

2. Table Z. Rulemaking Authorities and Processes.

Rulemaking Process/ Authorities	Effect	Who Initiates	How Initiated	When Used	Duration	Examples	Required MSA Procedure for Rulemaking	APA Public Comment Period	APA Delayed Effectiveness	OALs
1. Standard/ Deemed Rule (MSA 303(c), 304(b))	Implement FMP or Amendment or modify existing regulations for FMP or Amendment	Council	Council public process	When necessary or appropriate for implementing FMP or Amendment, or modifying existing regulations	In effect until modified (or other duration specified in rule)	Measures needed for rebuilding plans, catch share programs, etc.	Sec: 5 days to initiate review of proposed rule; 15 days to determine consistency with FMP or Amendment and law; 15 – 60 days public comment; 30 days for final rule	Yes. Reasonable opportunity for comment. May waive part of comment period for good cause (cannot reduce below MSA 15- day minimum)	30-day delay, unless an exception or good cause waiver is applicable	
2. Emergency Rule (MSA 305(c))	Temporary amendment to FMP or Amendment	Council or NMFS	Finding that emergency exists	Address Emergency	180 days with potential 186-day extension	Gulf of Mexico Oil Spill Closures	186-day extension available only if public had opportunity to comment	Yes, unless an exception or good cause waiver is applicable (no MSA minimum)	30-day delay, unless an exception or good cause is applicable	OALs such as NEPA and CZMA have emergency provisions
Interim Measures (MSA 305(c))			Sec. or Council finding need to reduce overfishing	Address Overfishing		Quota Reduction				

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3. Rule for Secretarial Plan or Amendment (MSA 304(c)(6), (7))	Implement Secretarial FMP or Amendment	NMFS	When Secretary determines appropriate (see list of findings in section E.3.c of Appendix 2)	To implement FMPs or amendments developed by the Secretary pursuant to 304(c)(1), 304(e)(5), 304(g))	In effect until modified (or other duration specified in rule)		60 day public comment period (may be shorter for minor rule revisions)	Yes. Reasonable opportunity for comment. May waive part of comment period for good cause (cannot reduce below what MSA requires).	30-day delay, unless an exception or good cause waiver is applicable	
4. General Rulemaking authority (305(d))	Implement FMP or Amendment or other MSA provisions/responsibilities	NMFS	NMFS decides that action is needed	To implement FMP or Amendment or carry out other MSA provisions/responsibilities	In effect until modified (or other duration specified in rule)		N/A	Yes. Reasonable opportunity for comment. May waive part of comment period for good cause (no MSA minimum).	30-day delay, unless an exception or good cause waiver is applicable	