

## Fact Sheet

### **An End to Overfishing: Federal Guidelines Must (Not “Should”) Protect Fisheries**


In January 2007, President Bush signed legislation reauthorizing and strengthening the Magnuson-Stevens Fishery Conservation and Management Act (MSA), which clearly mandates an end to overfishing. Specifically, the reauthorized MSA requires managers to establish annual catch limits (ACLs) that do not exceed levels recommended by each Council’s scientific and statistical committee. The establishment of ACLs and accountability measures (AMs) for each managed fishery are required to be in place by 2010 (for stocks subject to overfishing) and 2011 (for all stocks). On June 9, 2008 the National Marine Fisheries Service (NMFS) proposed new rules to enhance the use of science-based management to end overfishing and restore depleted fish populations in response to these new MSA mandates. This proposal represents an important step forward in fisheries management, but NMFS must close several loopholes in the proposal in order to end overfishing once and for all by 2011.

Congress left no doubt in the law about its intentions, clearly mandating in the MSA the establishment of annual catch limits “such that overfishing does not occur.” President Bush was equally clear in his remarks during the designation of the Northwestern Hawaiian Islands National Monument on June 16, 2006 when he spoke of “our responsibility to be wise managers of marine resources living off every coast. And that’s why we’re working to end over-fishing. Over-fishing is harmful. It’s harmful to our country, and it’s harmful to the world.”

In order to end overfishing, the proposed rule **must** include the following revisions:

#### **Require Science-based Annual Catch Limits with Uncertainty Buffers**

Due to the uncertainty in fisheries science and management, NMFS’ proposed rule recommends setting the catch targets for a fishery below the limit through the use of buffers, allowing for variability in catch due to uncertainty in scientific data and in the effectiveness of management measures. Buffers reduce the probability of exceeding the limit and reduce the risk of overfishing, but the NMFS proposal does not require them. The national standard guidelines specify that “should” only strongly recommends an action, while “must” is used to denote an obligation to act and refers to requirements of the MSA.



As the proposed ACL rule is currently written, NMFS merely suggests that “Councils *should* take an approach that considers uncertainty in scientific information and management control of the fishery,” or that “Councils *should* develop a process for receiving scientific information and advice,” or that a stock’s catch target “*should* usually be less than its ACL” (emphasis added). On the contrary, the MSA states that NMFS has an obligation to end overfishing, not simply suggest doing so. In order to meet the legal requirement to end overfishing, these “shoulds” need to be replaced with “**musts**.” Fishery managers **must** not be allowed to set ACLs at the very edge of what scientists conclude is sustainable.

### **Eliminate mixed-stock exception**

An outstanding loophole that remains in the NS1 Guidelines is the so called “mixed-stock exception” which permits “exceptions to requirements to prevent overfishing” (§600.310(m)). NMFS must remove section (m) in its entirety from the guidelines as it authorizes overfishing under certain conditions, contrary to the clear intent of Congress and the President. Under this provision Councils have the power to conduct an analysis that provides justification for allowing overfishing on certain stocks in a mixed stock fishery. However, the MSA does not allow overfishing of any stock; therefore, this provision must be removed from the final rule.

### **Protect Vulnerable Fish Stocks**

There are a large number of managed fish stocks where the data is so limited that developing stock specific ACLs is not possible, thus necessitating grouping stocks into complexes that are represented by an indicator species. NMFS must revise the proposed rule to stipulate that where multiple fish stocks are managed as a complex, the catch limit for the complex must not be based on stronger stocks at the expense of weaker ones. Similarly, all stocks within a complex should have similar vulnerabilities to fishing based on a quantitative analysis such as the Productivity and Susceptibility Analysis. Grouping stock complexes by equivalent vulnerability will reduce the risk of one stock being subject to overfishing due to the use of an indicator stock that is less vulnerable. Since the objective is to not allow overfishing of any stock, when indicator stocks are used to evaluate the status of a complex it **must** (not should) “be representative of the typical status of each stock within the complex, due to similarity in vulnerability” (§600.310(d)(8)).

To change the status quo and restore America’s ocean fisheries, the new ACL rule **must** require managers to establish buffers between catch targets and limits to account for uncertainty in scientific data and management, and **must** not allow exploitation of healthy stocks at the expense of more vulnerable stocks. While the proposed ACL rule represents a good faith effort on the part of NMFS to address the problem, many of the nearly 100,000 public comments share a common concern: There are no “shoulds” about it; America **must** end overfishing.

**For more information, please contact:**

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