



FACT SHEET: NATIONAL ENVIRONMENTAL POLICY ACT

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NEPA, or the National Environmental Policy Act, was enacted in 1970. NEPA is the main environmental law for the United States. NEPA applies whenever Federal funds (your tax dollars) are used on a proposed project, such as removing a dam. Conservation and management of a renewable resource, though not what NEPA was originally intended for, must also abide by NEPA rules.

NEPA [42 U.S.C. 4321 et seq.] establishes national environmental policy and goals for the protection, maintenance, and enhancement of the environment and provides a process for implementing these goals within Federal agencies.

NEPA REQUIREMENTS

NEPA requires the disclosure of the environmental consequences of a proposed action and investigation and documentation of alternatives to the proposed action. It requires that an agency make all relevant information available to the public, with opportunities for the public to comment before a decision is reached.

THE NEPA PROCESS

There are three levels of analysis under NEPA: categorical exclusion determination; preparation of an environmental assessment/finding of no significant impact (EA/FONSI); and preparation of an environmental impact statement (EIS).

Categorical Exclusion: An action may be categorically excluded from a detailed environmental analysis if a Federal agency has previously determined that it has no significant environmental impact. Many agencies have lists of actions that are normally categorically excluded from environmental evaluation under their NEPA regulations.

Environmental Assessment/FONSI: At the second level of analysis, a Federal agency prepares a written environmental assessment to determine whether or not an undertaking would significantly affect the

environment. If the answer is no, the agency issues a FONSI, which may address measures that an agency will take to mitigate potentially significant impacts.

Environmental Impact Statement: An EIS is a more detailed evaluation of the proposed action and alternatives. If an agency expects a project to significantly impact the environment, or if the project is controversial, it may prepare an EIS without having to first prepare an EA.

The public, other agencies and outside parties may provide input into the preparation of an EIS and then comment on the draft when it is completed.

After a final EIS is prepared and at the time of its decision, the agency will prepare a public record of its decision addressing how the findings of the EIS, including consideration of alternatives, were incorporated into the agency's decision-making process.

COMPONENTS OF AN EIS

The basic components of an EIS include:

- Purpose and need of a proposed action (e.g., reduce overfishing of a rockfish)
- Alternatives with the agency's preferred alternative, including the comparison of the environmental consequences (end fishing altogether, allow a small amount of fishing, do nothing)
- Affected environment (includes the fishermen, fishing communities, the resource, and the environment)
- Environmental consequences (how will the action affect the economics of the fishery, the communities, the resource, etc.?)

THE NO ACTION ALTERNATIVE

A "no action" or "status quo" alternative is required by NEPA and acts as a benchmark. For example, if the Council proposed to implement a new monitoring program, an EIS would be required to document the environmental consequences of leaving things as they currently stand (the no action alternative) along with the proposed action and

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other reasonable alternatives.

CHOOSING AN ALTERNATIVE

The NEPA process requires the Council weigh many factors when choosing a preferred alternative. For example, the biological effects of catch limits must be weighed against the economic and social impacts to the participants of the fishery before the Council chooses a preferred alternative. However, National Standard 1 of the Magnuson-Stevens Act directs the Council to choose alternatives that prevent overfishing while achieving optimum yield.

NEPA AND FISHERIES MANAGEMENT

In order to simplify documentation for the public and decision-makers, National Marine Fisheries Service (NMFS) and the Fishery Management Councils have often combined fishery management plans, plan amendments, and proposed regulations and EISs into one integrated document. By including the four main requirements of NEPA (above) in an EIS, presenting the information to the public before a decision is made, and then presenting a preferred alternative based upon the research and public comment, NMFS and the Council will have made an informed decision, which is the goal of NEPA.

NEPA does not solely dictate the fishery management process. It is one of the many applicable laws that are followed during the fishery management process as dictated by the Magnuson-Stevens Fishery Conservation and Management Act (see our MSA fact sheet). Other laws include the Paperwork Reduction Act; Coastal Zone Management Act; Endangered Species Act; Marine Mammal Protection Act; Executive Orders; and the Regulatory Flexibility Act.

WHY MUST THE COUNCIL FOLLOW NEPA?

NMFS is the lead agency in the development of fishery management plans, taking the responsibility for environmental documentation. Since it is a Federal agency

where Federal funds are used, NEPA is required. In addition, it is NOAA's policy to fully integrate NEPA into the decision-making process.

NEPA AND PUBLIC INVOLVEMENT

Recognizing the high value of stakeholders' viewpoints and opinions, both NEPA and the Magnuson-Stevens Act encourage public involvement. In creating an EIS, the Council holds public scoping meetings and public hearings that serve as opportunities for public comment. In addition, the process includes comment periods during which the Council is open to receive written comments concerning a specific management plan. The Council then incorporates public comments into the final EIS.

WHAT ALL THIS MEANS TO YOU

Before NEPA, Federal agencies weren't necessarily required to disclose information to the public before performing an action. Nowadays, NEPA either requires or suggests that the agency facilitate workshops, scoping meetings, hearings, and public notice. This is your chance to become involved in the process. NEPA requires agencies to present not just a proposed action and all the supporting scientific information, but all reasonable alternatives as well.

With NEPA, agencies must use the best available science in making decisions and look at different alternatives for satisfying their goals. Again, this is where you can get involved. Make comments on proposed management alternatives. Or even better, propose new solutions that the agency might have overlooked in satisfying a purpose and need. The Council highly values public input and your time spent on a fishery management issue.

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