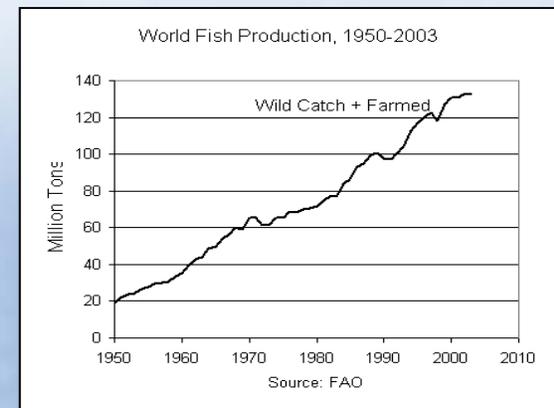
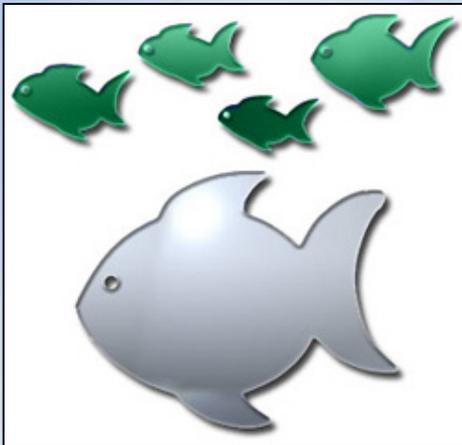


# The National Standards: Ten Policy Objectives



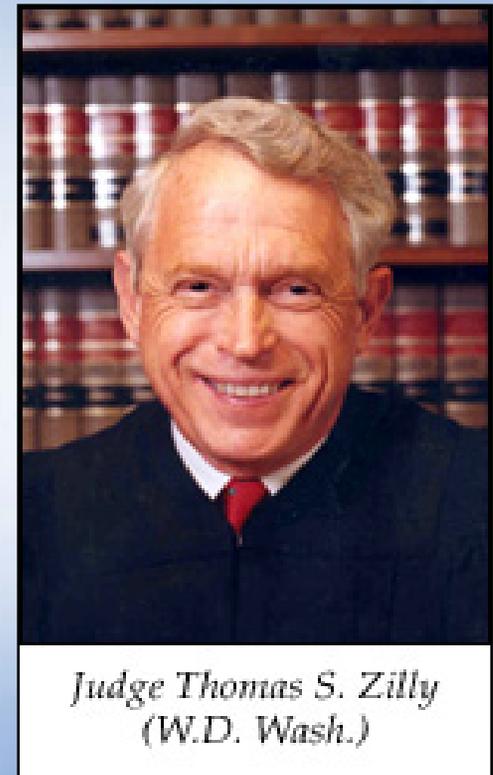
# What do they Say?

- (1) Achieve OY and prevent overfishing**
- (2) Best available scientific information**
- (3) Manage stocks as a unit**
- (4) Allocations fair and equitable, promote conservation, and prevent excessive shares**
- (5) Consider efficiency in utilization; not have economic allocation as sole purpose**
- (6) Allow for variations and contingencies**
- (7) Minimize costs, avoid duplication**
- (8) Consider fishing communities to provide for their sustained participation and to minimize adverse economic impacts**
- (9) Minimize bycatch, and bycatch mortality**
- (10) Promote safety of human life at sea**

# What do they mean?



- **National Standard Guidelines (50 CFR 600)**
- **Lessons from Case Law**



OY means: *Food, Recreation, and Ecosystems*



# Achieve OY/Prevent Overfishing

- **OY = greatest overall benefit to the Nation**
  - With respect to: Food, recreation, marine ecosystems
  - Based on MSY, as reduced by:
    - Social, economic, or ecological factors
  - Consistent with Rebuilding
- **MSY**
  - Largest long-term average yield
  - Under prevailing ecological conditions
- **Overfishing**
  - Rate of fishing mortality
  - Jeopardizes long-term ability to produce MSY

# 2009 N.S. 1 Guidance

- Provide a Comprehensive Approach with implications for other parts of the MSA
- Rely on Control Rules, Targets, and limits
- Respond to Uncertainty conservatively
- Provide Guidance on Use of ACLs and AMs
- Provide Guidance and Interpretations on Ending Overfishing

# 2009 N.S. 1 Guidance: Defines Terms

ACLS

Ecosystem

MSST

Components



Target

Stocks

MFMT

N.S. Guidelines, section 600.310(d)

# 2009 N.S. 1 Guidelines: Terminology

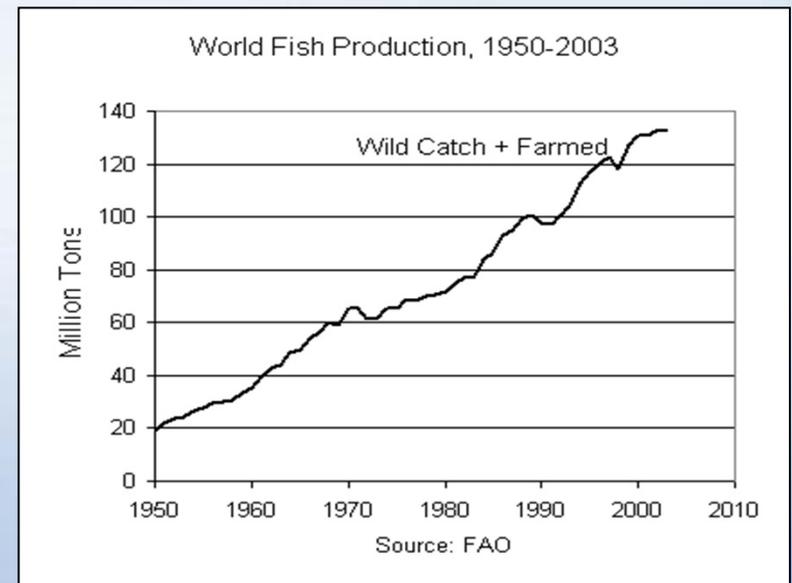
- Target and Non-target Stocks: 600.310(d)(3)
- Ecosystem Components (EC): 600.310(d)(5)
- Status Determination Criteria (SDC): 600.310(e)(2)(i)(A)  
(MFMT, OFL, and MSST, or their proxies)
- Overfishing/Overfished: 600.310(e)(2)(i)(E)
- ABC/ABC Control Rule: Section 600.310(f)
- Sector-ACLs: (660.310(f)(2)(iv))
- Catch Target (ACT)/ACT Control Rule: 600.310(f)(2)(v)&(vi)

# 2009 N.S. 1 Guidelines: Links to Ending Overfishing and Rebuilding

- T<sub>min</sub>: 600.310(j)(3)(i)(A)
- T<sub>max</sub>: 600.310(j)(3)(i)
- International Overfishing: 600.310(k)
- Can overfishing ever be allowed? 600.310(m)  
(provides limited exceptions)

## N.S. 2: Best Available Scientific Information

- “Best Available” may be incomplete or allow conflicting interpretations
- Councils should justify choices
- What to do with new data
- SAFE Report



# Case Law: National Standard 2



It is OK to rely on limited data.

**X**

Using data that we have stated is unreliable without explaining why we're using it is NOT OK.

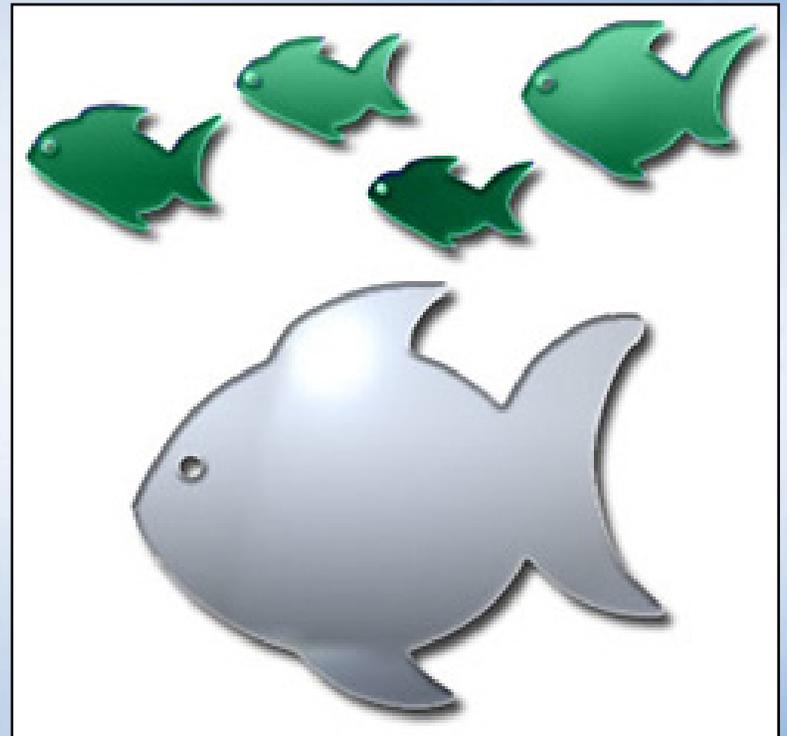
**X**

Decisions based on politics instead of science are NOT OK.

# N.S. 3: Manage Stocks as a Unit

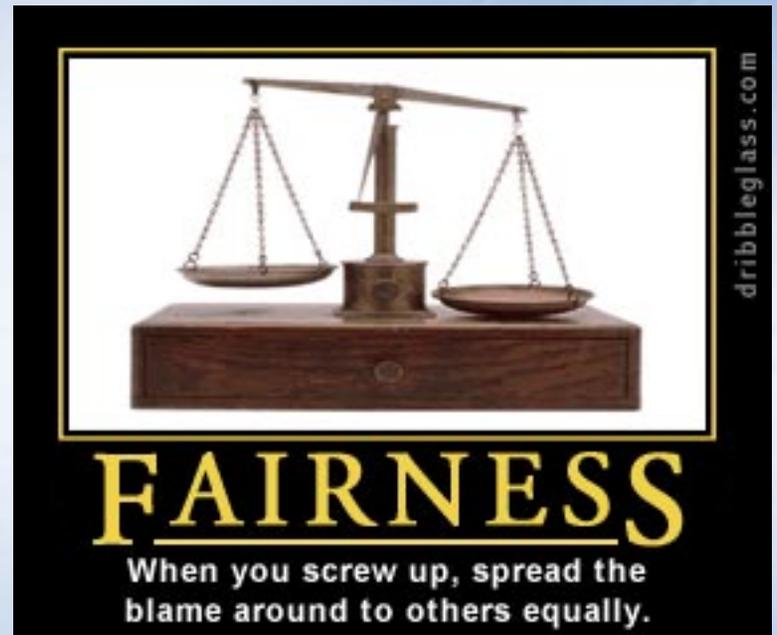
Discretion in defining management unit

- Depends on objectives
- May be based on biological, geographic, economic, technical, social, or ecological issues



# N.S. 4: No Discrimination; Rules for Allocations

- No discrimination between residents of different states.
- If necessary to allocate, allocation must be:
  - (1) Fair and equitable
  - (2) Reasonably calculated to promote conservation.
  - (3) No excessive shares of privileges.



## N.S. 4: Allocations

“Allocation” means –

- Direct, deliberate distribution of opportunity to participate among identifiable, discrete user groups or individuals.
- Incidental allocative effects not included



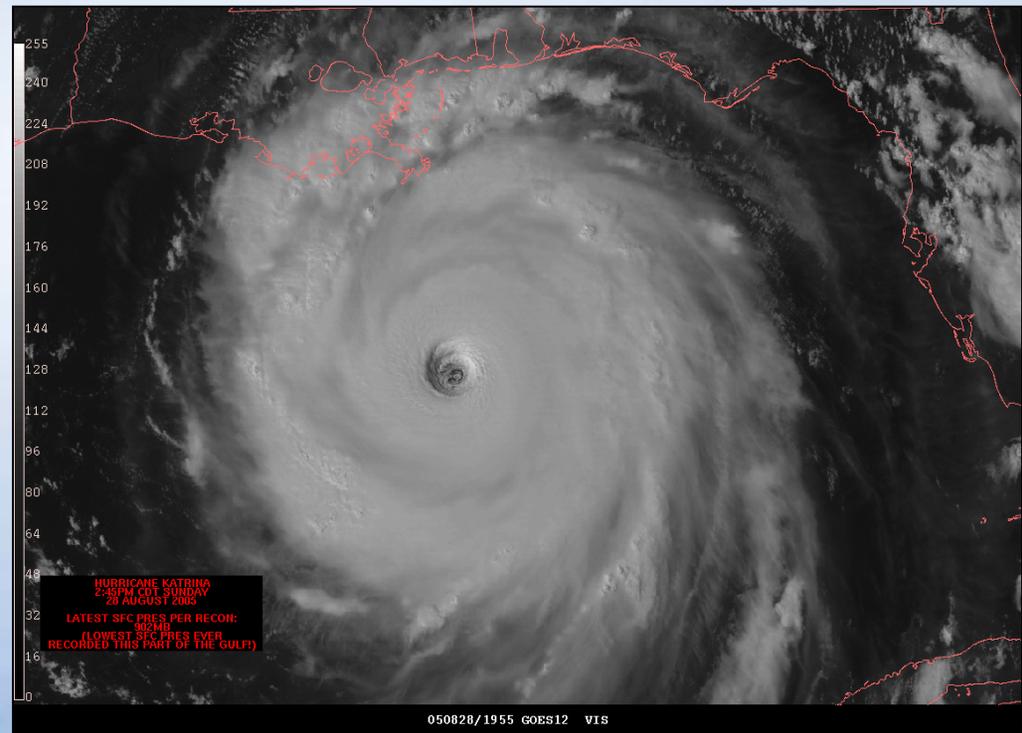
# Case Law: National Standard 4

- **Incidental allocative effects are OK.**
- **Allocations are OK if necessary to achieve conservation benefits.**



# N.S. 6: Variations and Contingencies

- Buffers for variations and uncertainties
- Flexibility for unpredictable events



# N.S. 7: Minimize Costs, Avoid Duplication

- Not every fishery needs an FMP
- Consider costs: fuel costs, enforcement costs, burdens of collecting data
- Analysis to show benefits justify costs



## N.S. 8: Communities

Consistent with conservation requirements, take into account the importance of fishery resources to fishing communities in order to:

- (1) Provide for their sustained participation; and
- (2) To the extent practicable, minimize adverse economic impacts.



# **“Fishing Community” means:**

- **Substantially dependent on the fishery, or**
- **Substantially engaged in harvesting or processing to meet social and economic needs**
- **Geographically based**

# **“Sustained Participation” means:**

**....continued access to the  
fishery within the constraints of  
the condition of the resource.**

# Case Law: National Standard 8

*The conservation requirements of NS 1 trump duty to minimize economic impacts.*



# N.S. 9: Bycatch

To the extent practicable:

(1) Minimize bycatch; and

(2) To the extent bycatch cannot be avoided, minimize the mortality of such bycatch.



# “Bycatch” means:

- “Fish” that are harvested but not sold or kept
- Does not include birds or mammals
- Includes economic and regulatory discards and unobserved mortalities
- Does not include legally retained non-target species



# N.S. 10: Safety

- To the extent practicable, promote the safety of human life at sea.
- Avoid constraints that pressure fishermen to fish in unsafe conditions



# Required FMP Components

- (1) Prevent overfishing; rebuild; protect, restore, promote long-term health and stability
- (2) Description of the fishery
- (3) Specify MSY and OY
- (4) Specify capacity and domestic harvest and processing of OY
- (5) Specify the data to be submitted
- (6) Temporary adjustments to address unsafe ocean conditions
- (7) Essential fish habitat: identify, minimize impacts from fishing.
- (8) Specify the scientific data needed to implement the plan
- (9) Fishery impact statement
- (10) Overfishing definitions
- (11) Bycatch: reporting methodology and measures to minimize
- (12) Number, types, and mortality of fish caught and released recreationally; minimize mortality and ensure the extended survival
- (13 )Describe sectors (commercial, recreational, and charter); quantify landings trends by sector
- (14) Allocate restrictions and benefits fairly and equitably among sectors.
- (15) Establish a mechanism for setting ACLs and AMs --MSA p. 74, sect. 303(a)