

# DRAFT Comments on National Standard 1 Guidelines for ACLs and AMs & Ending Overfishing

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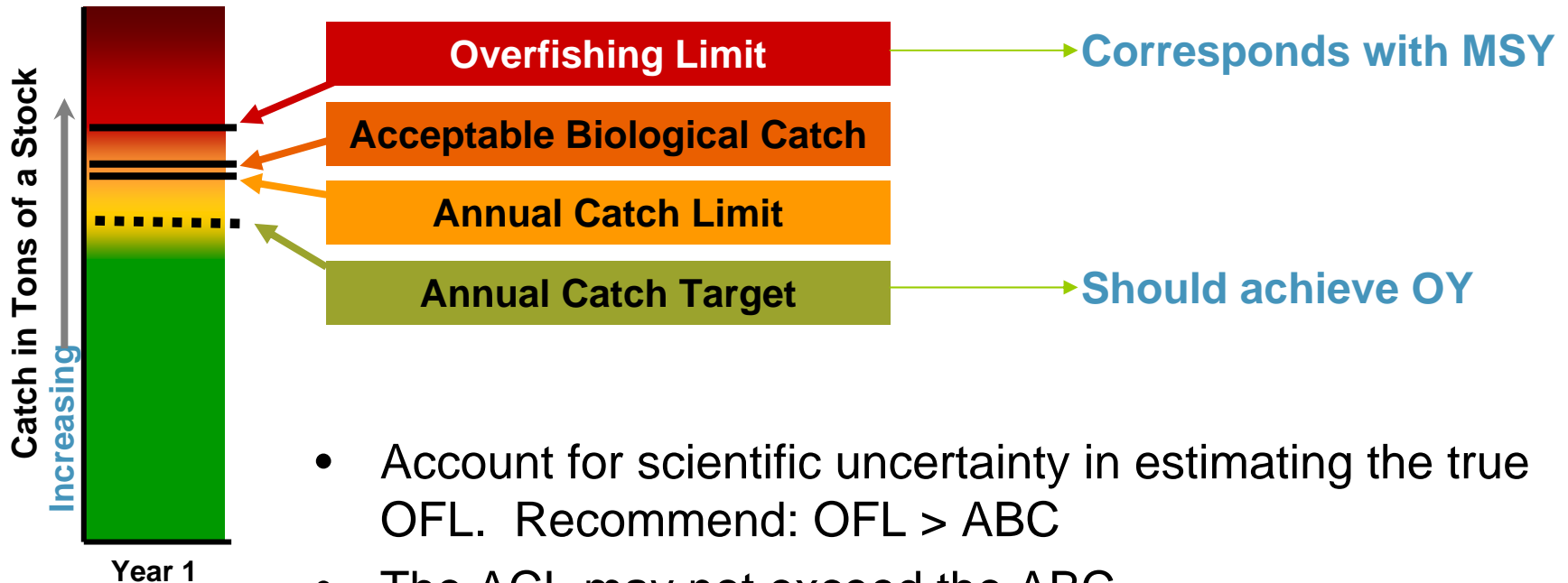
SEP 3, 2008

# Addition of an annual catch target (ACT) as a requirement for FMPs

It is appropriate to list the ACT as a suggested component of a fishery management plan rather than require it as a legally mandated component of an FMP. Using an ACT as proposed in the guidelines is a way of trying to separately account for management uncertainty. Although the ACT may clearly distinguish management uncertainty from other sources of uncertainty, adding a target does not fundamentally improve the process. It is more important to correctly adjust the ACL based on actual performance data than to create a separate target or ACT control rule based on theory to account solely for management uncertainty. (SSC & Staff)

# Reference Points

$$\text{OFL} \geq \text{ABC} \geq \text{ACL} \geq \text{ACT}$$



- Account for scientific uncertainty in estimating the true OFL. Recommend:  $\text{OFL} > \text{ABC}$
- The ACL may not exceed the ABC.
  - ABC is one of the “fishing level recommendations” under MSA § 302(h)(6).
- Account for management uncertainty in controlling the actual catch to the target. Recommend:  $\text{ACL} > \text{ACT}$

# Option to define overfishing in terms of catch rather than as a rate of fishing mortality

Redefining overfishing in terms of catch also doesn't appear to be consistent with the MSA. There could be cases where catch is later found to be greater than FMSY, but where the catch would not exceed the OFL or ACL based on the best available science. This situation could occur where there is a strong retrospective pattern in stock assessments as has been the case for some important stocks in the Northeast. Also, defining overfishing in terms of fishing mortality or a proxy exploitation rate wherever possible does not prevent managers from using ACLs and target catches for the ongoing management of a fishery. (SSC & Staff)

# Requirement for AMs as an in-season adjustments whenever possible

- Whenever possible, FMPs should include in-season monitoring and management measures to prevent catch from exceeding ACLs. (NSG)
- The purpose of the AMs should be to adjust ACLs to prevent overfishing. Although ACLs should not be exceeded on a regular basis, adjustment of ACLs through AMs will need to be based on performance data. Therefore, it is reasonable to implement AMs after reviewing annual data rather than making in-season adjustments. (SSC)
- It is not clear here whether “should” means “must” or “may”. Because this is such an important issue further clarification is needed. There is no requirement in the law to impose in-season measures and this requirement greatly limits the Council’s flexibility. The guidelines also say FMPs should include in-season closure authority. Closures in the absence of ITQs will only generate derby fisheries. Nothing in the law supports this language. (Staff)

# Fisheries data - NSG

“In their FMPs, Councils should describe general data collection methods, as well as any specific data collection methods used for all stocks, stock complexes, and ... (2) Describe the data collection and estimation methods used to quantify total catch mortality in each fishery, including information on the management tools used (i.e., logbooks, vessel monitoring systems, observer programs, landings reports, fish tickets, processor reports, dealer reports, recreational angler surveys, or other methods); the frequency with which data are collected and updated; and the scope of sampling coverage for each fishery; (3) Describe the methods used to compile catch data from various catch data collection methods...”

# Fisheries data

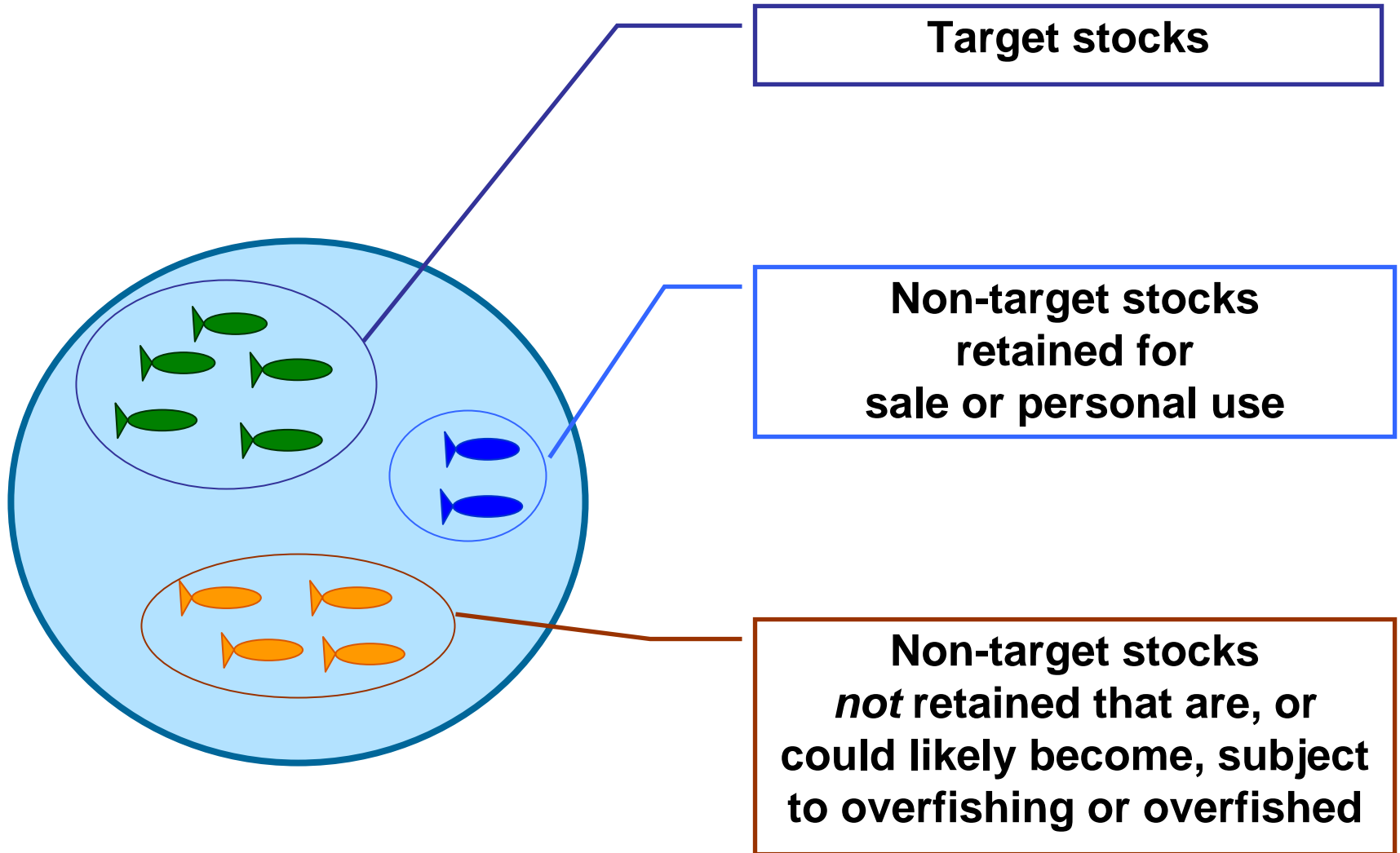
## Staff Comment

- The Standardized Bycatch Reporting Methodology requirement should already fill this requirement to describe data collection. This is a huge burden – notice that it says the FMP must describe not only the data collection, but the “estimation methods used to quantify total catch mortality in the fishery.” Does this mean Councils must describe the assessment methods in their FMPs?
- A lot of this is done by NMFS. Why does it have to be described in the FMP? It is not clear what problem the inclusion of this requirement solves.

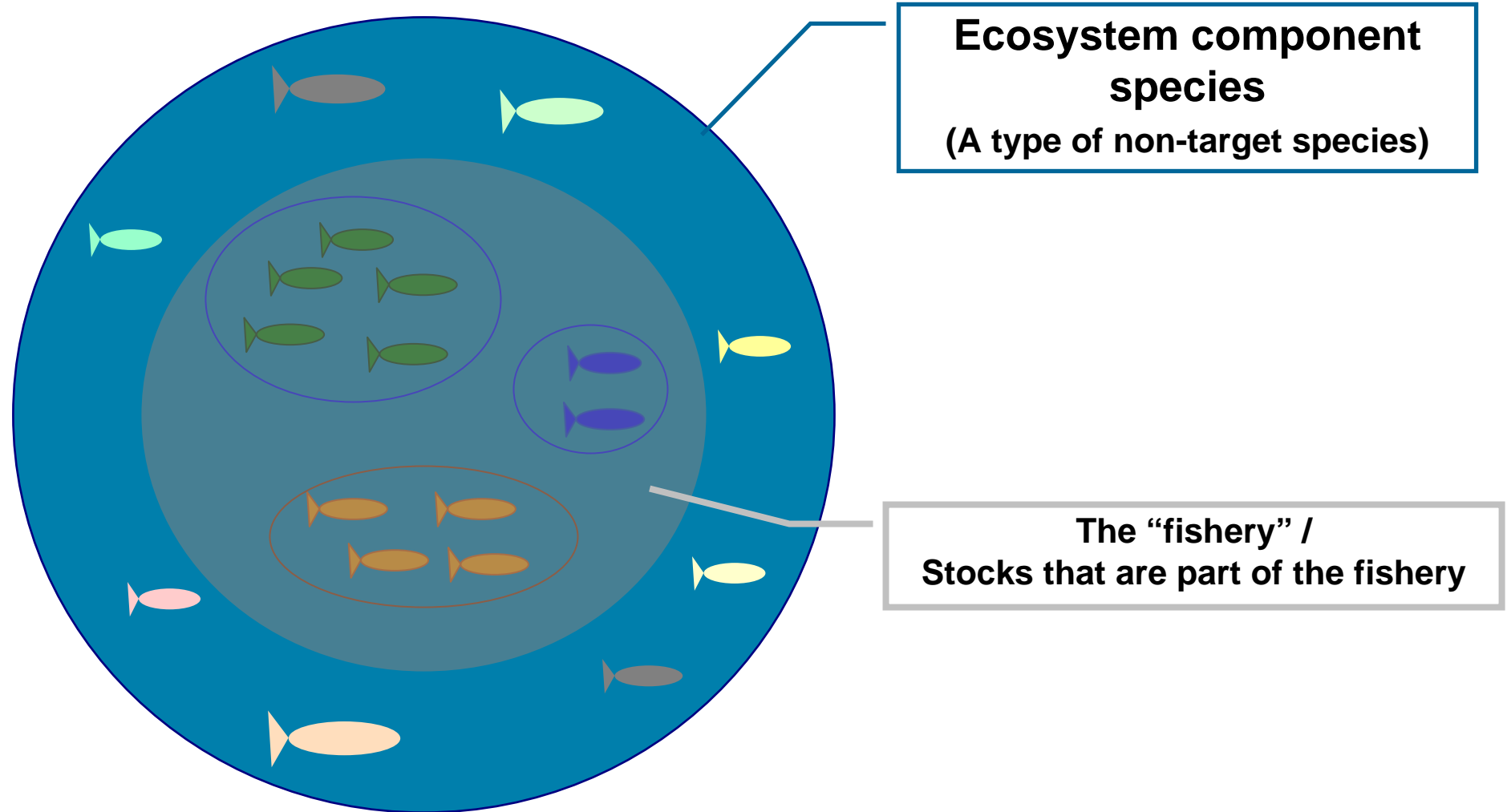
# Fishing Level Recommendations

- Each Regional Fishery Management Council shall develop ACLs for each of its managed fisheries that may not exceed the fishing level recommendations of its SSC or peer review process
- The SSC feels that the final recommendation for ABC should come from the SSC and not the peer review process. The peer review process or Council Plan Development Teams could provide alternatives and appropriate information about uncertainty, stock vulnerability, alternative candidates for ABCs, etc. for the SSC to consider. In relation to existing stock assessment peer review processes, the SSC's role should be interpretative and not to provide additional peer review to work that has already been peer-reviewed.

# Stocks “in the Fishery”



# “Ecosystem Component” Species



# Classification of Stocks in a Fishery

## SSC Comments

- This type of classification is needed.
- It would be useful to know all the stocks and species which are encountered by the gear(s) in a given fishery.
- Stocks in a particular fishery should have a similar geographic distribution or be caught together in a fishery rather than simply share a similar biological classification. Stocks should not be grouped unless they have similar characteristics and vulnerabilities.
- The classifications should be simpler. An ecosystem component species and a non-target species that is not retained seem to be the same. This distinction needs clarification. Furthermore, is it a useful distinction?
- There may be ecosystem components that are important to consider; the Council should consider whether they should be included in an FMP.
- The Council might not benefit from the staff suggestion that more specific guidance is needed because it could reduce the Council's flexibility to determine what it might want to include as an ecosystems component.

# Classification of Stocks in a Fishery

Staff comments referenced by SSC in previous slide

- The guidelines say that “ecosystem component species should be evaluated to determine if they are “vulnerable” to the fishery but include no criteria for making this provision operational. Does “vulnerable” mean that a species is frequently, sometime or infrequently caught in the gear or does it mean the fishery has some a lot or a little impact on the species in question?
- How much incidental catch is needed for a non-target stock to be identified ?

# Annual catch limits (ACLs)

The SSC supports the idea that ACLs should serve as a basis for invoking AMs. The purpose of ACLs is to prevent overfishing and therefore they must be adjusted if not correctly set. AMs are the mechanism for adjusting ACLs and the buffer between ACLs and ABC to account for uncertainties in the assessment, environmental factors and in the ability of management to actually control fishing mortality. If there is more uncertainty, the buffer should be larger and if scientific information and management controls are more precise, the ACL can be set closer to the ABC. Also the size of the buffer should be contingent on the level of overages, if applicable. Because there always will be some uncertainty in these factors, the ACL will be less than the ABC.

# MSY Definition

- *MSY* is the largest long-term average catch or yield that can be taken from a stock or stock complex under prevailing ecological, environmental conditions and fishery technological characteristics (e.g., gear selectivity), and the distribution of catch among fleets.
- Technological considerations should not be included in the estimate of MSY; MSY should not be constrained by the current selectivity patterns of fishing gear or fishing practices. Constraining MSY by a particular set of fishery technological characteristics which result in a suboptimal selectivity pattern (e.g., retention of immature fish) could result in potentially large losses in yield. (SSC & Staff)

# Maximum Rebuilding Period

- If  $T_{\min}$  for the stock or stock complex exceeds 10 years, then the maximum time allowable for rebuilding a stock or stock complex to its  $B_{\text{msy}}$  is  $T_{\min}$  plus the length of time associated with one generation time for that stock or stock complex. “Generation time” is the average length of time between when an individual is born and the birth of its offspring.
- The SSC recommends that the definition of generation time in Restrepo et al. (1998) should be used

# Exceptions to Requirements to Prevent Overfishing - NSG

- Exceptions to the requirement to prevent overfishing could apply under certain limited circumstances. Harvesting one stock at its optimum level may result in overfishing of another stock when the two stocks tend to be caught together ...
- The Council may decide to allow this type of overfishing ... all of the following conditions are satisfied:
  1. Such action will result in long-term net benefits to the Nation;
  2. Mitigating measures have been considered and it has been demonstrated that a similar level of long-term net benefits cannot be achieved by modifying fleet behavior, gear selection/configuration, or other technical characteristic in a manner such that no overfishing would occur; and
  3. The resulting rate of fishing mortality will not cause any stock or stock complex to fall below its MSST more than 50 percent of the time in the long term, although it is recognized that persistent overfishing is expected to cause the affected stock to fall below its  $B_{msy}$  more than 50 percent of the time in the long term.

# Exceptions to Requirements to Prevent Overfishing – Staff comment

- There does not appear to be a statutory basis for this provision. Nowhere does the law say overfishing can be allowed (except if in accordance with an international agreement).
- The criteria to allow this type of overfishing are impossible to meet and it is clear that this cannot be invoked when a stock will remain overfished for more than 50 percent of the time.
- As proposed, this regulation would allow managers to allow overfishing to continue for a period on a stock that is not overfished, even if the stock declines in size. At the extreme, this regulation would allow a stock to decline to less than its MSST and be declared overfished – as long as analysis says that this will occur less than half the time (over what period?). This creates an odd paradox: overfishing is allowed even though it adversely impacts a healthy stock and may even drive it to an overfished level, yet there is no provision proposed that allows extension of a rebuilding program in a mixed-stock fishery even if it can be demonstrated that the overfished stock will continue to grow and the net result is long-term benefits to the nation. This does not seem logical or in the best interests of the nation.

# Exceptions to Requirements to Prevent Overfishing – SSC Comment

There does not appear to be a basis in the Act for this provision. However, the provision is entirely reasonable and in some cases offers the flexibility needed to practically implement other provisions of the Act.

# GMFMC SSC

*“Andy Strelcheck gave a PowerPoint presentation outlining the provisions and biological and management reference points contained in the draft ACL guidelines. It was pointed out that ABC and ACL appeared to be redundant terms since there was no justification given for setting them to different catch levels.”*

(Standing and Special Reef Fish Scientific and Statistical Committee Meeting Summary, July 30-31, 2008, Tampa, Florida )