

Putting it All Together: The Complete Process



**Council Member
Orientation**

**October 27-29
Silver Spring, MD**

Objectives are for you to be able to:

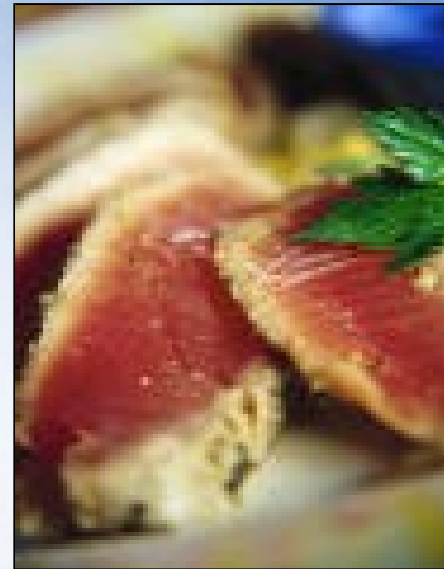
- Explain the role of Councils
- Describe the basis of the science used in fishery management
- List the various factors that affect the fisheries management process
- Locate and Utilize Guidance and Tools for planning and developing fishery management actions

The Road to Fishery Management

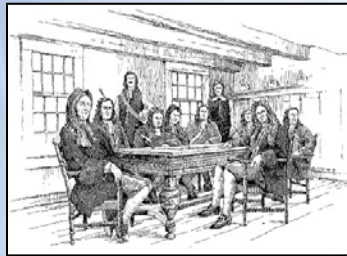
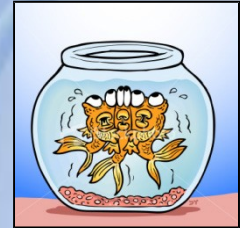
- ◆ Mission and Process Review
- ◆ Added Complexities
 - ◆ Multiple Mandates
 - ◆ Multiple Parties
- ◆ Planning a Timeline



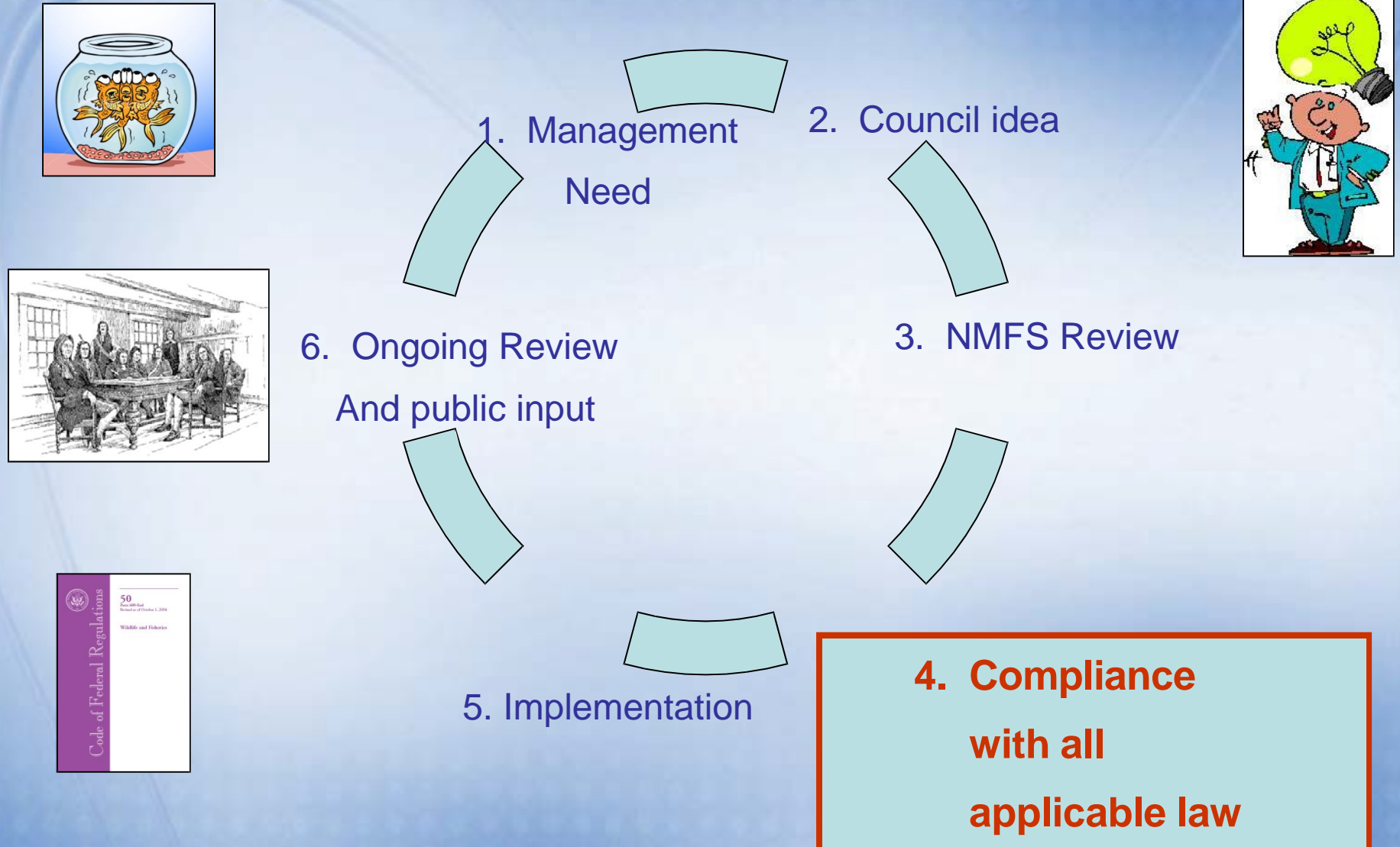
Mission: Fishery Management



FMP Process



FMP Process



Fishery Management Plans

Must be Consistent with:

- National Standards
- FMP Components
(Mandatory and discretionary)
- Other Applicable Law

O.A.L. Mandates

NEPA

- Consider Reasonable Alternatives
- EIS: analysis, public review, 45/90/30 days
- FONSI: record-based determination

ESA

- “No jeopardy” record-based determination
- Timing: consultation = 135 days

RFA

- Consider Economic Impacts and alternatives
- Certification: record-based determination

EO 12866

- Alternatives, Cost-benefit analysis

APA

- Record shows compliance with all law;
- Notice and Comment; 30-day delay

Others

CZMA, PRA, treaty rights, etc.

APA

APA is the overarching statute that applies to rulemakings.

Includes both substantive and procedural requirements:

(a) record must support decision

(b) opportunity for public comment

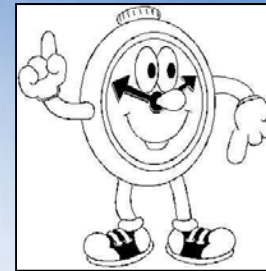
(c) 30-day delay in effectiveness

Phases of FMP Development

Where	Phase	Timing
Council	I – Planning and Scoping	
Council	II – Drafting documents and analyses (MSA and OALs)	
Council	III – Public Review; Council Adoption	Completion of all steps in Phase 1 – 3 varies widely (from 1 meeting to multiple years)
	TRANSMITTAL	All documents must be complete
NMFS	IV – Secretarial Review and Implementation	MSA clock for FMPs (95 days). MSA clock for Regulations (65 -110 days or longer for “deemed” regs), plus APA 30-day delay unless waived.
Both	V- Continuing Management	Varies – Frameworking aims to reduce repetition of work and process conducted during phases 1 – 4.

Overview of Timeline Interactions

Statutory and Regulatory
Timelines



Logical Interactions



Clearance Requirements



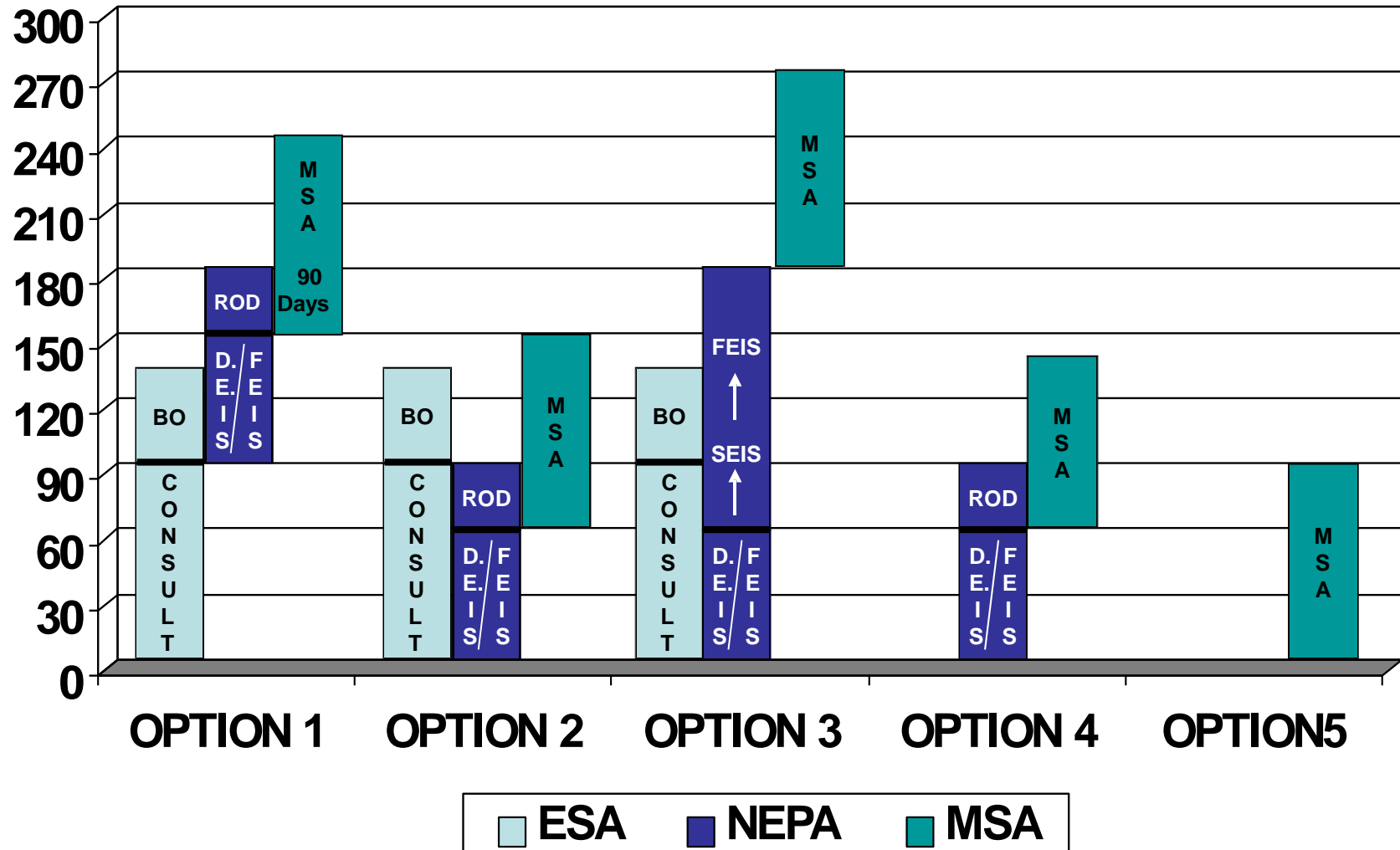
Statutory and Regulatory Timelines

Source	Start Date	Requirement
MSA (FMP)	Transmittal	Day 5, Publish NOA for 60 days comment; Day 65, CPE; Day 95, Decision Day
MSA (Regs)	Transmittal	Day 5, begin 15 day review; Day 20, publish Pro.Rule for 15-60 days comment; Publish Fin. Rule w/30 days CPE
NEPA	EPA publish DEIS	Minimum 45 days comment, Minimum 90 days before ROD
ESA	I.D. preferred action	Minimum 90 days to consult + 45 to write B.O. (135 days)
CZMA	Consistency Determ. to State	Day 60 – Infer concurrence if no state response Day 90 – earliest possible decision day
APA	Publish Final Rule	30 day delay in effectiveness (unless waived)
EO 12866	Submission of Reg. Text to OMB	90 day OMB review period



Logical Interactions

DAY



Clearance Requirements

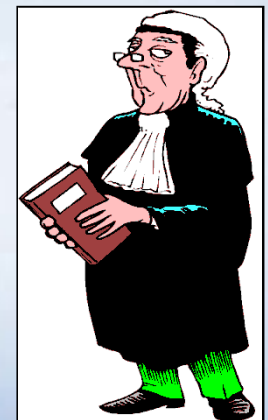


Meeting of the Pacific Fishery Management Council

**Councils
and
NOAA
Fisheries**



**NOAA GC
DOC/GC**

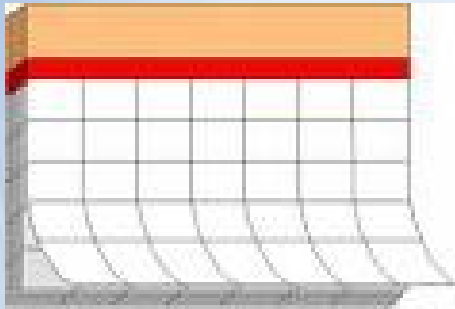


**External Forces:
States, Congress, OMB**

Other Agencies



Planning Considerations



- Council meeting schedule
- Management Need
- MSA and O.A.L.s
- Deadlines and drivers
- Logistics
- Staff Resources
- Other agency review needs

Frontloading

“Involving relevant reviewers and contributors, and identifying legal and policy considerations, as early in the process as possible. Frontloading may require more investment of time upfront, but should help identify potential problems early and prevent them from becoming bigger problems in later stages of review and implementation.”

-- Operational Guidelines, Appendix 1, p. 3

Re-Cap: Planning for Success

- We have to look beyond the MSA
- Successful fishery management requires planning and balancing



Link to Documents from Mid-Atlantic Deep Sea Coral Case Study

<http://www.mafmc.org/actions/msb-am16>