

MAGNUSON-STEVENSONS ACT REAUTHORIZATION IMPLEMENTATION

The Pacific Fishery Management Council (Pacific Council), National Marine Fisheries Service (NMFS) and the other seven Regional Fishery Management Councils (RFMCs) have made progress implementing various new provisions in the Magnuson-Stevens Act (MSA) as amended by the *Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006* (MSRA). Work continues on implementation of a few key provisions. The Council has been anticipating proposed guidelines and/or regulations on several important MSRA provisions such as a new environmental review process for fishery management actions and guidance on establishing annual catch limits and accountability measures designed to prevent overfishing.

Regarding the first matter, on May 14, 2008, NMFS published a proposed rule in the Federal Register to revise and update the environmental review process pursuant to the National Environmental Policy Act (NEPA) for fishery management actions under the MSA (Agenda Item C.2.b, Attachment 1). The proposed rule offers specific provisions on several topics including:

- **Form of Documentation** - Environmental Assessments and Categorical Exclusions are proposed to be continued as currently used. Environmental Impact Statements would be replaced by Integrated Fishery and Environmental Management Statements (IFEMS) that aim to improve consideration of significant environmental impacts specific to fishery management actions under MSA while meeting the goals and policies of NEPA through a streamlined process. A new procedure is proposed for “framework” type fishery actions such as annual specifications. Under this proposal, a Framework Implementation Procedure is thoroughly analyzed and implemented within a Fishery Management Plan. Subsequent framework fishery management actions that fall within the scope of previous environmental reviews would require no further analyses so long as verification of supporting documentation and analyses is provided in a brief Memorandum of Framework Compliance.
- **Roles and Responsibilities** – The proposed rule recommends a shared role in completing environmental review documents between RFMCs and NMFS. This recommendation recognizes both the RFMC’s role of developing a reasonable range of alternatives and recommended actions while maintaining the authority and responsibility of NMFS ensuring alternatives and recommended actions comply with applicable laws including the MSA and NEPA.
- **Timelines and Process** – Public comment periods are proposed which more closely align with the RFMC process under the MSA. Specifically, the proposal recommends streamlining the process by soliciting public comment on draft IFEMS documents in advance of RFMC final actions. Additionally, the proposed rule adds a new public comment period at the end of the NEPA process to provide the public an opportunity to comment on the final IFEMS and on the NMFS decision of either approval, partial approval, or denial of the proposed action. Provisions are also proposed to reduce the minimum time periods required for public comment in certain circumstances allowing fishery actions analyzed under an IFEMS to occur in a two-meeting process.

- **Clarification of “Reasonable” and “No Action” Alternatives** – The proposed rule provides guidance on developing a range of alternatives. The existing requirement to analyze “all reasonable alternatives” is not proposed to be changed, but the emphasis should be placed on developing a “reasonable range” of alternatives that is tied to the stated purpose and need of the proposed action. Clarification of the term “no action” is proposed to mean a continuation of existing or status quo fishery regulations rather than the literal interpretation of the lack of fishery management or an open access fishery.

The public comment period on the proposed rule for revised environmental review procedures closes on August 12, 2008. The Council Coordinating Committee (CCC) heard presentations on these new environmental review procedures at their May 2008 meeting and has proposed a coordinated response to NMFS from all eight RFMCs. The Pacific Council may choose to submit comments to NMFS as part of the coordinated CCC effort, as stand-alone comments of the Pacific Council, or both.

Regarding the implementation of annual catch limits, accountability measures, and other provisions to prevent overfishing, no review materials were available by the deadline for the advance June Briefing Book. At the May 2008 meeting of the CCC, NMFS reported that a proposed rule will be published in the near future with a 90-day public comment period timed to encompass at least one meeting of each of the eight RFMCs. It is now anticipated that Pacific Council review of these materials will occur at the September 2008 meeting in Boise, Idaho. Staff will continue to work with NMFS on implementation of MSRA provisions and review materials will be distributed at the first Council meeting following their publication by NMFS.

Council Action:

Direct Planning and Action on New Requirements as Needed for Timely Implementation.

Reference Materials:

1. Agenda Item C.2.b, Proposed rule regarding a revised environmental review process for fishery management actions under the MSA (73 FR 27998).

Agenda Order:

- a. Agenda Item Overview
- b. NMFS Report
- c. Reports and Comments of Advisory Bodies
- d. Public Comment
- e. **Council Action:** Direct Planning and Action on New Requirements as Needed for Timely Implementation

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