

Council recommendations on
Proposed Revisions to National
Standards 1, 3, and 7

§ 600.305 (b) Fishery management objectives.

To reflect the changing needs of the fishery over time, Councils should reassess the objectives of the fishery on a regular basis.

The Council supports this addition, but recommends, given that objectives don't change frequently, the time between reassessing objective be at least 5 years or later.

§ 600.305 (c) Stocks that require conservation and management.

This proposed new section includes guidance moved from NS3 and NS7 to provide guidance on whether a stock is in need of Federal management.

The Council feels that this section does not provide sufficient flexibility to determine if an incidentally caught data-limited species should require management. The Council suggests including incidental, low-catch species as Ecosystem Species exempt from ACL requirements.

§600.310(d)(2) Stock Complex.

A “stock complex” is a tool to manage a group of stocks within a FMP.

The Council supports the revisions to the definition of “stock complex” and revised proposed language on indicator stocks.

§600.310(e)(2)(i)(F) Definition of Depleted.

NMFS Proposal: An overfished stock is considered depleted when it has not experienced overfishing at any point over a period of two generation times of the stock and its biomass has declined below MSST, or when a rebuilding stock has reached its targeted time to rebuild and the stock's biomass has shown no significant signs of growth despite being fished at or below catch levels that are consistent with the rebuilding plan throughout that period.

Council Proposal: A stock is considered depleted if the biomass level drops below MSST due primarily (but not necessarily solely) to reasons other than fishing mortality.

The Council suggests the above language for definition of depleted.

§600.310(e)(2)(i)(G) Definition of minimum stock size threshold (MSST).

NMFS Proposal: Minimum stock size threshold (MSST) means the level of biomass below which the capacity of the stock or stock complex to produce MSY on a continuing basis has been jeopardized.

Council Proposal: MSST is a level of biomass below which the stock biomass is unable (or unlikely) to return to its B_{MSY} level in the absence of a rebuilding plan.

The Council suggests the above language for definition of MSST.

Recommendation 5

§600.310(e)(2)(ii) Specification of SDC and overfishing and overfished determinations.

A Council may develop overfishing SDCs that use a multi-year approach not to exceed three years, and particularly supports the allowance that allows for a 3-year mortality reference point to determine overfishing status.

The Council supports the proposed revision to allow alternative types of SDC to be used when data are not available to specify SDCs based on MSY or MSY proxies. The Council particularly supports the allowance for a 3-year mortality reference point to determine overfishing status.

§600.310(f)(1) Acceptable biological catch and annual catch limits – Definitions.

- Management uncertainty refers to uncertainty in the ability of managers to constrain catch so that the ACL is not exceeded, and the uncertainty in quantifying the true catch amounts (i.e., estimation errors).
- Scientific uncertainty refers to uncertainty in the information about a stock and its reference points.

The Council supports the proposed definitions that clarify “management uncertainty” and “scientific uncertainty” .

§600.310(f)(2)(ii)(A) Phase in ABC control rules.

NMFS Proposal: a Council may choose to develop a control rule that phases in changes to ABC over a period of time, not to exceed 3 years, as long as overfishing is prevented.

This proposal is inconsistent with the Magnuson-Stevens Act requirement that overfishing be ended immediately (Section 304e).

§600.310(f)(2)(ii)(B) Carry-over ABC control rules.

- An ABC control rule may include provisions for carry-over of some of the unused portion of the ACL from one year to increase the ABC for the next year.
- The resulting ABC recommended by the SSC must prevent overfishing and consider scientific uncertainty consistent with the Council's risk policy.

The Council supports the proposed language to carry-over any unused proportion of the ACL. Our SSC suggests that the revision include consideration of uncertainty in the catch estimates as well as scientific uncertainty.

§600.310(f)(4)(iv) Relationship between OY and the ACL framework.

NMFS proposal: An annual OY cannot exceed the ACL

The use of both an annual OY and a long-term or continuing OY is confusing. The Council feels that OY should refer only to the long-term equilibrium level. The guidance could then state that annual ACL cannot exceed the long-term OY. This would be consistent with the Magnuson-Stevens Act objective to achieve optimum yield on a continuing basis.

§600.310(j)(3)(i) Overfished fishery rebuilding.

The time period shall not exceed 10 years, except where biology of the stock, other environmental conditions, or management measures under an international agreement to which the U.S. participates, dictate otherwise.

The Council suggests that “other environmental conditions” be restated as “**impacts to the socio-economic environment or other environmental conditions**”. This is consistent with the guidance that states the rebuilding time shall take into account the needs of fishing communities.

§600.310(j)(3) (i)(B) The maximum time for stock rebuilding.

New NMFS options for rebuilding time if more than 10 years in the absence of fishing mortality:

(ii) The amount of time the stock or stock complex is expected to take to rebuild to B_{MSY} if fished at 75 percent of MFMT,

(iii) T_{MIN} multiplied by two.

The Council supports the addition of multiple options for establishing a rebuilding time for stocks that take more than 10 years.

We also recommend that a stock that takes exactly 10 years be allowed the alternate rebuilding times rather than 10 years.

§600.310(j)(4) Emergency Actions and Interim Measures (part 1).

The Secretary may, in response to a Council request, implement interim measures that reduce, but do not necessarily end, overfishing if:

- (i) needed to address an unanticipated and significantly changed understanding of the status of the stock or stock complex;
- (ii) Ending overfishing immediately is expected to result in severe social and/or economic impacts to a fishery; and
- (iii) The interim measures will ensure that the stock will increase its current biomass through the duration of the interim measures.

The Council supports the revised interim measures provision. This will provide for a more rational management that takes into account the short-term impacts on both the resource and the resource user.

§600.310(j)(4) Emergency Actions and Interim Measures (part 2).

Emergency Action Criteria (from 62 FR 44421):

- (1) Results from recent, unforeseen events or recently discovered circumstances; and
- (2) Presents serious conservation or management problems in the fishery; and
- (3) Can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rulemaking process.

The Council recommends that the emergency action criteria first published in 1997 be incorporated into this section of the NS1 guidelines.

§ 600.320 National Standard 3— Management Units.

Stocks in the fishery management unit are considered to be in need of conservation and management. The provision to include species for data collection only is deleted.

New language is proposed in NS1 under § 600.305 General to help determine stocks that require conservation and management. The proposed change moves these considerations from NS3 to NS1.

The Council concurs with the proposed revision.

§ 600.340 National Standard 7—Costs and Benefits.

Deleted: The Magnuson-Stevens Act requires Councils to prepare FMPs only for overfished fisheries and for other fisheries where regulation would serve some useful purpose and where the present or future benefits of regulation would justify the costs.

Deleted: Criteria for deciding whether a fishery needs management through regulations

The deleted sections of NS7 have been moved or succeeded by new equivalent sections in NS1 under § 600.305 General.

The Council concurs with the proposed revision.