presidential executive orders impose requirements for environmental and socio-economic analysis on federal actions implementing FMPs. Among the most important of these are the:

- *Endangered Species Act* -requires an assessment of impacts on listed species;
- *National Environmental Policy Act* -requires an analysis of the environmental impacts of Federal actions;
- *Regulatory Flexibility Act* -requires an examination of adverse impacts on small entities;
- *Executive Order 12866* -requires an analysis of the costs and benefits of regulations.
- *Special interest legislation*

# Endangered Species Act

## Purpose

To provide a means whereby the ecosystem upon which endangered/threatened species depend may be conserved.



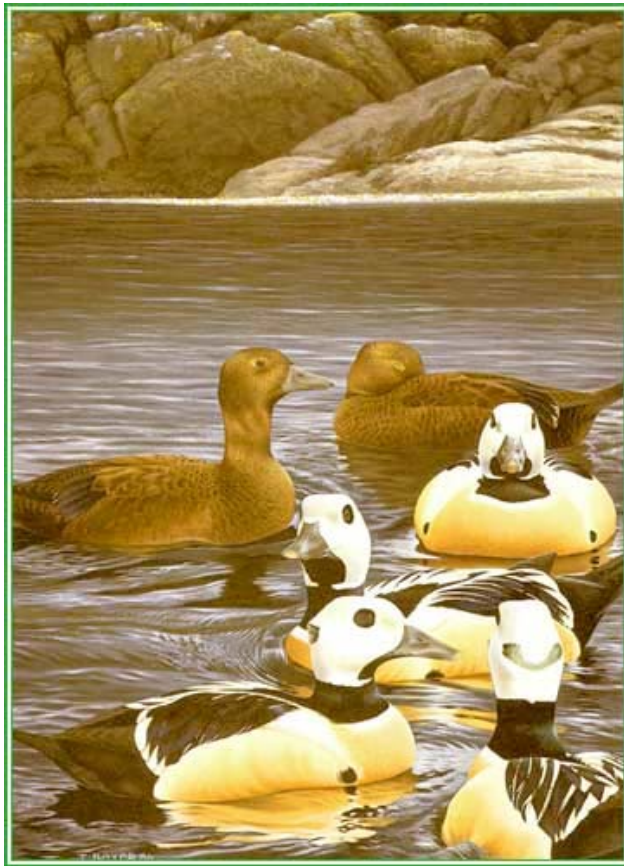
# ESA (cont.)

## **POLICY**

All Federal departments and agencies shall seek to conserve endangered species and threatened species



# Endangered species off Alaska



- Steller Sea lions (western distinct population segment)
- Short tailed albatross
- Most whales
- Upper Columbia R. Chinook salmon
- **Stellers and Spectacled eiders (Threatened)**
- **Northern sea otter and numerous other WA/OR salmon populations (Threatened)**

# National Environmental Policy Act

- Enacted in 1970 in response to the environmental “Green Movement” and a recognition that the federal government must consider the effect federal actions may have on the environment
- Directs federal agencies to conduct environmental reviews that consider the potential impacts on the environment of proposed actions
- Primary purpose is to foster better decision making, decision making that takes into account all of the environmental impacts of an action, and involves the public in that decision making

# Regulatory Flexibility Act & E.O. 12866

- Requires objective assessment of costs, benefits, and efficacy of alternatives management actions under consideration
- Gauge “significance” of proposed action and whether action will be reviewed by the Office of Management and Budget under E) 12866
- RFA requires decision makers consider any disproportionate impacts an action may impose on directly regulated “small entities” and alternatives to minimize these impacts
- “Small entities” include fishing operations with total gross annual revenues less than \$3.5 million

# Special Interest Legislation

- Can mandate the implementation of fishery management programs or allocations outside the normal public process
- Can still involve development of discretionary provisions through council/NMFS public process
- Access to congressional delegation is important – know your delegates and inform them of your concerns and interests

# Information provides for effective public participation

Alaska Congressional Delegation

Local and Washington DC office contact information  
at:

<http://w3.legis.state.ak.us/doso/Congress.pdf>

- Senator Ted Stevens <http://stevens.senate.gov>
- Senator Lisa Murkowski <http://murkowski.senate.gov>
- Representative Don Young <http://donyoung.house.gov>

## Information (cont.)

### **North Pacific Fishery Management Council**

Chris Oliver, Executive Director

Anchorage, AK

Ph: 907-271-2809

Website: [www.fakr.noaa.gov/npfmc/default.htm](http://www.fakr.noaa.gov/npfmc/default.htm)

- Meeting schedules and agenda
- Draft analyses under Council consideration
- Current issues
- Information archive

## Information (cont.)

### **Alaska Fisheries Science Center**

Seattle, WA Ph: 206-526-4000

Website: [www.afsc.noaa.gov/](http://www.afsc.noaa.gov/)

- News and research highlight
- Publications
- Status of fish stocks, marine mammals & birds

# Information (cont.)

## **Alaska Region, NMFS**

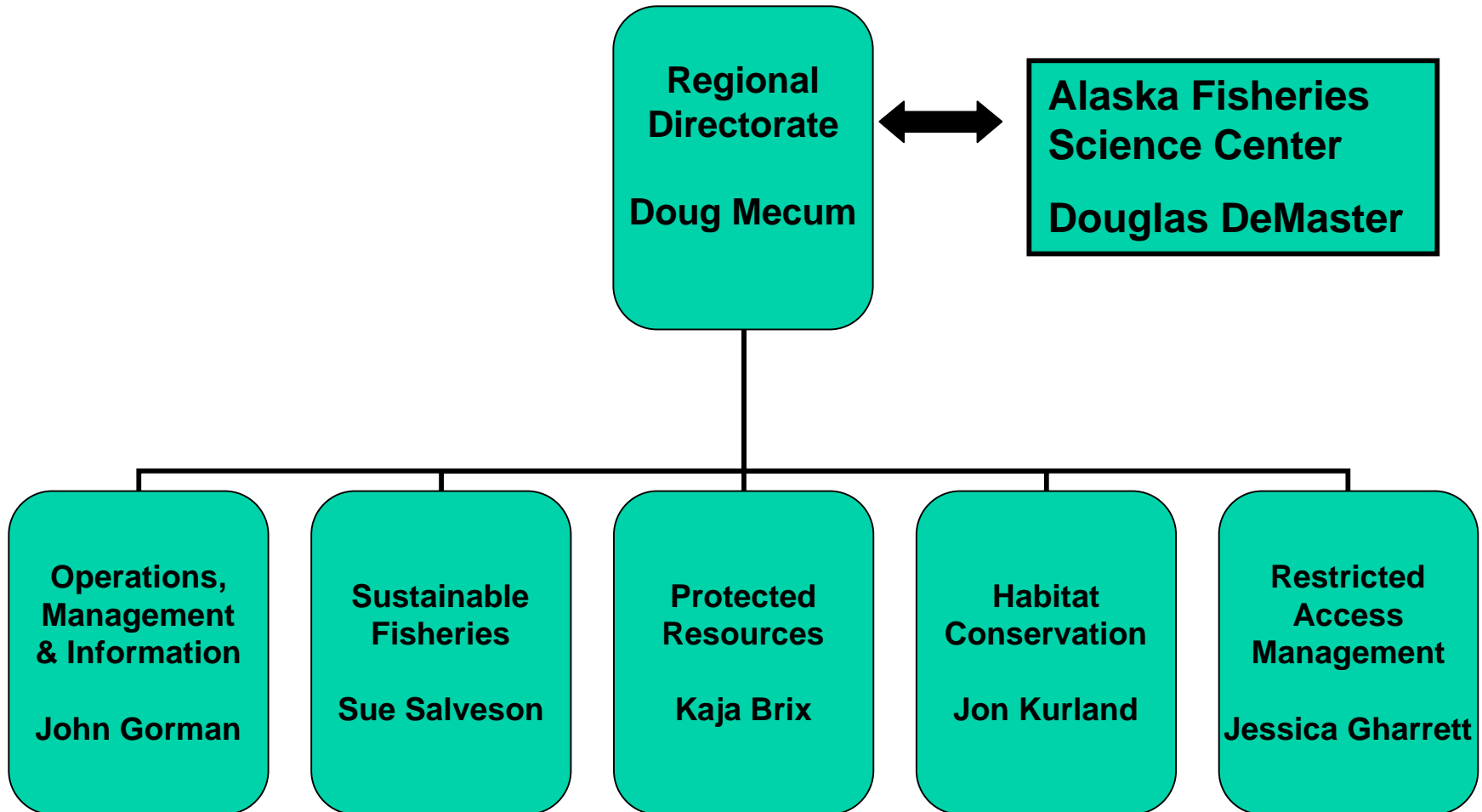
Juneau, Alaska      Ph: 907-586-7221

Website: [www.fakr.noaa.gov](http://www.fakr.noaa.gov)

- Current and historical harvest specifications and fishery closures
- Federal fishery permits
- Fisheries regulations
- Analyses available for public review and comment
- Hot topics
- Links to fisheries related websites

# Alaska Region Organization

*-who to contact for information-*



## Formula for Successful Management Includes:

- Strong science and research base
- Adherence to scientific advice
- Effective monitoring, accounting, and enforcement
- Limits on fishing capacity
- Conservative and strict catch and bycatch limits
- Habitat protection
- Ecosystem considerations
- Stakeholder involvement

# Looking to the Future: Challenges

- Implementation of fishery management provisions mandated or authorized under the reauthorized MSA
- Addressing allocation issues among competing harvest sectors reliant on Pacific halibut (primarily commercial vs. recreational fishery interests)
- Ongoing development or refinement of North Pacific limited access privilege programs (LAPPs)
- Ongoing development of ecosystem approaches to management of living marine resources
- Streamlining the regulatory development and implementation process

# Summary

- ✓ Partnerships between the Council and other management agencies and an open public process are keys to success of the federal fishery management system
- ✓ **Be informed.** Use available internet and management agency contacts to educate yourself and provide effective and timely input into the public process
- ✓ **Coordinate.** Public testimony and input into the NPFMC and Federal rulemaking process that represents a group rather than individual interest generally is more effective – network among persons with similar interests to coordinate input.
- ✓ **Engage.** Take the time to provide oral or written comment to NPFMC and NMFS on proposed changes or rulemaking.
- ✓ **Have realistic expectations.** The public process for making changes in federal fisheries management programs can be time consuming and lengthy

DON'T GIVE UP!!

