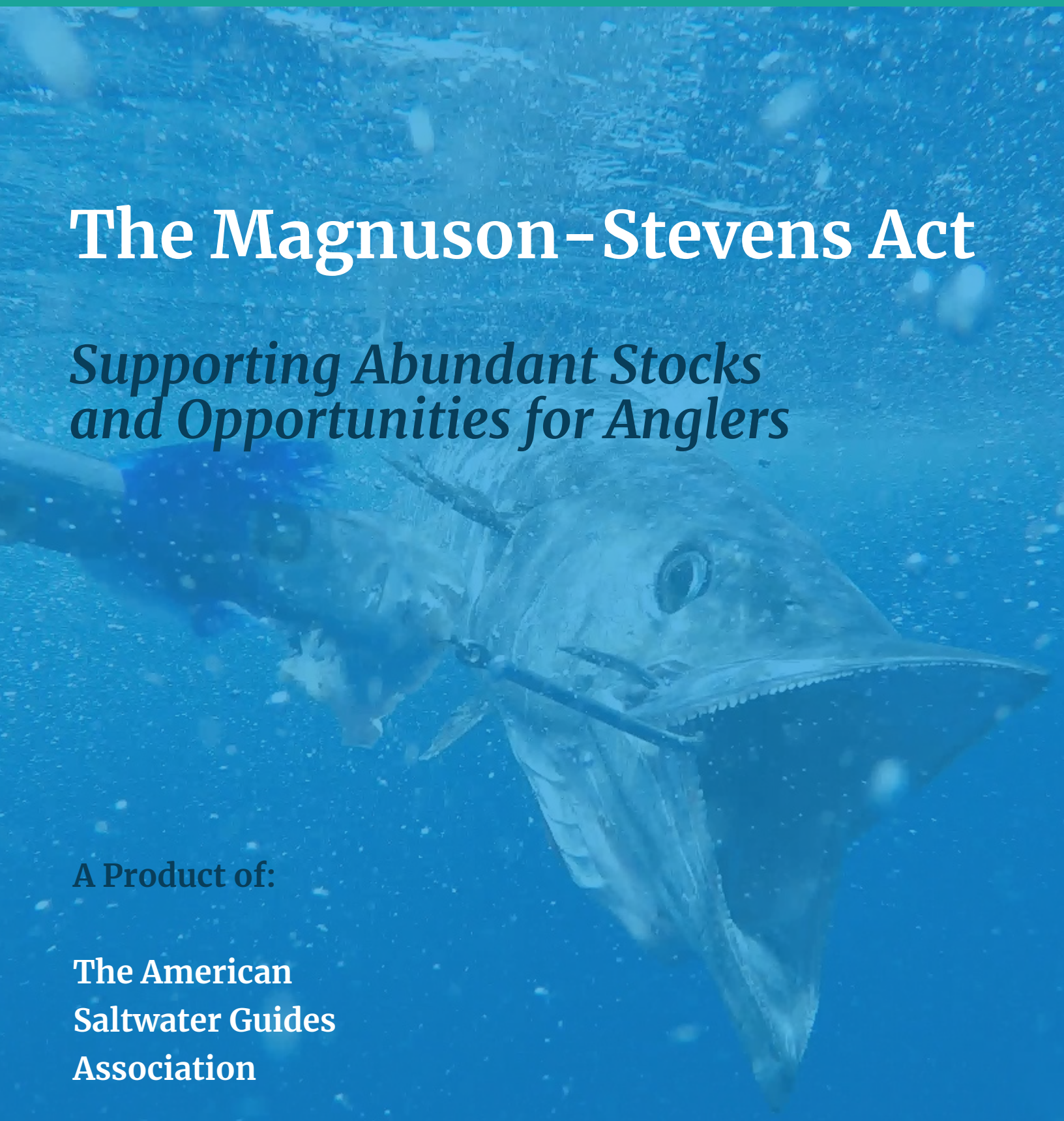
AMERICAN SALTWATER GUIDES ASSOCIATION
BETTER BUSINESS THROUGH CONSERVATION

The Magnuson-Stevens Act

Supporting Abundant Stocks and Opportunities for Anglers



A Product of:

The American Saltwater Guides Association

January 2021

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Introduction

At the American Saltwater Guides Association, we believe that abundance is the cornerstone of a strong recreational fisheries economy. This does not mean that keeping fish is a bad thing, and many fisheries are capable of withstanding substantial harvest as long as it is based on the best available science. However, when push comes to shove, the main driver for many recreational anglers is the opportunity to see, hook, and catch fish—opportunities that come from a precautionary, science-based approach to management that prioritizes long-term stock health and abundance over short-term harvest.

The Magnuson-Stevens Fishery Conservation and Management Act (MSA), first enacted in 1976, is the landmark fisheries management law for U.S. federal waters, which typically extend from 3-200 miles from shore. It established eight regional fishery management councils tasked with developing Fishery Management Plans (FMPs) for species in their jurisdictions. The law applies to all fishermen—commercial and recreational—and for good reason. For many of the most recreationally coveted species along the Atlantic coast—including dolphinfish, bluefish, black sea bass, and red snapper—the recreational sector, which includes both private anglers and for-hire captains, is responsible for the lion's share of harvest [1]. Effective management of these species thus means effective management of the recreational sector—accurately assessing removals, requiring adherence to catch limits, and holding fishermen accountable should overharvest occur.

While MSA provides a strong foundation for continued U.S. fishery health, there are certainly areas where the law could be enhanced. In this document, we outline our wish list of priorities for consideration when the time for MSA reauthorization arises.

Keep MSA Strong

93% of known stocks not experiencing overfishing

2006 reauthorization required managers to enact Annual Catch Limits

MSA's stock rebuilding timelines and requirement to adhere to science-based annual catch limits have been integral to its success in preventing overfishing and providing recreational opportunity. A 1996 reauthorization of MSA required stock rebuilding periods to be as short as possible and not to exceed 10 years, with exceptions for species for whom life-history characteristics, environmental conditions, or international management actions preclude such a timely recovery. The most recent 2006 reauthorization required managers to enact Annual Catch Limits (ACLs) to ensure that overharvest doesn't occur—but if it does, Accountability Measures (AMs) are triggered to subsequently correct for any overharvest. These provisions are working: Since 2000, 47 previously overfished stocks have been rebuilt under MSA's strict requirements, and 93% of stocks with known status are not experiencing overfishing [2]. ASGA continues to support these core conservation tenets, which put the best available science first in determining acceptable levels of harvest and buffer against stock declines.

Traditionally, when a stock falls below the level needed to produce maximum sustainable yield, it is defined as "overfished." In recent years, in recognition that factors other than fishing can contribute to stock decline, some interest groups have recommended that the term "overfished" be replaced with "depleted"—this provision was included in H.R. 200, an MSA reauthorization bill that passed the House of Representatives in 2018 but not the Senate [3]. It's undeniable that non-fishing factors—environmental variability, climate change, habitat destruction, and pollution, to name a few—can have a bigtime impact on the abundance and productivity of stocks. However, in many cases it can be difficult to determine what the primary contributor to a species' status is—is overfishing responsible for 49% or 51% of a species' decline? It's a slippery slope—and regardless of why a stock is in bad shape, it doesn't change the requirement to curb harvest. We're not unconditionally opposed to swapping out "overfished" for "depleted" if scientists can clearly attribute non-fishing factors as the dominant contributors to a species' status. However, it needs to be abundantly clear that designating a species as "depleted" functionally changes nothing when it comes to what is required of managers and fishermen under MSA.

Further Enhance Recreational Data Collection and Research

With millions of anglers pursuing fish in coastal waters each year, it's no surprise that collecting data on recreational fishing effort, catch, and harvest is a daunting task. But this information is critical for recognizing and preventing overfishing and for assessing stock health. NOAA Fisheries' Marine Recreational Information Program, which is charged with collecting these data for federally managed species, continues to work toward improving both its survey methods and its outreach to anglers in order to ensure the highest quality information for management [4]. In addition to MRIP, numerous states have undertaken their own recreational data collection programs, and other data sources, such as smartphone apps for certain species or regions, have sprung up as well. These kinds of data can complement MRIP and could led to improved management, but only if they're held to high standards of quality and statistical rigor.

A new MSA reauthorization should provide NOAA's fisheries statisticians with the resources and structure to ensure that non-federal recreational information meets these standards before it's used to complement MRIP for management purposes.

In addition to being a source of catch data, recreational fisheries represent a huge but largely underutilized resource for researchers when it comes to understanding our nation's fisheries and marine ecosystems. Providing a framework and funding for additional research on recreational fisheries—in particular, the socioeconomic component, such as the relative value of harvesting versus releasing fish for angler wellbeing—is sorely needed to ensure that management strategies provide for long-term fishery sustainability while also maximizing individual and community benefits. These research efforts should actively engage members of the recreational fishing community whenever possible.

194 million Number of recreational fishing trips taken in 2018, with nearly 1 billion fish caught [1]

Secure Federal Protections for Forage Fish

Forage species such as herring, sardines, and mackerel form the ecosystem backbone of many of our recreational fisheries, transferring energy from plankton up through the food web. Without abundant forage, predators stand to suffer, which is why some regional fishery management councils such as the Mid-Atlantic Fishery Management Council have already worked to secure protections for key prey species [5]. However, a more comprehensive federal strategy for forage fish is sorely needed. This means prohibiting any fisheries for these species from developing if a plan for how to manage the species doesn't yet exist, and setting conservative catch limits to ensure that sufficient abundance remains to support the predators that are important to commercial and recreational communities alike—as well as marine mammals, seabirds, and protected species.

Prepare for Climate-Ready Fisheries

Anyone who spends a substantial amount of time on the water has seen some of the dramatic shifts that warming ocean temperatures have brought to our coastal waters. From bonito and black sea bass off Maine, to cobia and red drum off New Jersey, to Florida pompano in Chesapeake Bay, numerous species are on the move, often to areas outside of their current management jurisdiction. Changing ocean conditions can impact not only where fish are found along the coast, but also aspects of their biology—things like growth rates, prey species, and reproductive success. Both scientists and managers broadly recognize these changes [6], and as with forage fish, some regional management councils have gone beyond MSA's current requirements in considering how to deal with climate impacts moving forward, helping to promote fisheries resilience in the face of uncertainty [7].

150 miles Northward range shift of black sea bass along the east coast in the past 50 years [8]

But the law currently lacks a mandate or comprehensive framework for ensuring that our fisheries stay healthy as ocean conditions continue to change.

This needs to change. We recommend modifying MSA to ensure that climate change impacts are thoroughly and explicitly integrated into routine federal fisheries management activities—for example, the development of fishery management plans, the setting of catch limits, the designation of essential fish habitat, and the setting of research priorities. At the same time, as species continue to move and straddle the jurisdictions of multiple fishery management councils, we need to ensure that the councils effectively coordinate with one another to prevent any loopholes that could undermine effective management.

Strengthen Habitat Protections

Healthy fisheries rely on healthy habitats. MSA defines "Essential Fish Habitat," or EFH, as "those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity." Regional fishery management councils are required to describe and identify EFH when developing management plans. However, what to do with those areas after they've been identified is less clear, and leaves managers with an undue amount of discretion that could be influenced by certain interest groups.

We believe that EFH requirements should be stronger. As it stands, EFH must only be protected "to the extent practicable" when considering fishery management actions (for example, whether a gear type that impacts habitat should be allowed in a certain area). In addition to removing this loophole—called the "practicability standard" in legal speak—councils should be required to come up with a plan as to how to protect EFH, above and beyond simply identifying it. And as ocean conditions continue to change, areas of EFH likely will too. As a result, councils should by required by law to regularly review EFH for a given species or stock and update it as appropriate.

Habitat protection "to the extent practicable" is not enough.

Of course, habitat can be impacted by many human impacts beyond fishing—dredging, offshore energy development, and mineral exploration, to name a few. Under MSA, federal agencies that oversee these activities are required to "consult" with NOAA if they may have an impact of EFH, but the directives for such consultations are vague. We would like to see the consultation requirements strengthened to ensure that non-fishing impacts to habitat are minimized, while also improving public oversight to ensure that the recreational, commercial, and environmental communities aren't left in the dark as these activities are underway.

Get Unhealthy Fisheries Back on Track

While MSA currently includes mandates to end overfishing and rebuild stocks quickly, there's room for improvement on both of these issues. As it currently stands, when is stock is found to be overfished or approaching an overfished condition, regional councils have up to two years to take action. That's two more years for a stock to decline even further before recovery can begin. We'd like to see this language tightened up, requiring that overfishing be ended immediately if a stock is found to be overfished or approaching that status.

We'd like to see a similar precautionary, resource-first approach to rebuilding fisheries, too. As it currently stands NOAA Fisheries is required to review a rebuilding plan's progress every two years; however, with limited exceptions, there is no requirement to revise a rebuilding plan if "adequate progress" toward recovering the stock isn't occurring. This needs to change; if a plan isn't working, it needs be revised. And if a rebuilding plan reaches its end and the stock hasn't recovered, a subsequent plan should be even more aggressive and risk-averse to avoid repeating the same mistakes all over again.

> If a rebuilding plan fails, managers need to take stronger action.

Effective federal fisheries management means abundant fish stocks, resilient ecosystems, and a reliable source of income and recreation for businesses and anglers. During the 117th Congress, we look forward to working with legislators and with our partners in the fishing and conservation communities to ensure a bright future for our fisheries resources and those who depend on them.

Learn more about ASGA:

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References:

1. NOAA Fisheries. 2020. Fisheries of the United States, 2018 Report. https://www.fisheries.noaa.gov/webdam/download/106191331.
2. NOAA Fisheries. 2020. Status of Stocks 2019: Annual Report to Congress on the Status of U.S. Fisheries. https://www.fisheries.noaa.gov/webdam/download/108764023.
3. Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act, as amended. H.R. 200, 115th Cong. (2018). https://www.congress.gov/115/bills/hr200/BILLS-115hr200rfs.pdf.
4. NOAA Fisheries Marine Recreational Information Program. 2020. FY 2021 Implementation Plan Update. https://s3.amazonaws.com/media.fisheries.noaa.gov/2020-11/FY21-MRIP-Implementation-Plan-Update-2020-11-12.pdf?utm_medium=email&utm_source=govdelivery.
5. Mid-Atlantic Fishery Management Council. 2017. Unmanaged Forage Omnibus Amendment. https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/5a0b49b053450ab00cbe4e46/1510689203283/20170613_Final%2BForage%2BEA_FONSI%2BSigned.pdf.
6. NOAA Fisheries. 2018. Accounting for Shifting Distributions and Changing Productivity in the Fishery Management Process: From Detection to Management Action. NOAA Technical Memorandum NMFS-F/SPO-188https://spo.nmfs.noaa.gov/sites/default/files/TMSPO188.pdf.
7. Mid-Atlantic Fishery Management Council. 2020. Scenario Planning for Climate Change: Mid-Atlantic Fishery Management Council Discussion Document, April 2020. https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/5e7cf0e09eeeee533bfe5111/1585246434818/Tab02_Climate-change-scenario-planning_2020-04.pdf.
8. NOAA Fisheries and Rutgers University. OceanAdapt. http://oceanadapt.rutgers.edu/.

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