Science, Service, Stewardship

National Standard 2 Update

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Update on National Standard 2 (NS2)

- Progress on revising NS2 guidelines
- Examples of public comments
- Timeline for NS2 final rule

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National Standard 2 (NS2)

- MSA § 301 National Standards for Fishery Conservation and Management
  - MSA § 301(a)(2) “Conservation and management measures shall be based upon the best scientific information available.”
  - MSA § 301(b) **“**The Secretary shall establish advisory guidelines (which shall not have the force and effect of law), based on national standards …”
- Why revise NS2 guidelines?
  - Existing National Standard 2 (50 CFR Subpart D 600.315) has limited guidance on BSIA and no peer review standards.

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Progress on revising NS2 guidelines

- Advanced notice of public rulemaking (ANPR) published 9-17-09 with three month comment period

- NS2 work group reviewed ANPR comments and drafted proposed rule in 2009

- Proposed rule published 12-11-09 (74 FR 65724) with a three month public comment period.

  - Public comments received from 26 organizations (15 fisher constituents, 4 Councils, 4 NGOs, 3 agencies) available at http://www.regulations.gov RIN 0648-AW62.

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NS2 Proposed Rule - Best Scientific Information Available

- BSIA is a dynamic process; avoid overly prescriptive definition

- Scientific information requirements
  - Biological, ecological, socioeconomics, etc.
  - Use of proxies in data-poor situations
  - Identifying risks associated with uncertainty and data gaps

- Principles for evaluating BSIA, based on NRC (2004) advice
  - Relevance
  - Inclusiveness
  - Objectivity
  - Transparency and openness
  - Timeliness
  - Verification and validation
  - Peer review

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Examples of Public Comments on BSIA

- Support that BSIA is a dynamic process requiring ongoing improvements in science, therefore avoid an overly prescriptive definition as recommended by the NRC (2004).

- Support the adoption of NRC (2004) recommendations on the BSIA principles (i.e., relevance, inclusiveness, objectivity, transparency, timeliness, verification, validation, and importance of peer review).

- Support the inclusion of ecosystem, socioeconomics, and traditional and local knowledge (TLK) in scientific information for BSIA, and provide further guidance on the use of TLK to help confirm scientific information.

- Request clarification on transparency during all aspects of science because it is overly cumbersome to have public access during certain scientific activities, such as data collection and analytical operations.

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NS2 Proposed Rule – Peer Review

- Peer review process
  - Form of process – Secretary and Council have discretion
  - Timing – conducted early in process
  - Scope of work – terms of reference

- Peer reviewer selection – OMB peer review requirements
  - Expertise and balance – range of relevant expertise, etc.
  - Conflict of interest –
    - ✓ Federal employees - federal ethics requirements
    - ✓ Others - NOAA Policy on Conflict of Interest (financial) subject to OMB requirements
  - Independence – no involvement in the science under review

- Transparency and Publication of peer review process

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Examples of Public Comments on Peer Review

- Support the inclusion of IQA's (Public Law 106-554) OMB peer review standards on balance in expertise and perspectives, independence, conflict of interest, and transparency to ensure the reliability and credibility of scientific information.

- Disagree with inserting peer review standards in NS2 because this is too restrictive and similar standards have already been established for the Council's SSC.

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NS2 Proposed Rule - Role of SSC

- SSC's role in accordance to MSA § 302(g)(1)(B)
  - Scientific advice and recommendations to Council
- SSC may assist in peer review according to MSA § 302(g)(1)(A)
  - For more informed advice to their Council
- When SSC member participates in peer review
  - Must meet peer reviewer selection criteria
- Transparency of SSC evaluation of peer review findings
- SSC recommendations to Council, including catch specifications in accordance to MSA § 302(h)(6).

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Examples of Public Comment on SSC's Role in Scientific Review

- Clarify the distinction of separate and complementary processes of technical peer review and the SSC's scientific evaluation and advice for their Council in accordance with MSA § 302(g)(1)(B).

- Support that a SSC member may participate in peer review in accordance with MSA § 302(g)(1)(A) if that member meets the peer reviewer requirements according to OMB standards.

- Disagree that the SSC can participate in peer review, but provide language allowing SSC to participate as a Chair during peer reviews.

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NS2 Proposed Rule - SAFE Reports

- SAFE report is public document or set of related public documents
- Secretary has responsibility to prepare and update SAFE report in accordance to MSA § 301(b).
- Purpose and contents of SAFE report
  - Max. fishing mortality rate and min. stock size thresholds
  - Whether overfishing exists or a stock is overfished
  - Catch specifications
  - Sources of fishing mortality and bycatch
  - Other information (e.g., socioeconomics, ecological, EFH, etc)
- Public availability of SAFE documents through Council's website

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Examples of Public Comments on SAFE Report

- Support that the Secretary has responsibility for the preparation and update of SAFE report in accordance to MSA § 301(b).
- Disagree that the Secretary has responsibility for preparing the SAFE report because the Council's SSC and Plan Team presently prepares the SAFE report.
- Clarification on the SAFE report contents in regard to scientific and management uncertainty.

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Summary/Next Steps

- Public comments on the NS2 proposed rule were generally supportive, including recommendations for clarification.
- Comments generally agreed the NS2 revisions will improve the reliability and credibility of scientific information.
- The NS2 work group is presently drafting responses to the public comments from the proposed rule, therefore

  we can not discuss responses to comments at this time.

- The final rule for NS2 with the responses will be published in autumn 2010.

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Questions?