



Fact Sheet

National Environmental Policy Act Rulemaking

In January 2007, President Bush signed into law legislation that reauthorized and strengthened the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the law that governs fishery management in federal ocean waters. One of the Act's most significant provisions directs the National Marine Fisheries Service (NMFS) to revise and update its procedures for compliance with the National Environmental Policy Act (NEPA).

By requiring a thorough environmental review before any significant activities are permitted in America's oceans, NEPA ensures that public officials make policy decisions about our oceans that are informed by a thorough understanding of the environmental consequences. A NEPA environmental review provides decision makers and the public the opportunity to consider alternatives that minimize or avoid environmental impacts.

For too long, ocean fisheries management in this country has focused on single species impacts—failing to consider the wider impacts of fishing on non-target species, important habitats or the prey of other species. A properly done NEPA analysis will evaluate these impacts and provide managers with the information necessary to choose management alternatives that minimize environmental harm

When drafting the new NEPA procedures for federal fishery management, NMFS has the opportunity to ensure that marine ecosystems are protected by the following three elements:

Full NEPA compliance to ensure strong environmental review

NEPA gives fishery managers tools that are not provided by the MSA to produce information critical to achieving healthy ocean ecosystems and productive fisheries. The law is crystal-clear with respect to compliance with NEPA. Both the language of the reauthorized MSA and its legislative history demonstrate that the new process must comply fully with NEPA and with the Council on Environmental Quality regulations. Congress and President Bush intended that a strong environmental review process continue to inform fishery management decisions.

Informed decision-making

The primary purpose of the MSA is to regulate commercial and recreational fishing. There are no procedures in the MSA to fully analyze the environmental impact of proposed actions, or present alternatives for the fishery managers and the public to evaluate. By requiring environmental review, NEPA fills this gap and ensures fishery managers and the public get the information necessary to effectively protect ocean ecosystems. The new process should not erode fishery managers' or the public's access to the information required to make informed decisions.

Sound public participation

The MSA also lacks provisions to ensure the public has adequate opportunity to evaluate and contribute to policy decisions about our oceans. NEPA fills this void by requiring decision makers to notify the public of proposed actions and offer formal public comment opportunities. Furthermore, NEPA requires decision makers to respond to public comments and explain how they have addressed the comments. The new procedures must not erode the public's right to be heard in the decision-making process.

For more information, please contact:

Lee Crockett (202) 552-2065 lcrockett@pewtrusts.org