



Fact Sheet

National Environmental Policy Act Proposed Rule

In January 2007, legislation reauthorizing the Magnuson-Stevens Fishery Conservation and Management Act (MSA) was signed into law. One provision of the Act directed the National Marine Fisheries Service (NMFS) to revise and update its environmental review procedures for compliance with the National Environmental Policy Act (NEPA).

By requiring a thorough environmental review with public participation, NEPA ensures that public officials make informed policy decisions about our oceans. NEPA environmental reviews have made it possible to protect thousands of square miles of coral formations, reduce mortality of endangered sea turtles and begin the rebuilding of depleted fish populations.¹

On May 14, 2008, NMFS proposed a new environmental review process for MSA activities that is full of loopholes and exclusions that would significantly limit the scope of the environmental review and the public's right to participate.

The following are our main concerns with the proposed NEPA rulemaking:

The proposal significantly limits the public's ability to participate in the NEPA process and hold government managers accountable.

The proposal limits public participation by allowing NMFS to reduce the comment period on a draft environmental review document from 45 days to only 14 days; limits comments to issues raised during the initial comment period, thereby eliminating the public's right to express their concerns regarding newly raised issues or problems; and allows fishery management councils to adopt last-minute alternatives that can avoid public scrutiny.

NMFS abdicates its responsibility to conduct NEPA reviews while vesting too much authority in the fishery management councils which have a long history of poor management.

NMFS is responsible for protecting our ocean living resources and therefore must oversee the environmental review process. The proposed rule allows the regional fishery management councils, which are often dominated by fishing interests and have a poor management track record, to guide and limit the process from the start by defining the scope of the analysis and the alternatives that will be considered.²

The proposal does not comply with NEPA and the requirements of the MSA reauthorization.

The proposed rule would replace the long-established and successful NEPA Environmental Impact Statement (EIS) process with a new Integrated Fishery and Environmental Management Statement (IFEMS). According to NMFS, this new IFEMS review process is intended only to "meet the policies and goals of NEPA," not comply with NEPA as the MSA reauthorization requires. A key area where an IFEMS does not comply with NEPA is the fact that it allows NMFS to unilaterally reduce the public comment period from 45 to 14 days. Additionally, this proposal throws out decades of case law and practical experience on when and how to do an EIS and replace it with a new weaker process. NMFS' proposal is likely lead to litigation as the courts try to sort this new process out.

For more information, please contact:

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Please also visit our new website for more resources at www.endoverfishing.org

¹ For more information, please see the Pew Environment Group fact sheet "The National Environmental Policy Act (NEPA) a Success Story": www.endoverfishing.org/resources/FactSheetNEPA-fnl.pdf.

² For more information, please see the Pew Environment Group fact sheet "Conflicted Councils: How the Nation's Regional Fishery Management Councils Threaten President Bush's Commitment to Strengthen Fisheries Management": www.endoverfishing.org/resources/FactSheet-ConflictedCouncils-fnl.pdf.