



U.S. Fisheries Law: An Introduction

Fisheries' Historic Status

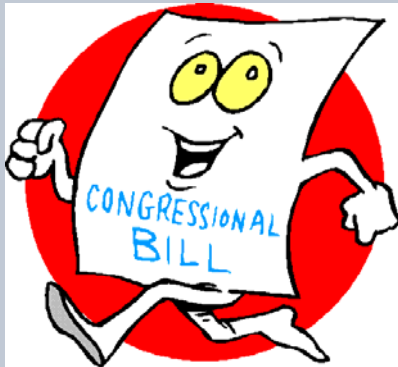


THE MACKEREL GILL-NET FISHERY.

Dory fisherman picking mackerel gill-nets. (Sect. v, vol. i, p. 294.)

From a photograph by T. W. Smilie.

U.S. fishermen are granted the right to fish in public waters under the Public Trust Doctrine. Through the years, this right has been tempered by competing uses and laws which seek to conserve fish stocks or marine species and their habitat.



The Magnuson Act

In 1976, to reduce foreign fishing off U.S. coasts, Congress adopted the Fishery Conservation and Management Act, later renamed the Magnuson-Stevens Fishery Conservation and Management Act.

In this aspect, the Act was a success: foreign catches in 1989 were on the order of 1% of what they had been in 1976.



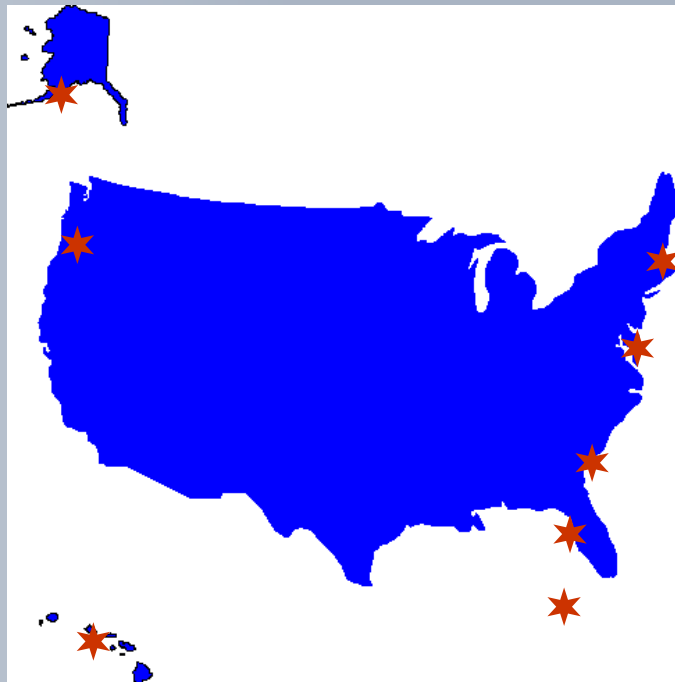
Fishery Management Councils

The Magnuson Act created 8 regional fisheries management councils for U.S. waters and regions:

**North Pacific FMC
(Anchorage, AK)**

**Pacific FMC
(Portland, OR)**

**Western Pacific FMC
(Honolulu, HI)**



**New England FMC
(Saugus, MA)**

**Mid-Atlantic FMC
(Dover, DE)**

**South Atlantic
(Charleston, SC)**

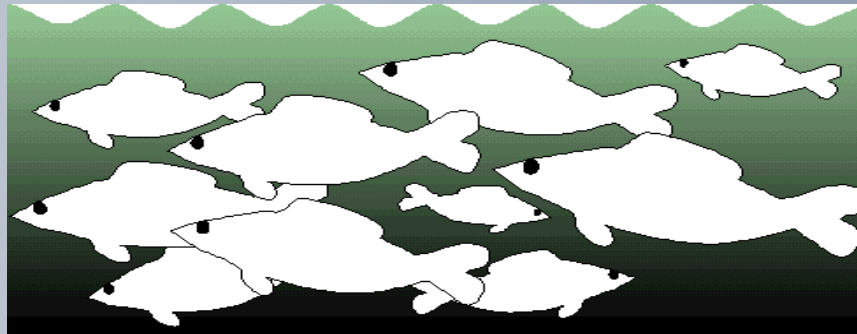
**Gulf of Mexico FMC
(Tampa, FL)**

**Caribbean
(San Juan, PR)**

Fisheries Management Plans

Congress directed the Councils to manage federal fisheries by creating Fisheries Management Plans or “FMPs” by:

- 1. Identifying fish species that need management**
- 2. Analyzing the biological, environmental, economic and social factors that affect the fishery**
- 3. Preparing (and modifying, as necessary) an FMP to protect fishery resources while maintaining opportunities for domestic commercial and recreational fishing**



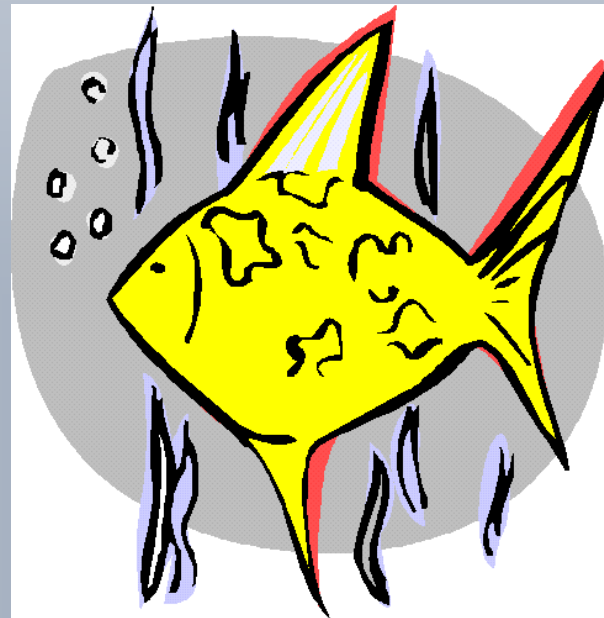
The Ten National Standards

The FMPs must comply with ten national standards as set out by Congress in the Magnuson Act. They are summarized below:

1. Conservation and management measures shall prevent overfishing while achieving the optimum yield from each fishery.
2. Measures shall be based upon the best scientific information available.
3. An individual stock of fish shall be managed as a unit and interrelated stocks shall be managed as a unit or in close coordination.
4. Measures shall not discriminate between residents of different states.
5. Measures shall consider efficiency in the utilization of the resources but not as its sole purpose.
6. Measures shall take into account and allow for variations among, and contingencies in, fisheries, resources and catches.
7. Measures shall minimize costs and avoid unnecessary duplication.
8. Measures shall, consistent with the conservation requirements of the Act take into account the importance of fishery resources to fishing communities in order to (a) provide for the sustained participation of such communities, and (b) minimize adverse economic impacts on such communities.
9. Measures shall (a) minimize bycatch and (b) minimize the mortality of such bycatch.
10. Measures shall promote the safety of human life at sea.

Limited Entry Management Techniques

Recent declines in fish stocks and overcapitalization of fishing industries have placed an enormous burden on fisheries.



Some resource managers and many fishermen believe that a necessary step to ensure sustainable stocks is the limitation of entry to fisheries. Allowing some persons into a fishery while restricting others raises important legal and public policy issues.

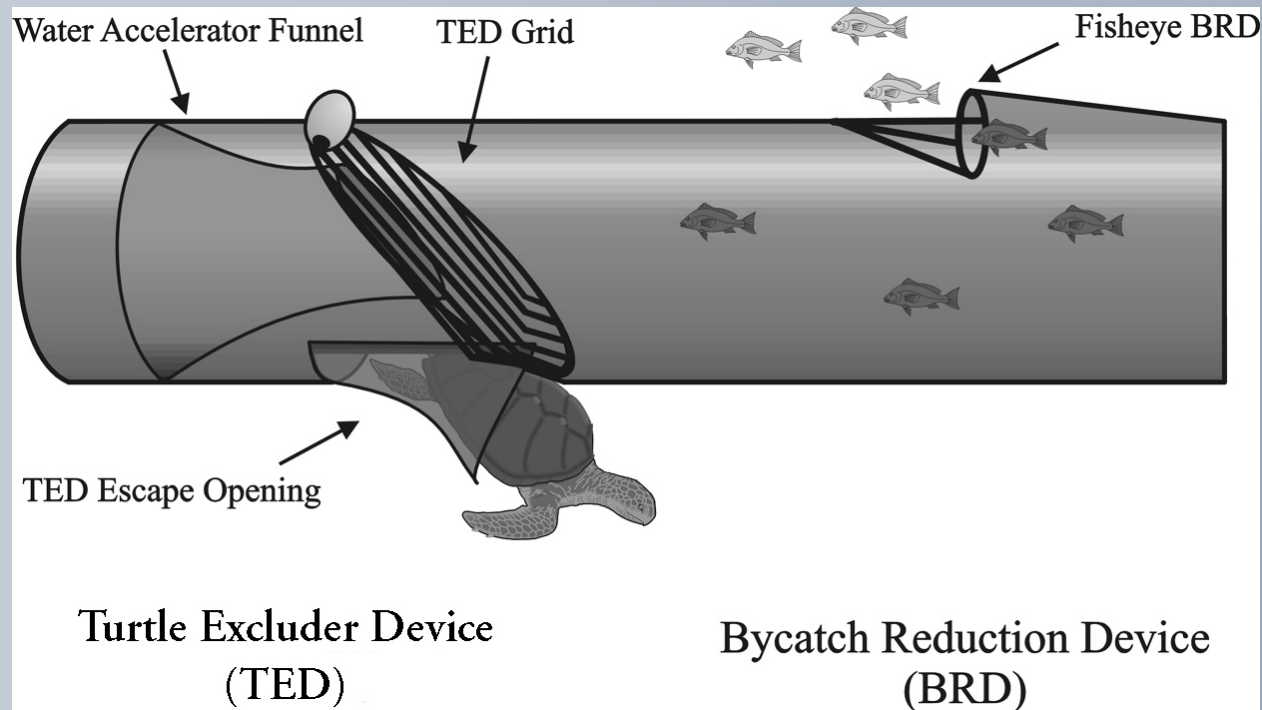
Restrictions on the Fisheries

Examples of restrictions on fisheries include:

Shortened Seasons

License Requirements or Individual Transferable Quotas

Gear Restrictions



This graphic shows two types of gear requirements, the **Bycatch Reduction Device (BRD)** and the **Turtle Excluder Device (TED)**, both designed to reduce bycatch in trawl nets.

Fisheries Habitat Protections



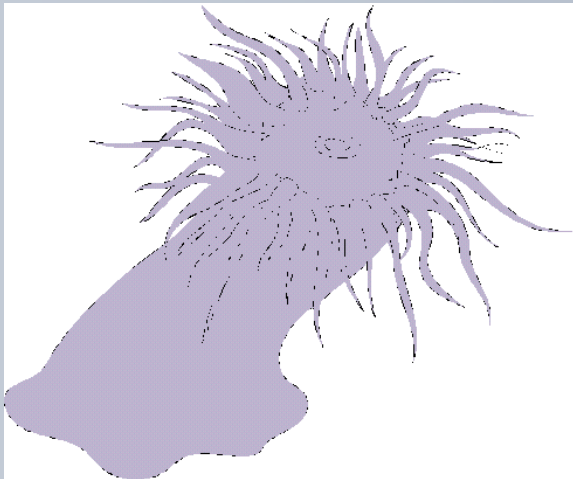
While most of the management techniques focused on fishing effort during the first 20 years of the Magnuson Act, in 1996, Congress amended the Act to include increased attention to “Essential Fish Habitat.”

With this change, and increases in attention to other marine habitat, fisheries management entered a new realm.

Essential Fish Habitat

EFH is defined as those "waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity."

In 1998 and 1999, Regional Councils identified all essential fish habitat for United States waters, and identified actions to encourage the conservation and enhancement of EFH.



Federal agencies must now consider impacts on essential fish habitat when reviewing projects conducted under Federal permits or licenses.

Marine Reserves

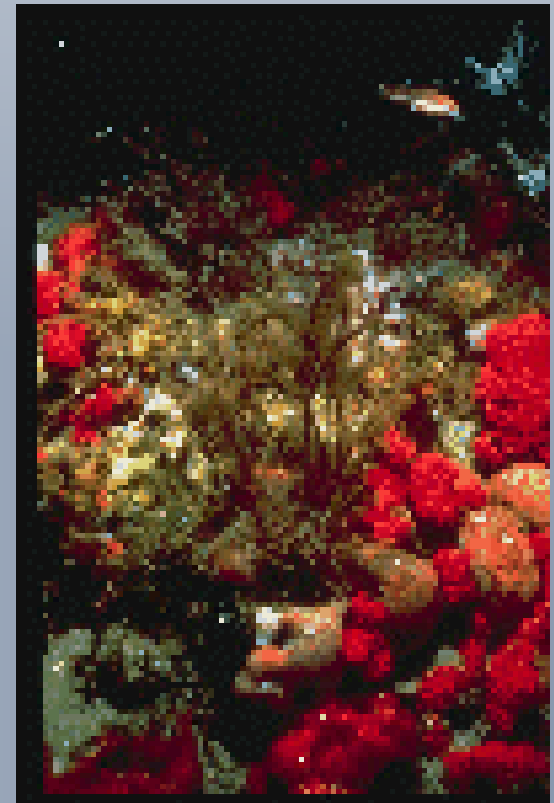
In May of 2000, President Clinton signed Executive Order 13158 calling for the expansion and protection of Marine Protected Areas (MPAs) across the nation. Drawing on the existing local, state and federal MPAs the Order seeks to

Strengthen the management and protection of existing MPAs;

Establish new or expanded MPAs;

Develop a national system of MPAs; and,

Compel Federal agencies to avoid causing harm to MPAs.



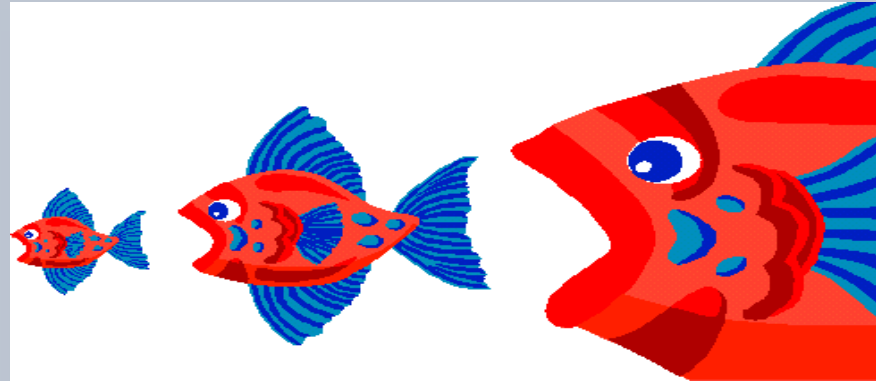
Fisheries & Marine Reserves

MPAs can have many different functions. For instance, one MPA may restrict certain types of fishing gear while another may prohibit fishing altogether. Categories of protected areas can range from strictly protected wilderness areas to multiple-use areas.

Such areas are often proposed as components of fisheries management to enhance the long-term sustainable exploitation of fishery resources or rebuild depleted stocks and to protect particularly delicate areas or previously exploited areas.



More Information is Available



Access Slide Shows on EFH and Marine Reserves on the
Legal Program web page at

§ www.olemiss.edu/orgs/masglp .

Contact Kristen Fletcher at the Sea Grant Legal Program at
[662-915-7775](tel:662-915-7775) or kfletch@olemiss.edu .