

Annual Catch Limits (ACLs) and Accountability Measures (AMs): Requirements of the 2006 Amendments to the Magnuson-Stevens Act (MSA)

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) was reauthorized and amended on January 12, 2007, by the Magnuson Stevens Fishery Conservation and Management Reauthorization Act (MSRA). The MSRA established **new requirements to end and prevent overfishing**, including Annual Catch Limits (ACLs) and Accountability Measures (AMs). On February 14, 2007, NOAA’s National Marine Fisheries Service (NMFS) published a notice of intent to prepare an environmental impact statement (EIS) (72 FR 7016) for proposed guidance on the development and implementation of these new requirements. NMFS is currently in the public scoping process for the EIS and guidance.

The new guidance under development would assist regional fishery management councils in developing ACLs and AMs to **end and prevent overfishing in all U.S. commercial and recreational fisheries in 2010 for stocks subject to overfishing, and 2011 for all others**, as required by the MSRA. NMFS provides guidelines to facilitate consistent application of the MSA’s 10 national standards among the nation’s fishery managers. NMFS would incorporate new guidance of ACLs and AMs into the guidelines for National Standard 1, also known as the “overfishing standard.”

Overfishing still occurs at various levels in 48 fisheries in U.S. waters, although NMFS and the Councils have made significant improvements in recent years. The highest priority in the MSRA was to strengthen the Act to ensure an end to overfishing.

To end overfishing and prevent it from occurring in the future, the new law requires that **federal fishery management plans establish mechanisms for annual catch limits and accountability measures**. The new law also adds **requirements for the role of scientific advice in this process**, specifically through the Councils’ Scientific and Statistical Committees (SSCs). The new guidelines will address these provisions as they relate to development of annual catch limits.

This public scoping process provides an opportunity to discuss these and other issues related to National Standard 1, and receive public comments on developing guidance to address the new mandates. **The public comment period ends April 17, 2007.**

Upon consideration of public input that NMFS receives during this scoping period, the agency will develop its proposed guidance, and then will hold another public comment period. The agency aims to finalize its revisions to the National Standard 1 guidelines by the end of 2007.

| | |
|---|---|
| Requirements: Summary | 1 |
| Requirements: Provisions of the Act..... | 2 |
| Issues for consideration and comment..... | 3 |
| Contact: Email, website..... | 3 |
| Timeline..... | 4 |
| Schedule of scoping meetings..... | 4 |
| Acronyms..... | 5 |

Requirements to End & Prevent Overfishing

Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.

- *National Standard 1 of the MSA*

Starting July 12, 2009, within 2 years of notification that a stock is overfished or approaching a condition of being overfished, measures must be prepared and implemented to end overfishing immediately and to rebuild

- *MSA Section 304(e)(4) requirements as amended by MSRA Section 104(c) and 104(d)*

Each Council is required to “develop annual catch limits for each of its managed fisheries that may not exceed the fishing level recommendations of its scientific and statistical committee or the peer review process established under subsection (g)”

- *MSA Section 302(h)(6) as amended by MSRA Section 103(c)(3)*

“(g) COMMITTEES AND ADVISORY PANELS.—

(1)(A) Each Council shall establish, maintain, and appoint the members of a scientific and statistical committee to assist it in the development, collection, evaluation, and peer review of such statistical, biological, economic, social, and other scientific information as is relevant to such Council’s development and amendment of any fishery management plan.

(B) Each scientific and statistical committee shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch, preventing overfishing, maximum sustainable yield, and achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices.

(C) Members appointed by the Councils to the scientific and statistical committees shall be Federal employees, State employees, academicians, or independent experts and shall have strong scientific or technical credentials and experience.

(E) The Secretary and each Council may establish a peer review process for that Council for scientific information used to advise the Council about the conservation and management of the fishery. The review process, which may include existing committees or panels, is deemed to satisfy the requirements of the guidelines issued pursuant to section 515 of the Treasury and General Government Appropriations Act for Fiscal year 2001 (Public Law 106–554—Appendix C; 114 Stat. 2763A–153).[...]”

- *MSA Section 302(g) as amended by MSRA Section 103(b)(1)*

Fishery management plans shall “establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.”

- *MSA Section 303(a) as amended by MSRA Section 104(a)(10)*

Shall not apply to a fishery for species that have a life cycle of approximately 1 year unless the Secretary has determined the fishery is subject to overfishing of that species

- *MSRA Section 104 (b)(2)*

Shall apply for a fishery unless otherwise provided for under an international agreement in which the U.S. participates

- *MSRA Section 104 (b)(1)*

ACLs must be implemented:

- in fishing year 2010 for fisheries determined by the Secretary to be subject to overfishing

- *MSRA Section 104 (b)(1)(A)*

- in fishing year 2011 for all other fisheries

- *MSRA Section 104 (b)(1)(B)*

Key Issues to Consider in Developing Guidance on ACLs & AMs

NMFS has identified the following key issues to consider in developing guidelines on annual catch limits (ACLs) and accountability measures (AMs) and welcomes public comments on these and any other issues related to NS1 during the public scoping process.

- The role of the SSC and other peer review processes in setting ACLs and AMs
- The relationship between ACL and OY
- Revision of existing overfishing definitions to include OFL
- Variability in data currently available for each stock
- Setting ACLs for stocks with little or no data
- Setting ACLs and AMs for fisheries that have a recreational component
- Circumstances in which a numerical ACL can not be set for a stock, and in such situations, recommendations for adequate and appropriate alternatives to setting a numerical ACL (e.g., prohibitions)
- Setting ACLs for stock complexes, stock assemblages, and similar stock groupings
- Variability in the accuracy of management approaches in achieving target fishing levels
- Setting a buffer between ACL and OFL to prevent overfishing, and how to determine the size of the buffer needed
- Establishing the appropriate probability that an ACL and AM measures will prevent overfishing for a stock
- Establishing recommendations for in-season management authority and methods to be used as AMs to prevent overfishing
- Limiting the extent of overfishing, should it occur
- Establishing corrective actions to ensure accountability in a subsequent year for an overage of the OFL for a stock in a previous year
- Considerations for biological relevance of an OFL overage
- Establishing AMs for various sectors, if an ACL is subdivided for a stock, and the need to still prevent exceeding the overall OFL for the stock

Comment Period Ends April 17, 2007

Please E-mail Comments to:

annual.catch.limitDEIS@noaa.gov

Visit Our Website:

<http://www.nmfs.noaa.gov/msa2007/>

Timeline for Developing and Implementing ACLs & AMs

| Estimated Implementation Timeline | |
|---|-----------------------------|
| Scoping Meetings (see website) | March-April 2007 |
| DEIS: Issue NOA and 45-day comment period | July 2007 |
| Proposed Rule: Issue rule and 45-day comment period | July 2007 |
| FEIS: Issue NOA | October 2007 |
| Final Rule | November 2007 |
| Councils & NMFS amend FMPs / mgt measures | Jan 2008 – June 2009 |
| Secretarial Review of FMP amendments / mgt measures | June 2009 – Dec 2009 |
| ACL & AM mechanisms implemented for “overfishing” stocks | 2010 |
| ACL & AM mechanisms implemented for all other stocks | 2011 |

28

Schedule of Scoping Meetings

| Council | Date | Time | Location |
|------------------------|---------------------|--------------------|--|
| South Atlantic | March 6, 2007 | 6:30 pm to 7:30 pm | Jekyll Island Club Hotel, Jekyll Island, GA 31527 |
| NMFS | March 9, 2007 | 9:00 am | NOAA Science Center, 1301 East-West Hwy, Silver Spring, MD |
| Western Pacific | March 14, 2007 | 7:30 pm to 9:00 pm | Ala Moana Hotel, Honolulu, HI |
| Caribbean | March 20, 2007 | 6:00 pm to 7:00 pm | Ponce Hilton Hotel, Ponce, PR |
| Gulf of Mexico | March 27, 2007 | 6:30 pm to 7:30 pm | Embassy Suites Hotel, Destin, FL |
| North Pacific | March 28-29, 2007** | Morning session | Anchorage Hilton Hotel, Anchorage, AK |
| Pacific | April 3, 2007** | Afternoon session | Seattle Airport Marriott Hotel, Seattle, WA 98188 |
| New England | April 10, 2007 | 1:30 pm to 3:00 pm | Mystic Hilton, Mystic, CT |
| Mid-Atlantic | April 17, 2007 | 7:00 pm to 8:30 pm | Princess Royale, 9100 Coastal Hwy, Ocean City, MD |

Any changes or updates will be published in the Federal Register and posted on our website (see page 3).

**Subject to Council agenda changes during the week of the meeting.

Acronyms

ACL – annual catch limit

AM – accountability measure

B – Biomass

B_{MSY} – long-term average biomass that would be achieved if fishing at a constant fishing mortality rate equal to F_{MSY} .

DEIS – draft environmental impact statement

EA – environmental assessment

EEZ – exclusive economic zone

EIS – environmental impact statement

F – fishing mortality

FEIS – final environmental impact statement

FMP – fishery management plan

F_{MSY} – fishing mortality rate that produces the maximum sustainable yield.

MFMT – maximum fishing mortality threshold

MSA – Magnuson-Stevens Fishery Conservation and Management Act

MSRA – Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006

MSST – Minimum Stock Size Threshold ($B_{\text{threshold}}$)

MSY – maximum sustainable yield

NEPA – National Environmental Policy Act

NOA – notice of availability

NOAA – National Oceanic and Atmospheric Administration

NMFS – National Marine Fisheries Service

NOI – notice of intent

NS1 – National Standard One

OFL – overfishing level

OY – optimum yield

SSC – Scientific and Statistical Committee

TAC – total allowable catch