

Magnuson-Stevens Fishery Conservation and Management Reauthorization Act Environmental Review Procedures

Request for Comments: The National Marine Fisheries Service (NOAA Fisheries) is soliciting public comment on the environmental review provisions required by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA) (Pub. L. 109-479). Section 107 requires NOAA Fisheries to revise and update agency procedures to comply with the National Environmental Policy Act (NEPA). It further requires that NOAA Fisheries consult with the Council on Environmental Quality (CEQ) and the Regional Fishery Management Councils (Councils), and involve the public in the development of the revised procedures. The MSRA provides that the resulting procedures will be the sole environmental impact assessment procedure for fishery management actions.

The relevant part of the MSRA reads as follows

- (i) ENVIRONMENTAL REVIEW PROCESS.—
 - (1) PROCEDURES.—The Secretary shall, in consultation with the Councils and the Council on Environmental Quality, revise and update agency procedures for compliance with the National Environmental Policy Act (42 U.S.C. 4231 et seq.). The procedures shall—
 - (A) conform to the time lines for review and approval of fishery management plans and plan amendments under this section; and
 - (B) integrate applicable environmental analytical procedures, including the time frames for public input, with the procedure for the preparation and dissemination of fishery management plans, plan amendments, and other actions taken or approved pursuant to this Act in order to provide for timely, clear and concise analysis that is useful to decision makers and the public, reduce extraneous paperwork, and effectively involve the public.
 - (2) USAGE.—The updated agency procedures promulgated in accordance with this section used by the Councils or the Secretary shall be the sole environmental impact assessment procedure for fishery management plans, amendments, regulations, or other actions taken or approved pursuant to this Act.
 - (3) SCHEDULE FOR PROMULGATION OF FINAL PROCEDURES.—The Secretary shall—
 - (A) propose revised procedures within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006;
 - (B) provide 90 days for public review and comments; and

(C) promulgate final procedures no later than 12 months after the date of enactment of that Act.

(4) PUBLIC PARTICIPATION.—The Secretary is authorized and directed, in cooperation with the Council on Environmental Quality and the Councils, to involve the affected public in the development of revised procedures, including workshops or other appropriate means of public involvement.

NOAA Fisheries is required to publish proposed procedures by July 11, 2007, for a 90-day public review period, and to promulgate final procedures by January 12, 2008.

To inform the development of the new procedures, NOAA Fisheries is soliciting public comment on the following topics:

- 1) In the context of fishery management actions, how should NOAA Fisheries, in consultation with the Councils and CEQ, revise and update agency procedures for compliance with NEPA?
- 2) What opportunities exist to improve efficiencies in the NEPA process that may not have been applied in the past?
- 3) How should the Councils and NOAA Fisheries ensure that analysis is conducted on an appropriate scale for various types of fishery management actions? What criteria should be developed and applied to ensure that the level of analysis is commensurate with the scope of the action?
- 4) Should NOAA Fisheries consider eliminating the distinction between an environmental assessment (EA) and environmental impact statement (EIS), and instead, rely solely on an integrated environmental impact analysis?
- 5) How should a “reasonable” range of alternatives be defined for purposes of the new procedures?
- 6) What opportunities, if any, exist to develop a more effective scoping process? Should scoping occur at Council meetings and should Council meeting agenda notices serve as a traditional Notice of Intent to prepare an environmental analysis?
- 7) Should the environmental analysis for different types of fishery management actions be developed on a different scale based on the action’s duration or effect?
- 8) What key features of the current NOAA NEPA process or of CEQ’s regulations should be modified in the new procedures?

- 9) How should emergency actions be treated under the new procedures?
- 10) To what extent does the public feel that shorter comment periods (e.g., a minimum of 30 days) could affect your ability to participate effectively in the NEPA process?

Dates and Addresses: Comments should be directed to NEPAprocedures@noaa.gov and must be received by COB on April 20, 2007.

Links to Council Activities: The Councils may develop proposals on their own and discuss them at public meetings. For those members of the public interested in participating through the Council process, currently scheduled meetings and proposals include:

- Council meetings

Western Pacific Fishery Management Council

March 16, 9:00am, Honolulu, Hawaii

Meeting Details:

<http://www.wpcouncil.org/>

Agenda:

<http://frwebgate3.access.gpo.gov/cgi-bin/waisgate.cgi?WAISdocID=30545730954+0+0+0&WAISaction=retrieve>

Caribbean Fishery Management Council

March 20 – 21, Ponce, Puerto Rico

Meeting Details:

<http://www.caribbeanfmc.com/meetings.htm>

Agenda:

<http://frwebgate2.access.gpo.gov/cgi-bin/waisgate.cgi?WAISdocID=302346153101+1+0+0&WAISaction=retrieve>

Gulf of Mexico Fishery Management Council

March 26 - 29, Destin, FL

Meeting Details:

<http://www.gulfcouncil.org/>

Agenda:

<http://www.gulfcouncil.org/Beta/GMFMCWeb/downloads/council%20agenda-307.pdf>

North Pacific Fishery Management Council
March 28-29, Anchorage, AK

Meeting Details:

<http://www.fakr.noaa.gov/npfmc/schedule.htm>

Agenda:

<http://www.fakr.noaa.gov/npfmc/Agendas/307Agenda.pdf>

Pacific Fishery Management Council
April 2-4, Seattle, WA

Meeting Details:

<http://www.pcouncil.org/events/future.html#2007>

Agenda:

TBD

New England Fishery Management Council
April 10 -12, Mystic, CT

Meeting Details:

<http://www.nefmc.org/calendar/index.html>

Agenda:

TBD

Mid-Atlantic Fishery Management Council
April 17-19, Ocean City, MD

Meeting Details:

<http://www.mafmc.org/mid-atlantic/meetings/meetings.htm>

Agenda:

TBD

- Council proposal:

http://www.nmfs.noaa.gov/msa2007/docs/new_AO_summary_MSA_NEPA_process.pdf

Other Sources of Information:

- The MSRA (Enrolled version):
http://www.nmfs.noaa.gov/sfa/2007reauth_notsigned.pdf
- Redline Version of MSA as amended:
[http://www.nmfs.noaa.gov/msa2007/MSA_Amended%20by%20Magnuson-Stevens%20Reauthorization%20Act%20\(1-31-07%20draft\).pdf](http://www.nmfs.noaa.gov/msa2007/MSA_Amended%20by%20Magnuson-Stevens%20Reauthorization%20Act%20(1-31-07%20draft).pdf)
- CEQ's NEPA regulations:
http://www.nepa.gov/nepa/regs/ceq/toc_ceq.htm
- The NEPA statute:
<http://www.nepa.gov/nepa/regs/nepa/nepaeqia.htm>
- NOAA's NAO 216-6:
http://www.corporateservices.noaa.gov/~ames/NAOs/Chap_216/naos_216_6.html