

*Science, Service, Stewardship*



# MSRA Implementation Status Update

**NOAA  
FISHERIES  
SERVICE**

NOAA



# Implementation Strategy



## Divide tasks

- **Priority 1** – Due date specified in the Act
- **Priority 2** – Required, but no due date
- **Priority 3** – Authorized provision





## Priority 1 Task Status

- **17** of 30 (57%) tasks are completed
- **5** (17%) items are delayed. Of these, 1 is not yet due, but we do not expect to make the due date
- **7** (23%) items are on track for completion. Of these, 4 are due in '09 and 3 are due in '10.
- **1** (3%) task has no milestones or plan associated with it





## Priority 2 and 3 Task Update

- **25** of 49 (51%) are complete or require no further action for implementation
- **13** (27%) items are in progress for completion.
- **5** (10%) items are waiting or delayed
- **3** (6%) tasks have no funding
- **3** (6%) are in final review





## Major Projects Status

- ACL and NEPA guidance
- Marine Recreational Fisheries Information (MRIP)
- Limited Access Privilege Programs
- Experimental Fishing Permits
- IFQ Referenda Guidelines
- International Fisheries
- Deep Sea Coral
- Peer Review Process



## Annual Catch Limit (ACL) Guidance

“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.”



New requirement to end and prevent overfishing through the use of:

- “annual catch limits” (ACLs), and
- “measures to ensure accountability” (accountability measures or AMs).



## ACL Guidance

- Establishes a mechanism for specifying annual catch limits in an FMP, implementing regulations, or annual specifications
  - At a level such that overfishing does not occur in the fishery
  - Including measures to ensure accountability
- Implementation in fishing year:
  - 2010 for fisheries subject to overfishing
  - 2011 for all other fisheries
- May not exceed a Council's Scientific and Statistical Committee's (SSC) fishing level recommendation



## ACL Guidance Strong Yet Flexible Approach

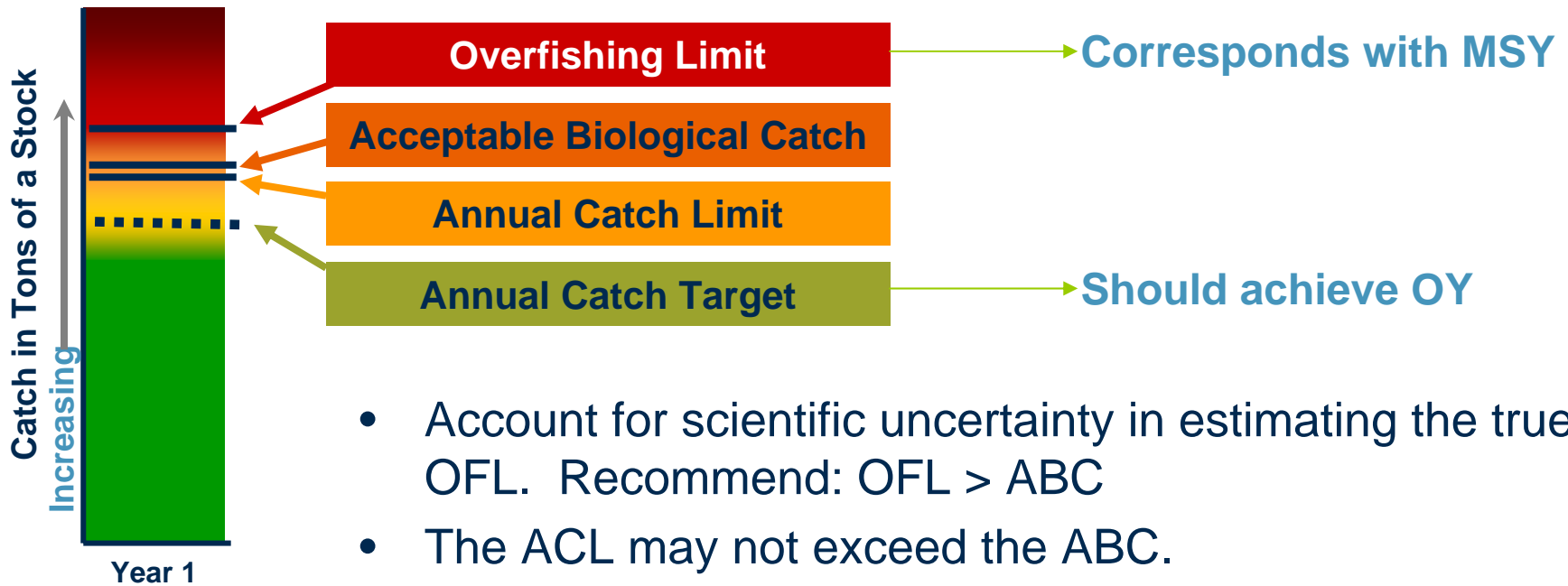
- Ensure that the MSA mandate for ACLs and AMs to end and prevent overfishing is met and account for U.S. fisheries diversity:
  - Biological and ecological
  - Management approaches
  - Scientific knowledge
  - Monitoring capacity
  - Overlap in management jurisdiction
  - Resource users







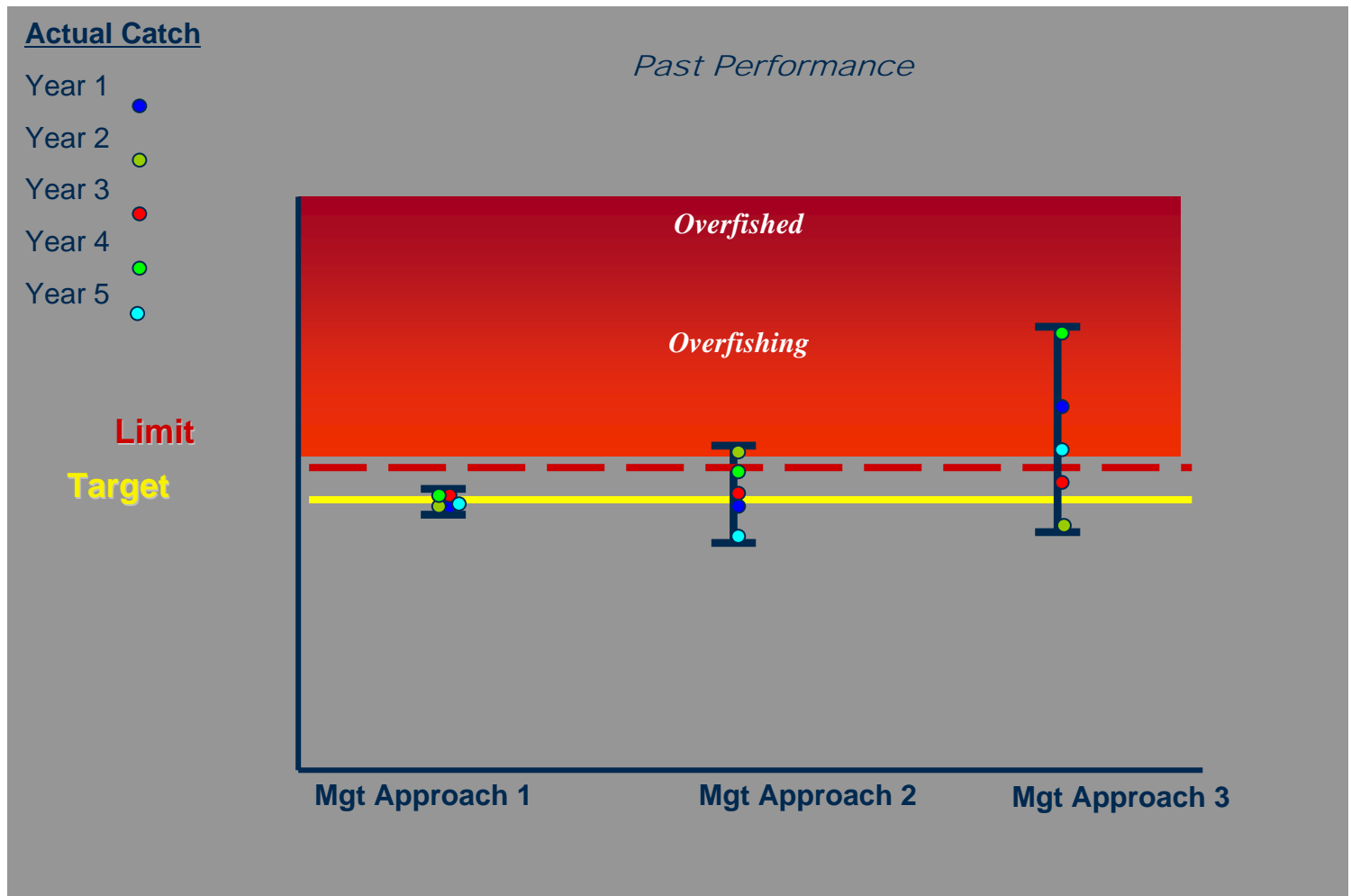
# ACL Guidance Proposed Reference Points



- Account for scientific uncertainty in estimating the true OFL. Recommend:  $OFL > ABC$
- 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:  $ACL > ACT$



# ACL Guidance Addressing Management Uncertainty





## ACL Guidance Summary of Proposed Guidelines

### MSA requires:

- ACLs and AMs to prevent overfishing
- ACLs not exceed fishing level recommendations of SSCs
- ACLs and AMs in all managed fisheries, with 2 exceptions

### NMFS proposes:

- ACLs/AMs for all stocks & stock complexes in a fishery, unless the 2 MSA exceptions apply
- Clearly account for both scientific & management uncertainty in ACL specification process
- AMs should prevent ACL overages, where possible, & always address overages, if they occur
- An optional “ecosystem component” category could allow flexibility in FMPs for greater ecosystem considerations



## ACL Guidance Major Issues

- Implementation of ACTs
- Relationship between reference points
- Addressing science and management uncertainty
- Complexity and timeline to implement
- Data limitations
- Required provisions vs. recommended preferred approaches (*must vs. should*)
- Ecosystem component species in FMPs



## ACL Guidance Status

- Proposed rule published June 9, 2008
- The extended comment period closed on September 22, 2008
  - Three public meetings
  - Overview presentations for all 8 Councils
- Received ~158,000 comments
- Analyzing comments and developing final rule for clearance



## National Environmental Policy Act Procedures for Fishery Management Actions

- Congress directed the Secretary, in consultation with Councils and CEQ, to revise and update agency procedures to comply with NEPA.
- The procedures shall:
  - Conform to the time lines for review and approval of fishery management plans and amendments under this section; and
  - Integrate applicable environmental analytical procedures, including the time frames for public input, with the procedures for the preparation and dissemination of fishery actions



## NEPA Proposed Procedures: Goals

- Comply with NEPA and MSA
- Adhere to the principles of public involvement and agency accountability in the CEQ regulations
- Integrate NEPA into MSA public processes
- Build on recommendations in the CCC strawman
- Clarify the responsibilities of Councils and NMFS, and align public participation appropriately
- Allow rapid response, while providing meaningful public input into policy decisions



## NEPA Approach & Key Proposed Changes

- Approach
  - Started with CEQ regulations as a basis - proposed changes only where necessary to address problems; reorganized for clarity
  - Works within parameters of CEQ regulations allowing flexibility; establishes limits on flexibility
  - The need for additional internal guidance will be assessed in light of the final regulatory changes
- Major Proposed Changes
  - Content: Retains basic content requirements for analyses with modifications to address fisheries issues
  - Documentation: Retains EA/FONSIs & CEs; new forms of documentation to maximize flexibility & encourage tiering, frameworking, & integration of analyses
  - Public Involvement: Adapts comment & response requirements to align with FMC/NMFS policy development
  - Timelines: Allows modification of timelines to fit within MSA processes





# NEPA Major Issues

- Length of the Public Comment Period
  - The proposed rule would double the time available for public comment from 45 to 90 days in most circumstances
  - Maintains NMFS-level comment period
  - Adds requirement for public comment on draft analysis and consideration of comments prior to Council vote
- NMFS-Council responsibilities
  - The proposed ensures that Councils consider environmental analyses, public comments, and alternatives prior to selecting a management recommendation
  - NMFS retains responsibility for ensuring that NEPA requirements are met



## NEPA Procedures Status

- Proposed rule published May 14, 2008
- Comment period closed on August 12, 2008
  - Three public meetings
  - Overview presentations for all 8 Councils
- Received >150,000 comments
- Final rule under formal review



## Marine Recreational Fisheries Information Program (MRIP)

- A program to improve the quality and accuracy of information generated by MRFSS.
- The program must take into account the 2006 NRC report “Review of Recreational Fisheries Survey Methods.”
- Establish and implement regionally based registry program for recreational fishermen in each of the 8 fishery management regions.



## MRIP Status

A proposed rule to implement the national registry of recreational fishermen published June 12, 2008

Public comments invited through August 11, 2008

Final rule is under review

Implementation Plan finalized and available

For more info, see:  
<http://www.st.nmfs.noaa.gov/mrip/>





## Limited Access Privilege Program

- Administration goal: Double the number of market-based programs to 16 by 2011
- MSRA established specific requirements for establishing and administering LAPPs and for the allocation of harvest privileges
- NMFS published a report, *The Design and Use of Limited Access Privilege Programs*, providing non-regulatory guidance on the technical design and use of various LAPP approaches
- In 2007, NMFS solicited public comment on what additional guidance is needed to implement LAPPs





## Additional Rulemaking

### **Experimental Fishing Permits**

- New Cooperative Research and Management Program section in the MSRA
- Create an expedited, uniform, and regionally-based process to promote issuance of experimental fishing permits
- NMFS proposed changes – December 21, 2007
  - Comments accepted through March 20, 2008
- Final rule is under development

### **IFQ Referenda Guidelines**

- For NMFS and Councils to follow in determining procedures & voting eligibility requirements for referenda on IFQ program proposals.
- NMFS proposed guidelines & procedures – April 23, 2008,
  - Comments accepted through June 23, 2008
- Final guidelines are under development



## International Provisions

- The proposed rule developing certification procedures to address illegal, unreported, or unregulated (IUU) fishing activities and bycatch of protected living marine resources is under review
- The first biennial report to Congress is in the clearance process



## Deep Sea Coral

- The MSRA provides NOAA additional science and management authorities related to deep-sea coral communities.
  - Directs the Secretary of Commerce, in consultation with appropriate Regional Fishery Management Councils to establish a Deep-Sea Coral Research and Technology Program.
  - Authorizes Councils to designate zones to protect Deep-Sea corals from damage caused by fishing gear under FMP discretionary provisions.
- NMFS published a notice to announce the availability of the Draft NOAA Deep-Sea Coral and Sponge Research and Management Strategic Plan for public comment
  - Comments on the draft strategic plan due January 17, 2009





## Peer Review

- NMFS published an advanced notice of proposed rulemaking to revise National Standard 2 guidelines regarding the use of best scientific information available
- NMFS is considering modifying the language describing the content and purpose of the Stock Assessment and Fishery Evaluation Report or related documents, and adding language regarding peer review processes, the role of the scientific and statistical committees (SSCs) of the Regional Fishery Management Councils, and the relationship between peer reviews and SSCs
- Written comments accepted through December 17, 2008



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