



In *Maine Lobstermen's Ass'n v. National Marine Fisheries Service*, the U.S. Court of Appeals for the D.C. Circuit ruled that section 7 of the Endangered Species Act mandates using the "best scientific and commercial data available," preventing the NMFS from making speculative, worst-case assumptions about whether a fishery is "not likely" to jeopardize a protected whale species' survival.

The court also dismissed the notion of a mandatory "precautionary principle" favoring protected species without a clear statutory foundation. This decision, now unchallenged, sets a precedent for future administrative and judicial considerations.

[Read the full article in the Foundation for Natural Resources & Energy Law's Ne...](#) This publication is subscription based.

Authors



[Stacey Bosshardt](#)

Senior Counsel

SBosshardt@perkinscoie.com [202.661.5862](tel:202.661.5862)

Explore more in

[Environment, Energy & Resources](#) [Environmental Litigation](#)