

MFCN: LEARN FROM THE PAST (from page 16)

Federal fishery managers can be proud of such success. Unfortunately, the inshore fisheries of the Atlantic Coast have yet to enjoy the same sort of effective, science-based management.

Many of those fisheries are managed by the [Atlantic States Marine Fisheries Commission](#) (ASMFC), an organization established by interstate compact in 1942, for the purpose of cooperatively managing Atlantic Coast fisheries.

For many years, the ASMFC was merely an advisory body, which had no real authority to manage fish stocks. That changed after the coastal migratory striped bass stock crashed in the late 1970s and showed no sign of rebuilding. It became clear that the states, acting on their own, would not set aside their parochial squabbles and adopt an effective rebuilding plan, so Congress passed the [Atlantic Striped Bass Conservation Act](#) (Striped Bass Act) in 1984, giving the ASMFC the authority to impose its striped bass management plan on all member states.

The striped bass recovered as a result, and Congress passed the [Atlantic Coastal Fisheries Cooperative Management Act](#) (Coastal Fisheries Act) in 1993, which gave the ASMFC management authority over all species under its jurisdiction. It seemed like a promising move.

At the ASMFC, each species is managed by a [separate species management board](#). Like the regional fishery management councils, the various species management boards are dominated by fishermen or representatives of fishing-related industries, who have an economic interest in the fisheries they manage. But unlike the regional fishery management councils—or, perhaps more to the point, like the regional fishery management councils prior to passage of the SFA—there are no legal limits on the exercise of the ASMFC’s discretion.

Thus, the ASMFC’s management boards are free to ignore the best scientific information available, and to allow short-term economic considerations to shape management actions. They are not required to end overfishing, not required to rebuild overfished stocks, not required to set annual harvest limits, and not required to hold fishermen responsible when they overfish. They are not even required to enforce the provisions of their own fishery management plans.

Even if a management action is completely arbitrary and capricious, and a clear abuse of management board discretion, stakeholders have no recourse to the courts, as a [2010 court decision](#) found that the ASMFC’s management actions are not subject to review under the federal [Administrative Procedure Act](#).

Given how closely today’s ASMFC management boards resemble the regional fishery management councils of twenty-five years ago, it should hardly be surprising that they yield similar results: Fish populations that are, for the most part, depleted or in decline. Out of [the 22 stocks managed solely by the ASMFC](#), 10 are overfished/depleted, only 4 are not, and

the status of the other stocks is unknown.

Stocks that are jointly managed by the ASMFC and NMFS are faring much better, with only 3 out of 9 overfished. That success is hardly surprising, as the management plans for such stocks are governed by Magnuson-Stevens, which sharply curtails the discretion of the ASMFC’s management boards.

Whether a person measures from 1942, when the ASMFC was created, from 1984, when the Striped Bass Act was passed, or from 1993, when the Coastal Fisheries Act was became law, one sobering fact remains true: the ASMFC has never in its history rebuilt an overfished stock and then maintained that stock at sustainable levels.

The ASMFC came close to doing so with striped bass, a stock that it successfully [rebuilt after the stock collapsed](#) in the late 1970s and early 1980s. But when a period of below-average spawning success caused that stock to begin to decline over a decade ago, the ASMFC failed to respond in time to prevent the striped bass stock from [experiencing overfishing, and becoming overfished](#) once again. We can only hope that, this time, the rebuilding effort will again be successful.

But there is no guarantee that will occur.

The only thing that almost certainly is guaranteed is that, so long as the ASMFC’s species management boards are able to craft management measures that elevate the wants of the fishermen above the needs of the fish, the stocks that they manage are unlikely to thrive.

It is time to learn from the past, when a similar situation plagued the regional fishery management councils. That past teaches that the fishermen who sit on a management body will consistently favor policies that benefit themselves in the short term, regardless of how such measures affect the long-term health of fish stocks. The past teaches that the only way to ensure the sustainability of fish populations is to limit such fishermen’s discretion, by imposing legal requirements that force them to follow the science, end overfishing and promptly rebuild overfished stocks.

If the ASMFC’s management boards fail to comply with such legal requirements, the federal courts must have jurisdiction to review ASMFC management actions, and overturn those which fail to protect the long-term health of fish stocks.

Thus, it is time to consider legislation which amends either Magnuson-Stevens or, more likely, the Coastal Fisheries Act, legislation that might be deemed the “Sustainable Atlantic States Fisheries Act,” which will compel those who sit on ASMFC’s management boards to accept their responsibility to manage fish for the good of the public, instead of themselves.

If the past teaches us anything about fisheries management, it teaches us that.

(Article written by Charles Witek for MFCN)



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