



New England Fishery Management Council

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**MEMORANDUM**

**DATE:** November 2, 2012  
**TO:** Herring Committee/Council Members  
**FROM:** Lori Steele, Herring PDT Chairman  
**SUBJECT:** **NMFS' Guidance Re. Applying Accountability Measures (AMs) to Annual Catch Limits (ACLs) and sub-ACLs**

Below are excerpts from NMFS' National Standard Guidelines (NSGs) pertaining to establishing ACLs and AMs.

*National Standard 1 Guidelines on Annual Catch Limits*

**600.310(f)(2)(iv)** Annual catch limit (ACL) is the level of annual catch of a stock or stock complex that serves as the basis for invoking AMs. ACL cannot exceed the ABC, but may be divided into sector-ACLs (see paragraph (f)(5) of this section).

**600.310(f)(5) Setting the annual catch limit.**

**(i) General.** ACL cannot exceed the ABC and may be set annually or on a multiyear plan basis. ACLs in coordination with AMs must prevent overfishing (see MSA section 303(a)(15)). If a Council recommends an ACL which equals ABC, and the ABC is equal to OFL, the Secretary may presume that the proposal would not prevent overfishing, in the absence of sufficient analysis and justification for the approach.

A "multiyear plan" as referenced in section 303(a)(15) of the Magnuson-Stevens Act is a plan that establishes harvest specifications or harvest guidelines for each year of a time period greater than 1 year. A multiyear plan must include a mechanism for specifying ACLs for each year with appropriate AMs to prevent overfishing and maintain an appropriate rate of rebuilding if the stock or stock complex is in a rebuilding plan. A multiyear plan must provide that, if an ACL is exceeded for a year, then AMs are triggered for the next year consistent with paragraph (g)(3) of this section.

**(ii) Sector-ACLs.** A Council may, but is not required to, divide an ACL into sector-ACLs. "Sector," for purposes of this section, means a distinct user group to which separate management strategies and separate catch quotas apply.

Examples of sectors include the commercial sector, recreational sector, or various gear groups within a fishery. If the management measures for different sectors differ in the degree of management uncertainty, then sector ACLs may be necessary so that appropriate AMs can be developed for each sector.

If a Council chooses to use sector ACLs, the sum of sector ACLs must not exceed the stock or stock complex level ACL. The system of ACLs and AMs designed must be effective in protecting the stock or stock complex as a whole. Even if sector-ACLs and AMs are established, additional AMs at the stock or stock complex level may be necessary.

**(iii) ACLs for State-Federal Fisheries.** For stocks or stock complexes that have harvest in state or territorial waters, FMPs and FMP amendments should include an ACL for the overall stock that may be further divided.

For example, the overall ACL could be divided into a Federal-ACL and state-ACL. However, NMFS recognizes that Federal management is limited to the portion of the fishery under Federal authority (see paragraph (g)(5) of this section). When stocks are co-managed by Federal, state, tribal, and/or territorial fishery managers, the goal should be to develop collaborative conservation and management strategies, and scientific capacity to support such strategies (including AMs for state or territorial and Federal waters), to prevent overfishing of shared stocks and ensure their sustainability.

**600.310(f)(6)(i) Determining management uncertainty.** Two sources of management uncertainty should be accounted for in establishing the AMs for a fishery, including the ACT control rule if utilized: Uncertainty in the ability of managers to constrain catch so the ACL is not exceeded, and uncertainty in quantifying the true catch amounts ( i.e., estimation errors). To determine the level of management uncertainty in controlling catch, analyses need to consider past management performance in the fishery and factors such as time lags in reported catch. Such analyses must be based on the best available scientific information from an SSC, agency scientists, or peer review process as appropriate.

### *National Standard 1 Guidelines on Accountability Measures*

**600.310(g) Accountability measures.** The following features (see paragraphs (g)(1) through (5) of this section) of accountability measures apply to those stocks and stock complexes in the fishery.

**(1) Introduction .** AMs are management controls to prevent ACLs, including sector-ACLs, from being exceeded, and to correct or mitigate overages of the ACL if they occur. AMs should address and minimize both the frequency and magnitude of overages and correct the problems that caused the overage in as short a time as possible. NMFS identifies two categories of AMs, in-season AMs and AMs for when the ACL is exceeded.

**(2) In-season AMs.** Whenever possible, FMPs should include in-season monitoring and management measures to prevent catch from exceeding ACLs.

In-season AMs could include, but are not limited to: ACT; closure of a fishery; closure of specific areas; changes in gear; changes in trip size or bag limits; reductions in effort; or other appropriate management controls for the fishery.

If final data or data components of catch are delayed, Councils should make appropriate use of preliminary data, such as landed catch, in implementing in-season AMs. FMPs should contain in-season closure authority giving NMFS the ability to close fisheries if it determines, based on data that it deems sufficiently reliable, that an ACL has been exceeded or is projected to be reached, and that closure of the fishery is necessary to prevent overfishing.

For fisheries without in-season management control to prevent the ACL from being exceeded, AMs should utilize ACTs that are set below ACLs so that catches do not exceed the ACL.

**(3) AMs for when the ACL is exceeded .** On an annual basis, the Council must determine as soon as possible after the fishing year if an ACL was exceeded.

If an ACL was exceeded, AMs must be triggered and implemented as soon as possible to correct the operational issue that caused the ACL overage, as well as any biological consequences to the stock or stock complex resulting from the overage when it is known. These AMs could include, among other things, modifications of in-season AMs or overage adjustments.

For stocks and stock complexes in rebuilding plans, the AMs should include overage adjustments that reduce the ACLs in the next fishing year by the full amount of the overages, unless the best scientific information available shows that a reduced overage adjustment, or no adjustment, is needed to mitigate the effects of the overages.

If catch exceeds the ACL for a given stock or stock complex more than once in the last four years, the system of ACLs and AMs should be re-evaluated, and modified if necessary, to improve its performance and effectiveness.

A Council could choose a higher performance standard (e.g., a stock's catch should not exceed its ACL more often than once every five or six years) for a stock that is particularly vulnerable to the effects of overfishing, if the vulnerability of the stock has not already been accounted for in the ABC control rule.

**(4) AMs based on multi-year average data .** Some fisheries have highly variable annual catches and lack reliable in-season or annual data on which to base AMs. If there are insufficient data upon which to compare catch to ACL, either in-season or on an annual basis, AMs could be based on comparisons of average catch to average ACL over a three-year moving average period or, if supported by analysis, some other appropriate multi-year period. Councils should explain why basing AMs on a multi-year period is appropriate.

Evaluation of the moving average catch to the average ACL must be conducted annually and AMs should be implemented if the average catch exceeds the average ACL. As a performance standard, if the average catch exceeds the average ACL for a stock or stock complex more than

once in the last four years, then the system of ACLs and AMs should be re-evaluated and modified if necessary to improve its performance and effectiveness.

The initial ACL and management measures may incorporate information from previous years so that AMs based on average ACLs can be applied from the first year. Alternatively, a Council could use a stepped approach where in year-1, catch is compared to the ACL for year-1; in year-2 the average catch for the past 2 years is compared to the average ACL; then in year 3 and beyond, the most recent 3 years of catch are compared to the corresponding ACLs for those years.

**(5) AMs for State-Federal Fisheries.** For stocks or stock complexes that have harvest in state or territorial waters, FMPs and FMP amendments must, at a minimum, have AMs for the portion of the fishery under Federal authority. Such AMs could include closing the EEZ when the Federal portion of the ACL is reached, or the overall stock's ACL is reached, or other measures.

**600.310(h) Establishing ACL mechanisms and AMs in FMPs.** FMPs or FMP amendments must establish ACL mechanisms and AMs for all stocks and stock complexes in the fishery, unless paragraph (h)(2) of this section is applicable.

These mechanisms should describe the annual or multiyear process by which specific ACLs, AMs, and other reference points such as OFL, and ABC will be established. If a complex has multiple indicator stocks, each indicator stock must have its own ACL; an additional ACL for the stock complex as a whole is optional.

In cases where fisheries (e.g., Pacific salmon) harvest multiple indicator stocks of a single species that cannot be distinguished at the time of capture, separate ACLs for the indicator stocks are not required and the ACL can be established for the complex as a whole.

(1) In establishing ACL mechanisms and AMs, FMPs should describe:

(i) Timeframes for setting ACLs (e.g., annually or multi-year periods);

(ii) Sector-ACLs, if any (including set-asides for research or bycatch);

(iii) AMs and how AMs are triggered and what sources of data will be used (e.g., in-season data, annual catch compared to the ACL, or multi-year averaging approach); and

(iv) Sector-AMs, if there are sector-ACLs.