

Id. § 600.325(c)(3)(ii). But it need not wrestle with that question here, because the Service, in explaining why A113 complied with National Standard 4, did not rely on that guidance. And for the reasons explained, the Court cannot accept Defendants’ argument that the socio-economic benefits identified for purposes of National Standard 8 are a sufficient substitute for the Service’s obligation to provide a rational explanation of how A113 is consistent with the requirements of National Standard 4.

At bottom, the Court finds that the Service failed to show that A113 complied with National Standard 4—and specifically, the requirement that an allocation of fishing privileges be “reasonably calculated to promote conservation.” 16 U.S.C. § 1851(a)(4)(B). The Service’s conclusion that A113 is consistent with National Standard 4 because it made no changes to the various existing measures protecting fishery resources is simply not rational in light of the text of that standard and the facts in the record. *See C & W Fish*, 931 F.2d at 1562. For that reason as well, the Service’s decision to adopt A113 was arbitrary, capricious, and not in accordance with applicable law.

IV. Conclusion

For the above reasons, Plaintiffs’ Motion for Summary Judgment, ECF No. 35, will be granted, and Defendants’ and Intervenors’ Cross-Motions for Summary Judgment, ECF Nos. 36, 38, will be denied. The Court will vacate the rule implementing A113 and remand A113 to the Service for reconsideration consistent with this opinion. A separate Order will issue.

/s/ Timothy J. Kelly
TIMOTHY J. KELLY
United States District Judge

Date: March 21, 2019