



How Does the Agency Comply With National Standard 2 While Reviewing Council Actions?

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Statutory Overview

- MSA Section 304(a)(1)(A): The Secretary reviews plans to make sure they comply with applicable laws
 - National Standard 2: Best Scientific Information Available (BSIA)
- NEPA: Professional and scientific integrity
- Administrative Procedures Act, 5 USC Title III: Agency considers relevant information submitted by the public during rulemaking



MSA Section 304(a)(1)(A):

- Council submits management action
- NMFS reviews and publishes proposed rule
- Public provided opportunity for comment
- After consideration of the administrative record, NMFS approves, disapproves, or partially approves action

National Standard 2

- Guidelines describe principles for determining BSIA:
 - Relevance
 - Inclusiveness
 - Objectivity
 - Transparency and openness
 - Timeliness
 - Verification and validation

Example #1: SAFMC

- South Atlantic gag assessed in 2013/14 with data through 2012, reviewed by the SSC in April 2014.
- SSC status recommendation was overfishing/not overfished, with F based on a 3-year average to address terminal uncertainty.
- NMFS position: the acceptable F in 2012, projections showing F would be below F_{limit} in 2013 if landings were not exceeded and the record from 2012 showing landings could be effectively constrained, together justified a determination that overfishing was not occurring in 2012 and 2013.

Example #2: NEFMC

- Using a peer reviewed assessment, SSC recommends an ABC based on the control rule.
- The Council requests the SSC to advise on the risks of an ABC closer to the OFL for one year, to mitigate economic impacts.
- SSC recommends an OFL and a new ABC, with $ABC < OFL$, and concludes risks are similar.
- RA cautions ABC may not be approvable because he believes it may not end overfishing.

Discussion

- When reviewing Council actions, what process does the agency use to comply with NS2?
 - Do the Science Centers participate in this decision?
 - Is the public involved?
 - What documentation is provided?
- Should the agency participate in SSC discussions on OFL/ABC?
- Shouldn't the agency determination be provided to the SSC/Council for discussion during a SSC/Council meeting while the amendment is under development?
- Shouldn't the Council have the benefit of all agency analyses when making its decisions?

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