



FACT SHEET: NATIONAL ENVIRONMENTAL POLICY ACT

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NEPA, or the National Environmental Policy Act, was enacted in 1970. NEPA is a major environmental law which 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 (for example, managing a fishery) 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 Federal agencies to disclose the environmental consequences of a proposed action, and to investigate and document alternatives to the proposed action. Agencies must make all relevant information available to the public, with opportunities for public comment before a decision is made.

THE NEPA PROCESS

There are three levels of analysis under NEPA: determining whether a categorical exclusion applies; preparing an environmental assessment (EA) or finding of no significant impact (FONSI); and preparing an environmental impact statement (EIS).

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

“finding of no significant impact,” or FONSI, which may include measures to mitigate any 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, and sometimes when a 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. After the final EIS is prepared and a decision is made, the agency must prepare a public record of its decision explaining how the findings of the EIS were incorporated into the 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 including the agency’s preferred alternative (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 change how a fishery is managed, an EIS would need to document the consequences of *not* taking action along with the proposed action and other reasonable alternatives.

CHOOSING AN ALTERNATIVE

The NEPA process requires the Council to weigh many

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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 is just one of the many laws that apply to the fishery management process as dictated by the Magnuson-Stevens Fishery Conservation and Management Act (see our MSA fact sheet). Other laws include the Endangered Species Act, Marine Mammal Protection Act, Coastal Zone Management Act, Executive Orders, Regulatory Flexibility Act, and Paperwork Reduction Act.

WHY MUST THE COUNCIL FOLLOW NEPA?

NMFS is the lead agency in implementing fishery management decisions, and takes responsibility for environmental documentation (although Council staff also contribute to NEPA analyses). Since NOAA is a Federal agency where Federal funds are used, NEPA is required.

NEPA AND PUBLIC INVOLVEMENT

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. Responses to public comments are incorporated and into the final EIS.

Before NEPA, Federal agencies weren't necessarily required to disclose information to the public before performing an action. Now, because of NEPA, agencies often hold hearings and meetings that provide the public with an opportunity to get involved in the process. The public can comment on proposed management alternatives or propose new solutions that the agency might have overlooked in satisfying a purpose and need. The Council highly values this public input. For more information, see our fact sheet "Getting Involved."

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Updated January 31, 2019