PROTECTING U.S. FISHERIES: STRENGTHENING THE MAGNUSON-STEVENS ACT IN A POST-CHEVRON DEFERENCE ERA

A POLICY BRIEF

by
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Abstract

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Overfishing and fishery collapse pose escalating environmental, economic, and social risks and threaten the long-term stability of U.S. marine ecosystems. The Magnuson–Stevens Act (MSA) has been the country's most effective tool for preventing overfishing and rebuilding depleted stocks, yet its regulatory framework now faces new uncertainty. With the Supreme Court's overturning of Chevron Deference, core MSA regulations, especially those requiring industry-funded monitoring, have become legally vulnerable, prompting increased litigation from the commercial fishing industry.

This brief finds that while MSA monitoring requirements remain essential for detecting Illegal, Unreported, and Unregulated (IUU) fishing and protecting fishery health, the mandate that fishers pay for monitoring has generated persistent stakeholder pushback and repeated legal challenges. These pressures undermine the regulatory system's stability and threaten the progress the MSA has made in reducing overfishing.

To secure long-term sustainability, this brief recommends that Congress strengthen the MSA by creating binding statutory language that shifts monitoring costs from industry to federal funding. This reform would reduce economic burdens on fishers, prevent continued litigation, improve compliance, and reinforce the resilience of U.S. fisheries in a post-Chevron Deference policymaking landscape.

Issue Statement

Without effective management, we risk irreversible changes to our ocean ecosystems. Unsustainable fishing practices can push fish stocks to the verge of collapse. The United States is a major player in the industry, with about 4.7 million fisheries in production.[1] If unsustainable practices are used in U.S. fisheries, their collapse could threaten the food security of countless people, devastate economies, and rapidly degrade the already declining climate and ecosystems. Thankfully, the Magnuson-Stevens Act (MSA), implemented in 1976, serves as a successful regulatory foundation in effectively preventing overfishing in U.S. fisheries.

However, with the 2024 reversal of Chevron Deference, the sustainability of U.S. fisheries faces a new threat. New landscapes surrounding the legal interpretation and challenges to MSA regulations put effective policies at risk. Therefore, Congress must maintain the effective, robust fisheries regulations under the MSA by creating a binding statute that shields the MSA regulations from future legal challenges and overrulings for the benefit of both industry, consumers, and ecosystems.

Congress now faces a pivotal choice: protect the progress achieved under the MSA or allow new legal vulnerabilities to undermine nearly 50 years of sustainable fisheries management.

What Congress Must Do:

To stabilize U.S. fisheries in a post-Chevron era, Congress must:

1. Clarify statutory authority for monitoring to prevent judicial reinterpretation.
2. Shift monitoring costs to federal funding to reduce legal vulnerability and stakeholder pushback.
3. Strengthen stakeholder engagement requirements to ensure durable, widely supported regulations.
4. Ensure transparent, science-based monitoring systems across U.S. fisheries.

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[1] World Population Review, *Fishing Industry by Country 2025*, "Fishing Industry by Country," accessed November 30, 2025, https://worldpopulationreview.com/country-rankings/fishing-industry-by-country

Background

Collapsed Fisheries– Ecological and Economic Impacts

A fishery can be defined as an ecological region upon which commercial fishing is practiced.[2] A fishery has collapsed when a harvestable species's population drops below 10 percent of the original amount.[3] When this occurs, further harvesting of the species is considered unsustainable, and the species may be at risk of extinction.[4] When bycatch and target species are harvested beyond sustainable levels, their populations dwindle, disrupting the food chain and destabilizing surrounding marine ecosystems, leading to fishery collapse.

The collapse of fisheries results from environmental damage caused by climate change, compounded by unsustainable industrial fishing practices.[5] The ocean is the planet's largest carbon sequester by generating 50 percent of the oxygen humans need, absorbing 30 percent of all carbon dioxide emissions, and capturing 90 percent of the excess heat generated by these emissions.[6] As oceans warm and marine ecosystems deteriorate due to climate change, unsustainable fishing further weakens their resilience, creating a positive feedback loop—where the damage accelerates itself—ultimately hastening the collapse of both fish stocks and the climate system as a whole.

The collapse of fisheries not only harms the planet but also global human populations through social and economic effects. Countless people depend on fish for protein, and recent research estimates that 600 million livelihoods rely on the global fishing industry, of which fisheries in the United States contribute 8.4 billion pounds of product valued at 5.9 billion dollars in 2022.[7] [8] Not only is fish a source

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[2] Marine Stewardship Council (MSC), "What Is a Fishery?" (web page), accessed November 30, 2025, https://www.msc.org/en-au/what-we-are-doing/our-collective-impact/what-is-a-fishery

[3] National Park Service (NPS), "Overfishing and Fisheries Collapses," accessed November 30, 2025, https://www.nps.gov/teachers/classrooms/overfishing-and-fisheries-collapses.htm

[4] National Park Service, "Overfishing and Fisheries Collapses," *NPS – Teachers/ Classrooms*, last updated September 30, 2015, accessed November 30, 2025, https://www.nps.gov/teachers/classrooms/overfishing-and-fisheries-collapses.htm

[5] National Park Service, "Overfishing and Fisheries Collapses," *Teachers/Classrooms – National Park Service*, last updated September 30, 2015, accessed November 30, 2025, https://www.nps.gov/teachers/classrooms/overfishing-and-fisheries-collapses.htm

[6] United Nations, "The ocean – the world's greatest ally against climate change," *United Nations Climate Change*, accessed November 30, 2025, https://www.un.org/en/climatechange/science/climate-issues/ocean

[7] Conservation International, "Global Fisheries & Aquaculture," *Conservation International*, accessed November 30, 2025, https://www.conservation.org/priorities/global-fisheries-aquaculture

[8] National Marine Fisheries Service, *Fisheries of the United States, 2022*, NOAA Current Fishery Statistics No. 2022 (Washington, DC: U.S. Department of Commerce, 2024), accessed November 30, 2025, https://s3.amazonaws.com/media.fisheries.noaa.gov/2025-01/FUS-2022-final3.pdf

for food security, but also for income and employment. Future changes to the industry's output would affect and destabilize individuals and market participants across supply chains, associated markets, and trade balances.[9] Therefore, the decline of fish stocks threatens not only food and job security but also the stability of coastal economies and market systems connected to fisheries.

Overfishing and Illegal, Unreported, and Unregulated (IUU) Fishing

Overfishing and Illegal, Unreported, and Unregulated (IUU) fishing are the primary drivers of collapse. Fishing itself does not inherently harm the ocean, but it becomes destructive when vessels harvest fish faster than populations can replenish in a collapsed fishery—a process known as overfishing.[10] Overfishing occurs worldwide, driven by social, technological, political, and environmental pressures.[11] Fishers are incentivized to harvest as much as possible for private gain before others do, rather than invest in maintaining sustainable stock levels.[12] The demand for fish continues to increase as more people and markets in the U.S and worldwide depend on the ocean for basic needs, business, and livelihoods, a demand that the fishing industry is fighting to meet and profit from, and will attempt to do so by whatever means necessary.[13]

Due to these increasing industry pressures, many fishers engage in unsustainable fishing practices to maximize their catches. These practices destroy marine habitats and cause the unsustainable accidental catch of other species, known as bycatch.[14] Estimates suggest that around 17 to 20 percent of all harvests in U.S. fisheries get discarded as bycatch.[15] These destructive practices are illegal in many countries, including the United States, thanks to robust regulations such as the MSA; however, due to stated private-incentive issues, they still occur. Practiced in light of government oversight, these methods are considered Illegal, Unreported, and Unregulated (IUU) fishing. IUU fishing is destructive to marine

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[9] Food and Agriculture Organization of the United Nations (FAO), *The State of World Fisheries and Aquaculture 2022*, accessed November 30, 2025, https://openknowledge.fao.org/server/api/core/bitstreams/9aeb8ade-a623-4954-8adf-204daae3b5de/content

[10] World Wildlife Fund (WWF), "Overfishing," *WWF – Oceans / Sustainable Seafood*, accessed November 30, 2025, https://www.worldwildlife.org/threats/overfishing

[11] Gregory Ferguson‑Cradler, "The Overfishing Problem: Natural and Social Categories in Early Twentieth‑Century Fisheries Science," *Journal of the History of Biology* 54, no. 4 (2021): 719–738, accessed November 30, 2025, https://pmc.ncbi.nlm.nih.gov/articles/PMC8854240/

[12] Investopedia, "Tragedy of the Commons," accessed November 30, 2025, https://www.investopedia.com/terms/t/tragedy-of-the-commons.asp

[13] World Wildlife Fund (WWF), "Overfishing," accessed November 30, 2025, https://www.worldwildlife.org/threats/overfishing

[14] NOAA Fisheries, "Understanding Bycatch," accessed November 30, 2025, https://www.fisheries.noaa.gov/insight/understanding-bycatch

[15] Oceana, *Wasted Catch: Unsolved Problems in U.S. Fisheries*, (Washington, D.C.: Oceana, March 2014), accessed November 30, 2025, https://oceana.org/wp-content/uploads/sites/18/Bycatch_Report_FINAL.pdf

ecosystems and catchable fish populations, and harms markets and food security. The ultimate goal is to continue creating and strengthening regulatory systems that tackle it head-on. Congress must continue to support monitoring and enforcement systems, such as those within the MSA, that prevent overfishing and IUU fishing.

Existing Policy– The Magnuson–Stevens Fishery Conservation & Management Act

The Magnuson–Stevens Fishery Conservation and Management Act (MSA) serves as the primary policy governing marine fisheries in the United States.[16] The MSA has a broad aim to prevent overfishing, rebuild overfished stocks, increase long-term economic and social benefits, ensure a safe and sustainable supply of seafood, and protect habitats that support the basic needs of fish species.[17] The MSA collaborates with fishing industry stakeholders and scientists to develop transparent and effective fishing regulations in waters under United States jurisdiction.

When the MSA was initially passed in 1976, the MSA created eight Regional Fishery Management Councils to represent fishery stakeholders from around the country in developing measures for each U.S. fishery region. The created measures comply with 10 National Standards for regulation made under the MSA, which include: [18]

1. Optimal Yield
2. Scientific Information
3. Management Units
4. Allocations
5. Efficiency
6. Variations and Contingencies
7. Costs and Benefits
8. Communities

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[16] National Marine Fisheries Service, *Magnuson–Stevens Fishery Conservation and Management Act, as Amended (2007)*, https://media.fisheries.noaa.gov/dam-migration/msa-amended-2007.pdf

[17] NOAA Fisheries, "Laws & Policies," accessed November 30, 2025, https://www.fisheries.noaa.gov/topic/laws-policies

[18] NOAA Fisheries, "National Standard Guidelines," accessed November 30, 2025, https://www.fisheries.noaa.gov/national/laws-policies/national-standard-guidelines

9. Bycatch
10. Safety of Life at Sea

MSA Regulatory Components

The MSA places a strong focus on eliminating IUU fishing in the U.S. through rigorous regulation. Specifically, the MSA uses regulations under the policy's 10 National Standards to govern the practices used on U.S. fishing vessels to prevent fishery collapse.

Under the 1st National Standard of the MSA of Optimal Yield, every fishery management practice shall implement mechanisms and management plans that achieve the economic Optimal Yields (OY) in each fishery.[19] This includes determining the Maximum Sustainable Yield (MSY), the OY, and the Annual Catch Limits (ACL) for each fishery, specific to species and region. The MSA requires that these boundaries be established to provide quantifiable limits on fishing levels and that they be managed to ensure that a fish population can maintain its MSY. In the event of an overfished stock, it must be rebuilt to the level at which MSY can be produced again. Each established limit, such as an ACL that creates enforceable boundaries, is a method by which fishers are regulated and therefore monitored to make sure they're not overfishing their allocated share determined intentionally under the MSA's fourth National Standard: Allocations.[20] Additionally, the MSA's 9th National Standard of Bycatch states that conservation and management measures shall minimize bycatch and, when unavoidable, minimize bycatch mortality in harvests where practicable through methods permitted under regulations.

The Regional Fishery Management Councils established by the MSA serve as the primary enforcers of measures developed and implemented in their respective regional fisheries, including setting MSY, OY, and ACLs, and overseeing bycatch monitoring. Councils work with stakeholders to gather input through a bottom-up policy approach, and, with the collected data and input, each council can determine the best way to regulate its fisheries, taking into account the specific needs and circumstances

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[19] U.S. Department of Commerce, "§ 600.310 National Standard 1 — Optimum Yield," in *50 C.F.R. Part 600 — Magnuson-Stevens Fishery Conservation and Management Act Provisions*, accessed November 30, 2025, https://www.ecfr.gov/current/title-50/chapter-VI/part-600/subpart-D/section-600.310

[20] U.S. Department of Commerce, *"50 C.F.R. § 600.325 — National Standard 4: Allocations,"* in *Magnuson-Stevens Fishery Conservation and Management Act Provisions*, accessed November 30, 2025, https://www.ecfr.gov/current/title-50/chapter-VI/part-600/subpart-D/section-600.325

of its region. Each council employs a transparent, collaborative approach to finding solutions, incorporating public input, scientific research, and consideration of economic and social impacts. Optional management measures under the MSA can use economic incentive programs, such as property rights systems and access limitations, or efficient allocation of fish among groups to achieve OY.[21] Limiting access restricts the units of effort in a fishery by licensing vessels, gear, and fishers, while dividing the allowable catch among fishers can generate financial gains for taxpayers, consumers, and fishers. These management measures are central to achieving the MSA's benefits.

Monitoring Regulation

When creating fisheries management measures, data collected from monitoring efforts, such as vessel activity monitoring, are used.[22] Under the National Marine Fisheries Service Policy, NOAA Vessel Monitoring Systems collect data on vessel identity, location, and activity using satellite-based communications and in-person inspectors. This information helps management authorities, such as Regional Fishery Management Councils, identify when IUU fishing is occurring in their regions. Reliable monitoring is therefore the backbone of effective MSA enforcement.

Under the MSA's ninth National Standard, monitoring systems are required as part of management measures that minimize bycatch and deter IUU fishing before vessels begin fishing. The Standard also directs that monitoring plans be developed with industry participation to ensure cost-effective, cooperative data collection that supports accurate bycatch reporting; an integral component of sustaining the MSA's proven management outcomes.

In 2020, an MSA Conservation and Management Provision declared an amendment on industry-funded monitoring that directed the National Marine Fisheries Service (NMFS) and NOAA (National Oceanic and Atmospheric Administration), both regulatory agencies under the MSA, to require the fishing industry to pay for the monitoring expenses imposed through monitoring requirements under

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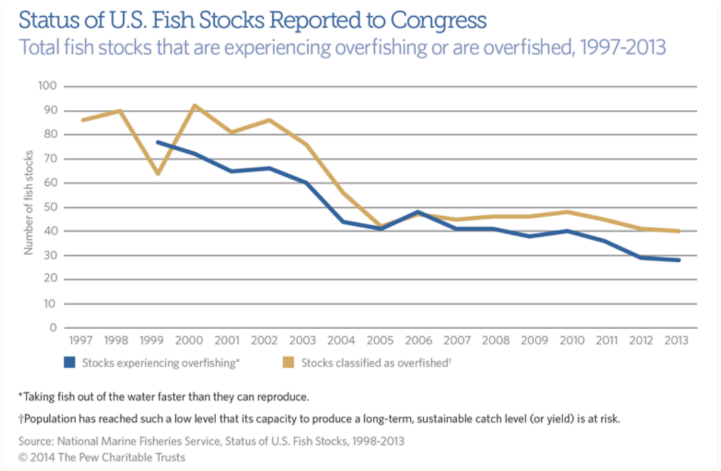
[21] U.S. Department of Commerce, "§ 600.330 National Standard 5 — Efficiency," in *50 C.F.R. Part 600 — Magnuson-Stevens Fishery Conservation and Management Act Provisions*, accessed November 30, 2025, https://www.ecfr.gov/current/title-50/chapter-VI/part-600/subpart-D/section-600.330

[22] U.S. Department of Commerce, NOAA Fisheries, *"NMFS Policy 06-101 — Data Dissemination"* (policy document, renewed September 2023), accessed November 30, 2025, https://www.fisheries.noaa.gov/s3/2023-10/NMFS-06-101-Data-Dissemination-2023-10.5.2023-508-Compliant-signed-1-.pdf

the MSA.[23] Intending to help the New England Regional Fishery Council enhance monitoring in its fishery, funding for monitoring programs enables more thorough catch assessments and the standardization of future monitoring programs across fisheries. However, under the provision, the fees should not exceed 3 percent of the value of the harvested fish under the monitoring program.[24]

Why the Current Approach Works– MSA Effectiveness

MSA fishery management measures, such as monitoring methods used by fishery councils, prevent IUU fishing and overfishing in U.S. fisheries. That said, with management programs in place, IUU fishing and general overfishing continue to occur in U.S. fisheries due to the private incentives fishers face in their industry; however, trends indicate a consistent decrease under the current regulatory framework of the MSA. As of June 2025, Congress reported that about 90 percent of stocks for which we have assessments are not subject to overfishing, and 88 percent are not overfished.[25] This marks current overfishing levels in the U.S. near all-time lows.[26]



[27]

[23] U.S. Department of Commerce, National Oceanic and Atmospheric Administration, "Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Industry-Funded Monitoring," *Federal Register* 85, no. 26 (February 7, 2020): 7414–7442, accessed November 30, 2025, https://www.federalregister.gov/documents/2020/02/07/2020-00881/magnuson-stevens-fishery-conservation-and-management-act-provisions-fisheries-of-the-northeastern

[24] U.S. Department of Commerce, Magnuson–Stevens Fishery Conservation and Management Act (as amended through January 12, 2007), "Magnuson-Stevens Fishery Conservation and Management Act," May 2007, https://media.fisheries.noaa.gov/dam-migration/msa-amended-2007.pdf

[25] U.S. Department of Commerce, NOAA Fisheries, "Written Statement for the Record — Oversight Hearing on Restoring American Seafood Competitiveness before the Subcommittee on Water, Wildlife, and Fisheries, House Committee on Natural Resources," June 4, 2025, https://www.congress.gov/119/meeting/house/118330/documents/HHRG-119-II13-20250604-SD006.pdf

[26] U.S. Department of Commerce, NOAA Fisheries, *"2017 Report to Congress on the Status of U.S. Fisheries"*, accessed November 30, 2025, https://www.fisheries.noaa.gov/national/population-assessments/2017-report-congress-status-us-fisheries

[27] The Pew Charitable Trusts, "Making Progress in Ending Overfishing," fact sheet, May 22, 2014, accessed November 30, 2025, https://www.pew.org/en/research-and-analysis/fact-sheets/2014/05/22/making-progress-in-ending-overfishing

The graph above shows the trend in U.S. fish stock status since 1997, when data on overfished stock levels in the U.S. began to take shape. Since 2000, the U.S. has successfully rebuilt 50 stocks.[28] With this trend, the MSA's regulations have been successful in reducing the risk of fishery collapse and IUU fishing.

The current state of protection for U.S. fisheries is working. The MSA's monitoring regulations address accountability incentives for industry participants, while carefully formulated harvesting limits establish boundaries that ensure the long-term sustainability of fishing nationwide. Demonstrating a commitment to safeguarding the ecological and economic values of U.S. fisheries, the MSA's regulations have successfully prevented IUU fishing and overfishing for almost 50 years. Now, recent legal and political shifts threaten to unravel the decades of crucial progress achieved under the MSA.

Chevron Deference

In 1984, the Supreme Court Case Chevron U.S.A. v. Natural Resources Defense Council established the legal doctrine that allows courts to defer to a government agency's interpretation of a statute when disputes arise regarding its intent and language. When the ambiguity of a statute is challenged in court, the two-part Chevron Deference framework is applied. This deference is used with the idea that agency experts are better equipped to make policy decisions than federal judges.

Setting the Playing Field for Deregulation of the MSA

About 40 years after Chevron Deference, the Supreme Court overturned the doctrine in Loper Bright Enterprises v. Raimondo.[29] The owners of a New England fishery challenged NMFS, arguing that the agency lacks the authority to impose regulations requiring fishers to fund the costs of at-sea monitoring, as mandated by the MSA.[30] Fishers claimed that the expenses they incurred for these programs were approximately $700 per day. The fishers lost in the lower courts, with the judges citing the

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[28] U.S. Department of Commerce, NOAA Fisheries, "A Major Rebuilding Milestone: 50th Fish Stock Rebuilt," accessed November 30, 2025, https://www.fisheries.noaa.gov/feature-story/major-rebuilding-milestone-50th-fish-stock-rebuilt

[29] U.S. Supreme Court, *Loper Bright Enterprises v. Raimondo*, No. 22-451, slip op. (June 28, 2024), https://www.supremecourt.gov/opinions/23pdf/22-451_7m58.pdf

[30] NRDC, "What Happens If Supreme Court Ends Chevron Deference," accessed November 30, 2025, https://www.nrdc.org/stories/what-happens-if-supreme-court-ends-chevron-deference

agency's authority to interpret the funding regulation under the Chevron Deference doctrine. However, the Supreme Court later ruled in favor of the fishers, thereby overturning the doctrine of Chevron Deference, stating that the judicial branch is better suited to resolving ambiguous statutory interpretations than federal agencies like NMFS.[31]

Because the Chevron Deference was overturned, fishers immediately sought the legal opportunity to challenge MSA monitoring regulations. The fishers brought the case of Relentless v. U.S. Department of Commerce to fight the requirement of industry-funded monitoring measures. Although the court upheld the industry-funded monitoring regulation, declaring that NMFS has the authority to require the fishing industry to pay for monitoring costs, this ruling demonstrated how this shift has made industry-funded monitoring programs vulnerable to litigation. Without explicit statutory authority, crucial regulations will continue to be challenged.

The Challenges of Changing Policy Landscapes

Ultimately, this ruling expanded judicial powers in policymaking, and, following the overturning of Chevron Deference, courts may see an increase in regulations being challenged. The role of agency expertise in rulemaking under the Chevron Deference is no more; judicial systems now hold the power to interpret ambiguous legislation, and ultimately transform policy outcomes. The balance between environmental regulations, such as the MSA and its monitoring requirements, which aim to prevent overfishing and fishery collapse, and the viability of private enterprise is transformed. The ruling of Relentless v. U.S. Department of Commerce provided a clear pathway for challenging environmental policy priorities.[32] The shift in control from agency expertise to the courts creates a new landscape for determining how regulatory policy can promote ecological sustainability while minimizing impact on

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[31] U.S. Department of Commerce, National Oceanic and Atmospheric Administration, *Magnuson–Stevens Fishery Conservation and Management Act (as amended through January 12, 2007)* (May 2007), https://media.fisheries.noaa.gov/dam-migration/msa-amended-2007.pdf

[32] U.S. Supreme Court, *Relentless, Inc., et al. v. U.S. Department of Commerce, et al.*, Petition for a Writ of Certiorari, No. 22-1219 (filed June 14, 2023), https://www.supremecourt.gov/DocketPDF/22/22-1219/269124/20230614154139867_Petition%20for%20Cert%20Relentless%20v.%20US%20Dept.%20of%20Commerce.pdf

private enterprise and industry. Private actors, such as the fishers represented in Relentless v. U.S. Department of Commerce, can now challenge agency decisions more effectively in court rather than being subject to regulations issued by federal agencies.

Fishing industry participants have an incentive to continue pursuing the legal opportunities enabled by the legal reversal of Relentless v. U.S. Department of Commerce, as they continue to face monitoring costs and a resulting decrease in net profits.[33] The case of Loper Bright Enterprises v. Raimondo provides them with the opportunity to challenge regulatory interpretations previously made by agencies and to work the court system to seek an overturn.[34] MSA monitoring programs, such as the one in the New England fishery, are subject to reconsideration. Although Relentless v. U.S. Department of Commerce confirmed the authority of the monitoring regulation, private industry actors may not stop there. More cases can be expected.

The shifting of checks and balances is also at play with these changing policy structures. Federal agencies consistently face challenges to their regulations, and only 70 percent of the time are they upheld.[35] Without Chevron Deference, the new legal system diminishes the balance between judicial and legislative rulemaking. The powers of the judicial branch are significantly greater and will be used by those seeking to take advantage of the open door this power shift affords them to influence policies. With these changing policy landscapes, it is essential to note that the court system is stacked with conservative judges and continues to show increasing disregard for environmental legislation and climate priorities. At the time of the Chevron U.S.A. v. Natural Resources Defense Council case, the ruling was motivated by political tensions over the lower court's power to create policy and interpret regulations in accordance with its own interests. Therefore, with the Chevron Deference doctrine established, environmental

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[33] U.S. Supreme Court, *Relentless, Inc., et al. v. Department of Commerce, et al.*, Petition for a Writ of Certiorari, No. 22-1219 (filed June 14, 2023), https://www.supremecourt.gov/DocketPDF/22/22-1219/269124/20230614154139867_Petition%20for%20Cert%20Relentless%20v.%20US%20Dept.%20of%20Commerce.pdf

[34] U.S. Supreme Court, *Loper Bright Enterprises v. Raimondo*, No. 22–451, slip op. (June 28, 2024), https://www.supremecourt.gov/opinions/23pdf/22-451_7m58.pdf

[35] Natural Resources Defense Council (NRDC), "The Supreme Court Ends Chevron Deference — What Now?" accessed November 30, 2025, https://www.nrdc.org/stories/what-happens-if-supreme-court-ends-chevron-deference

progress was given a hand in policymaking. For agencies that don't prioritize environmental interests and would like to see regulations like the MSA relaxed to lessen the burden on private enterprise, the overturning of Chevron Deference is a win. Increasingly conservative courts, and the anti-climate movement fueled by private enterprise, will use the absence of Chevron Deference to overturn regulations that actively prevent the detrimental degradation of our climate and oceans, which ultimately provide the resources humanity relies on.

The MSA Works—But Its Protections Are Now at Risk

With the MSA's regulatory structure in place, data show that U.S. fisheries are consistently decreasing in risk of collapse as IUU and overfishing decline. The MSA protects U.S. fisheries and promotes more sustainable fishing practices across the U.S. fishing industry, providing healthier oceans and a reliable fish supply for the benefit of all. Without the MSA, U.S. fisheries would once again be at risk for collapse due to overfishing, and the clear benefits that the regulations ensure for the nation and our marine spaces would disappear. This is the reality that the overturning of Chevron Deference offers. As already seen in courts, the legality of crucial environmental regulations under the MSA regulatory structure has been questioned. Even though the lower district court ruled that the MSA monitoring regulation is of sound authority, legal opportunities remain to continue to challenge it and other necessary MSA regulations. Given the changing judicial environment the United States faces, plaintiffs may see reasonable pathways to continued regulatory challenges. Although it is not currently clear what the exact impact on fisheries would be from overturning regulations that prevent overfishing, such as monitoring measures, it is clear that monitoring tools have made a positive environmental impact; therefore, it can be assumed that gains would be lost without further statutory authority.

Stakeholders

Maintaining MSA regulation ensures social, economic, and environmental benefits for many groups. The MSA works to prevent overfishing, rebuild overfished stocks, increase long-term economic

and social benefits, ensure a safe and sustainable seafood supply, and protect the habitats that fish need to spawn, breed, feed, and grow to maturity.[36] With the Act's proven success, its benefits are evident across communities, consumers, markets, and ecosystems.[37] However, there is persistent industry pushback against specific regulations under the MSA, particularly requirements for monitoring industry funding costs, as seen in the Relentless v. U.S. Department of Commerce case.[38] Because the MSA mandates that vessels must pay for expenses associated with monitoring, such as data collection, analysis, and enforcement, but must not exceed three percent of the value of the harvested fish under the monitoring program, fishers argued in the case that the agency cannot require the full amount of funding without a limit.[39] For the fishers, these expenses detract from their daily revenues and impose unnecessary business burdens in their already highly regulated industry. While having monitoring in place ultimately helps sustain their fisheries, this regulatory burden is too costly for some. It is essential to consider the perspectives of these stakeholders who fall under the MSA's authority and to understand the severity of the pushback regulations receive from these fishers to maintain effective, efficient, and representative policies in U.S. fisheries.

Policy Actions

Maintaining the current effective regulatory structure of the MSA is crucial to the continued protection of the ocean and fisheries. IUU fishing and fishery collapse are largely solved in the United States through the MSA's regulatory structure; therefore, any further policy action should work to sustain

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[36] U.S. Department of Commerce, NOAA Fisheries, "Laws & Policies," accessed November 30, 2025, https://www.fisheries.noaa.gov/topic/laws-policies

[37] The Pew Charitable Trusts, *"Making Progress in Ending Overfishing,"* fact sheet, May 22, 2014, accessed November 30, 2025, https://www.pew.org/en/research-and-analysis/fact-sheets/2014/05/22/making-progress-in-ending-overfishing

[38] U.S. Supreme Court, *Relentless, Inc., et al. v. U.S. Department of Commerce, et al.*, Petition for a Writ of Certiorari, No. 22-1219 (filed June 14, 2023), https://www.supremecourt.gov/DocketPDF/22/22-1219/269124/20230614154139867_Petition%20for%20Cert%20Relentless%20v.%20US%20Dept.%20of%20Commerce.pdf

[39] U.S. Department of Commerce, National Oceanic and Atmospheric Administration, *Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Industry-Funded Monitoring*, *Federal Register* 85, no. 26 (February 7, 2020), https://www.federalregister.gov/documents/2020/02/07/2020-00881/magnuson-stevens-fishery-conservation-and-management-act-provisions-fisheries-of-the-northeastern

or strengthen the MSA's effectiveness.[40] Policymakers have three options to maintain the benefits of the MSA, given the harmful consequences of the recent overturning of Chevron Deference.

Further lawsuits will likely challenge the recent lower district court decision in Relentless v. U.S. Department of Commerce, taking advantage of the opportunity created by the overturning of Chevron Deference.[41] Keeping the status quo will continue to expose fisheries to the risk of environmental degradation, loss of fish stocks, extensive stakeholder pushback, court cases, and legal fees.

Alternatively, policymakers can apply political pressure in legislative spaces to maintain the lower court's ruling in Relentless v. U.S. Department of Commerce, which confirmed industry-funded monitoring, in anticipation of future lawsuits seeking to overturn it. As the last line of defense for maintaining the regulations of the MSA, such as requiring industry to fund monitoring costs to fund such crucial measures, policymakers can advocate for the current regulatory structures and their importance in both ecological, social and economic contexts, as well as the implied importance of granting the agencies tasked under the MSA with the regulatory powers to enforce such regulations. The monitoring programs need to continue to be funded to keep the regulation in place and, therefore, maximize its positive effect on preventing fishery collapse and IUU fishing. Without ensured funding, the program could be at risk for failure.

That said, to ensure the longevity of the ecological, social, and economic benefits from the MSA's regulations, policymakers must solidify the regulatory framework of the Act. Creating a binding law that upholds the current regulatory structure of the MSA is a secure way to prevent the risk of overturn. With the industry pushing back on MSA provisions requiring them to fund monitoring programs in their fisheries, and the industry's effective scale creating such strong pushback, any binding legislation must incorporate stakeholder input in its creation. Therefore, the strengthened legal framework of the MSA that

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[40] The Pew Charitable Trusts, *"Making Progress in Ending Overfishing,"* fact sheet, May 22, 2014, accessed November 30, 2025, https://www.pew.org/en/research-and-analysis/fact-sheets/2014/05/22/making-progress-in-ending-overfishing

[41] U.S. Supreme Court, *Loper Bright Enterprises v. Raimondo*, No. 22-451, slip op. (June 28, 2024), https://www.supremecourt.gov/opinions/23pdf/22-451_7m58.pdf

would result in this binding legislation shall change any measures within the MSA's provisions, forcing the industry to fund monitoring costs and, in turn, creating government funds to cover them.

Policy Recommendation

Maintaining MSA monitoring programs is essential for continued protection and proactive efforts to reduce IUU fishing and prevent fishery collapse in the United States. The regulations themselves are highly effective in advancing the MSA's sustainability goals, and to maintain the seen benefits, funding for the monitoring programs needs to continue; the question is how to fund them sustainably. Suppose policymakers only apply political pressure to preserve the ruling in Relentless v. U.S. Department of Commerce. In that case, there is still an opportunity for extensive pushback from fishers who argue against mandating industry funding, which could be resolved if the government funds the monitoring programs itself. Reforming the MSA provision that currently requires fishers to fund monitoring programs themselves and instead fund them through the government would address current and future legal pushback. The oversight of the regulation has resulted in legal uncertainty and created lawsuits from frustrated stakeholders. A question can be posed: was the intended result of the MSA’s provision mandating industry funding for monitoring programs extensive pushback and dissatisfaction from key stakeholders? All Regional Fishery Councils use a bottom-up approach to policymaking; therefore, all policies should be representative of both governmental economic interests and stakeholder interests while aiming for broader environmental goals. Is the original provision successful as a representative policy if it's receiving such extensive pushback? The required use of a bottom-up approach in creating MSA measures provides an opportunity to unite stakeholders to make a stronger voice for policy change and for policies that work to maintain benefits across ecological, social, and economic spaces. However, there appear to be gaps in this process for the original provision; the reformulation of the policy will address them.

Congress Must:

To effectively reform the MSA and protect U.S. fisheries in a post-Chevron legal landscape, Congress should:

1. Draft precise statutory language to minimize ambiguity and limit judicial interpretation.
2. Establish a federal funding mechanism to cover monitoring costs previously borne by industry, including increased property rights systems and financial consequences for non-compliance.
3. Conduct and utilize structured stakeholder input strategies
4. Implement transparent monitoring through governmentally funded methods

Congress must enact legislative reforms to fund the monitoring programs through government funds rather than through the checkbooks of fishers who are fighting to maintain their livelihoods and revenues amid environmental decline in their fisheries and regulations restricting their harvests. With these burdens, fishers have and will continue to push back legally unless the government absorbs such burdens.

If the government takes on the responsibility of funding the programs, the money will need to be sourced thoughtfully. As discussed, Regional Fishery Councils can use economic incentive programs in their measures, such as property rights systems and non-compliance fees; therefore, the Department of Commerce may find funding sources through increased development in these systems and fees.[42] As market incentive programs, the suggested funding sources persuade fishers to comply with regulations through fear of monetary consequences; therefore, it is hoped that these methods will prevent non-compliance altogether. In that situation, funding may be limited, but Congress must consider the trade-off in costs the government may incur if the status quo is maintained. The status quo will cost the government extensive legal fees and labor costs.

[42] U.S. Department of Commerce, *"50 C.F.R. § 600.330 — National Standard 5: Efficiency,"* in *Magnuson–Stevens Fishery Conservation and Management Act Provisions*, accessed November 30, 2025, https://www.ecfr.gov/current/title-50/chapter-VI/part-600/subpart-D/section-600.330

Given the shift in federal power from the executive to the judicial sphere following the overturning of Chevron Deference, the revised provision must include unambiguous language to prevent further legal pushback. The language surrounding how the government will fund the monitoring program, who will receive it, how it will occur, what will be assessed in the fishers and their harvesting, and what the financial consequences are for non-compliance needs to be clear and precise to limit judicial reinterpretation. Because judicial systems now play a more interpretive role in legislation, Congress can restrict the range of interpretation by drafting provisions that specify agency directives (e.g., NOAA and NMFS), exact monitoring methods (e.g., in-person inspectors), and statutory requirements (e.g., exact non-compliance fees and ACLs). Additionally, given the growing conservative presence in the courts, it is essential to shape policy that anticipates conservative judicial skepticism, such as ensuring economic efficiency and minimizing government and industry costs.

The economic impact of the policy can be approached with economic rationality. By leveraging market incentive programs to encourage compliance and generate revenue to fund monitoring programs, in addition to the regulatory authority of the MSA, there is a dual-pressure system that is most effective for addressing IUU fishing. Fishers are incentivized to comply, which reduces the externalities of overfishing, stock collapse, and habitat damage. Shifting monitoring expenses away from industry to federal funding reduces the direct financial burdens on fishers, making compliance more economically feasible and lowering the risk of fishery collapse due to cost pressures. Federal funding appropriations must be increased to cover the new monitoring burdens. Still, the long-term return on investment is high because improved compliance reduces stock depletion and ultimately economic losses from fishery collapse. Shifting costs away from industry and further incorporating input will also reduce opposition from commercial fishing groups, thereby strengthening agency relationships with stakeholders for future cooperation.

Strengthening MSA monitoring regulations through a binding statute that shifts monitoring costs to government funding will impact other departments. NOAA and other agencies tasked under the MSA

will see increased responsibility but will operate under more precise legal language that reduces litigation risk, as the Chevron Deference is overturned. The Department of Commerce will also need to create new funding structures in budget and resource planning in the long term, while increasing revenue from market incentive programs to lessen the budgetary burden.

Conclusion

Policymakers must shift monitoring costs to federal funding because doing so removes the most significant barrier to industry compliance and creates a more effective, enforceable system for preventing IUU fishing and fishery collapse. A strengthened MSA through binding, unambiguous legislation creates a clear statutory framework that can protect U.S. fisheries from judicial reinterpretation, ensuring long-term environmental and economic benefits. As partisanship in the courts increases, environmental values and legislation must be upheld and advocated for by policymakers. Although this policy reform would strengthen the statutory framework, there remains a risk that MSA regulations beyond the monitoring cost provision could face legal challenges in the post-Chevron Deference era. However, developing this policy sets an important precedent and example, demonstrating how the government and judicial system can continue to uphold environmentally based management and stakeholder-informed policy, reinforcing long-term support for sustainable fisheries regulation.

The choice is clear: act now to secure the future of U.S. fisheries, or allow the weakened legal protections to provide opportunity for ecological and economic collapse.