



**Monterey Bay
National Marine Sanctuary**



**Overview of
MPA Decision-Making Process**



Pop Quiz #1



What's the principle law that provides the guidance for federal agency decision-making procedures?



National Environmental Policy Act of 1969 (**NEPA**)



Pop Quiz #2



What serves as
the foundation for
all our national
environmental
policy objectives?



Section 101

National Environmental Policy Act - **NEPA**



To Whom does
NEPA Section 101
apply?



To all Americans!



Section 102 of NEPA

- Procedural guidelines for implementing NEPA



To Whom do Procedural Requirements of NEPA apply?



All federal agencies in Executive Branch



To What do Procedural Requirements of NEPA apply?



Actions taken by agency, such as:

- ✓ Rules
- ✓ Regulations
- ✓ Plans
- ✓ Policies
- ✓ Procedures



So....

Any decision-making process
regarding MPAs must comply
with NEPA requirements



Key Aspects of NEPA



- ✓ Agencies must provide for public participation
- ✓ Agencies must consider potential environmental impacts of their decisions and balance them with mission-related concerns
- ✓ Agencies must always consider a “no action” alternative
- ✓ Does not require agencies to select environmentally preferred alternative
- ✓ NEPA process should serve as an integrating tool to address other regulatory review requirements
- ✓ Other federal, state, and local government agencies and tribes may be “cooperating agencies”
- ✓ Emphasis on agencies making informed decisions



Generic Steps in NEPA Process



- ✓ Identify and determine “Cooperating Agencies”
- ✓ Develop Potential Management Actions
- ✓ Define the “Purpose and Need” for Management Action
- ✓ Publish “Notice of Intent”
- ✓ Conduct “Scoping”
- ✓ Characterize the status of the affected environment
- ✓ Develop a range of feasible Alternatives (including a “No Action” Alternative)
- ✓ Analyze and compare the impacts (positive and negative) associated with each Alternative



Generic NEPA Steps (cont)



- ✓ Identify opportunities to mitigate undesirable impacts
- ✓ Develop Preferred Alternative
- ✓ Issue Draft Environmental Impact Statement (DEIS)
- ✓ Solicit Public Comment and Consider
- ✓ Issue Final Environmental Impact Statement (FEIS)
- ✓ Issue Record of Decision (ROD)
- ✓ Implement Action, Monitor, Evaluate and Adjust Management Actions



However...

Each agency develops and uses its own specific NEPA implementation procedures that must be consistent with the Council on Environmental Quality's (CEQ) regulatory guidance



Federal entities likely to be significantly involved in any future MPA decision:

- Monterey Bay National Marine Sanctuary
- National Marine Fisheries Service
- Pacific Fisheries Management Council
- Others?



So....

If MPAs were to be established, under what legal authority would they be created and which agency's NEPA procedures would be used?



That depends.....

On what specific management actions are being proposed.



If fishing activities are to be regulated in some way in association with establishing new more protective MPAs within MBNMS, then....



NOAA determines how the two statutory authorities available to regulate fishing activities in national marine sanctuaries would be used (either exclusively or in conjunction with each other)

- **National Marine Sanctuary Act (NMSA)**
- **Magnuson-Stevens Fisheries Conservation and Management Act (MSA)**



“NOAA’S REGULATION OF FISHING IN NATIONAL MARINE SANCTUARIES”

JULY 2008

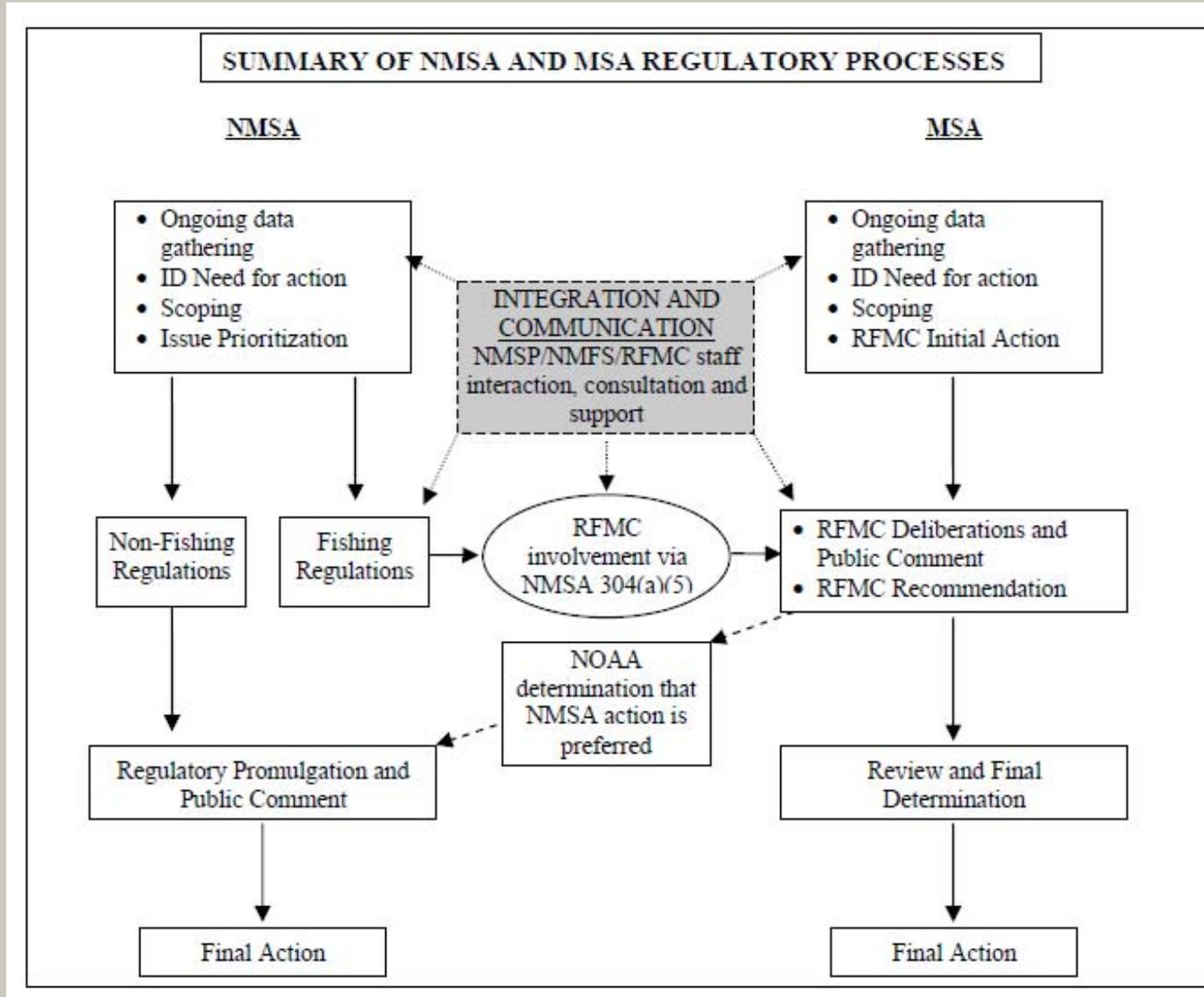


Clarifies NOAA's internal operational guidelines for integrating administration of the two statutes and emphasizes need for:

- Enhanced early coordination and collaboration among NOAA Sanctuaries, Sanctuary Advisory Councils, National Marine Fisheries Service and Regional Fishery Management Councils
- Clarification of NOAA's decision-making process for interested stakeholders



Summary of NMSA & MSA Regulatory Processes





National Marine Sanctuary Act Regulatory Process



1) Ongoing Data Gathering / Review of Information

2) Identification of Need for Conservation and Management Actions

- Sanctuary Designation
- Management Plan Reviews and Revisions
- Discrete Resource Management Issues

3) NEPA Scoping* / Information Collection*

4) Issue Prioritization and Development of Potential Management Actions

- Review for consistency with the NMSA
- Consultations
 - State
 - Federally Recognized Indian Tribes
 - Regional FMCs (RFMC)*
 - NMFS
- Public Input
 - Sanctuary Advisory Councils*
 - Other Agencies
 - Any Interested Parties
 - SAC Working Groups*



3) NEPA Scoping* / Information Collection*

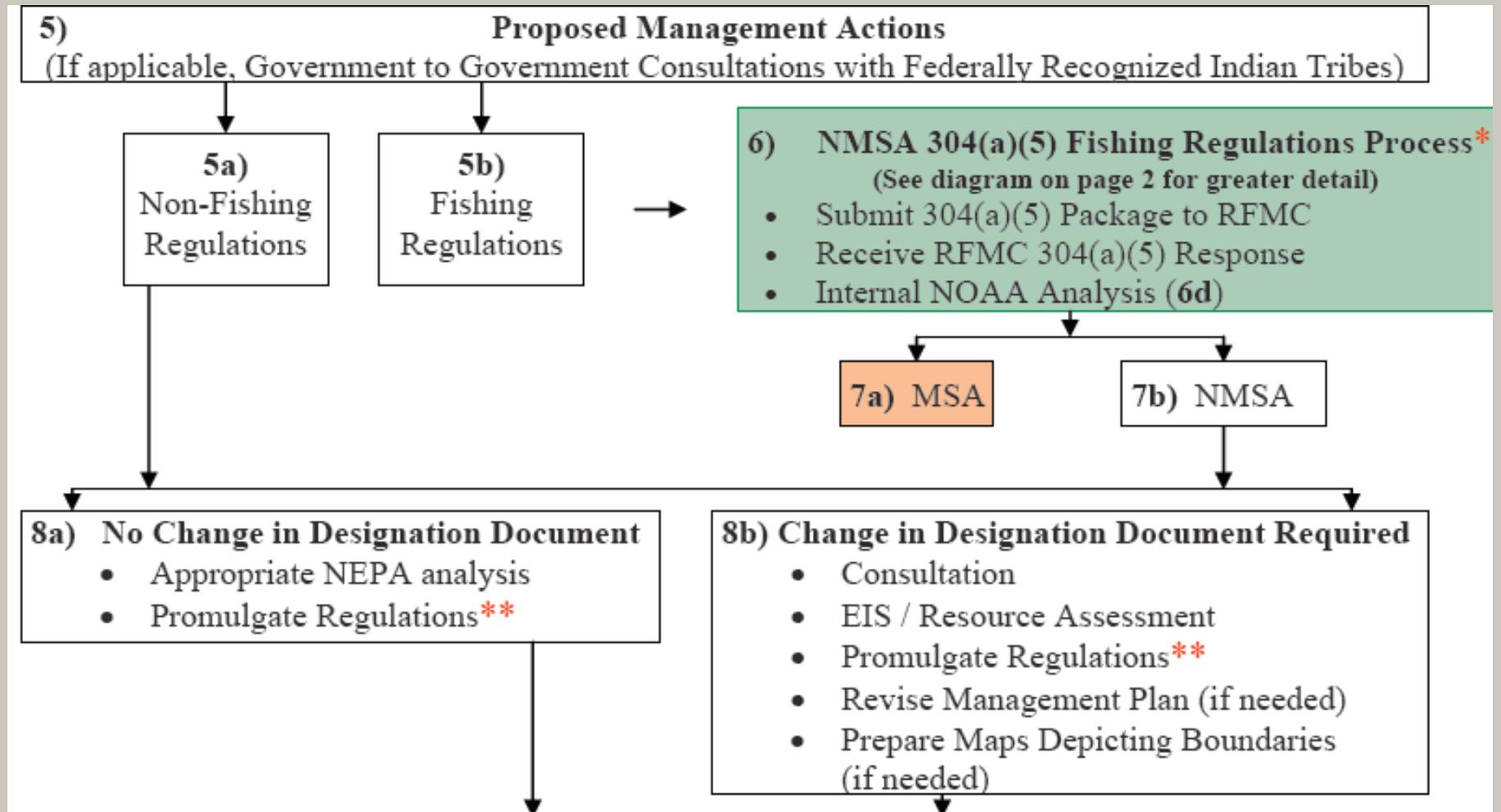


4) **Issue Prioritization and Development of Potential Management Actions**

- Review for consistency with the NMSA
- Consultations
 - State
 - Federally Recognized Indian Tribes
 - Regional FMCs (RFMC)*
 - NMFS
- Public Input
 - Sanctuary Advisory Councils*
 - Other Agencies
 - Any Interested Parties
 - SAC Working Groups*



National Marine Sanctuary Act Regulatory Process





National Marine Sanctuary Act Regulatory Process



6) NMSA §304(a)(5) Fishing Regulations Process

(Expansion of Box 6 on page 1. When this process is complete return to 7a, 7b, or both – p.1)

6a) Prepare 304(a)(5) Package for RFMC**

- i. Sanctuary Goals and Objectives of Envisioned Regulations
- ii. Supporting Documentation and Analysis
- iii. Operational Criteria
- iv. Suggested Action For Consideration by RFMC

6b) RFMC Deliberations

- RFMC Provided 120 days to respond per NMSP regulation
- RFMC, NMFS, and NMSP Staff Coordination*

6c) RFMC Response

6c.i) RFMC prepares draft NMSA regulations

6c.ii) RFMC determines that NMSA regulations are not necessary (e.g., because MSA can be used to fulfill sanctuary goals and objectives)

6c.iii) RFMC declines to make determination with respect to the need for regulations

6d) NOAA Analysis
(see page 3 for greater detail)

6e) Secretarial Determination

The Secretary determines whether or not the RFMC's action fulfills the purposes and policies of the NMSA and the goals and objectives of the proposed action

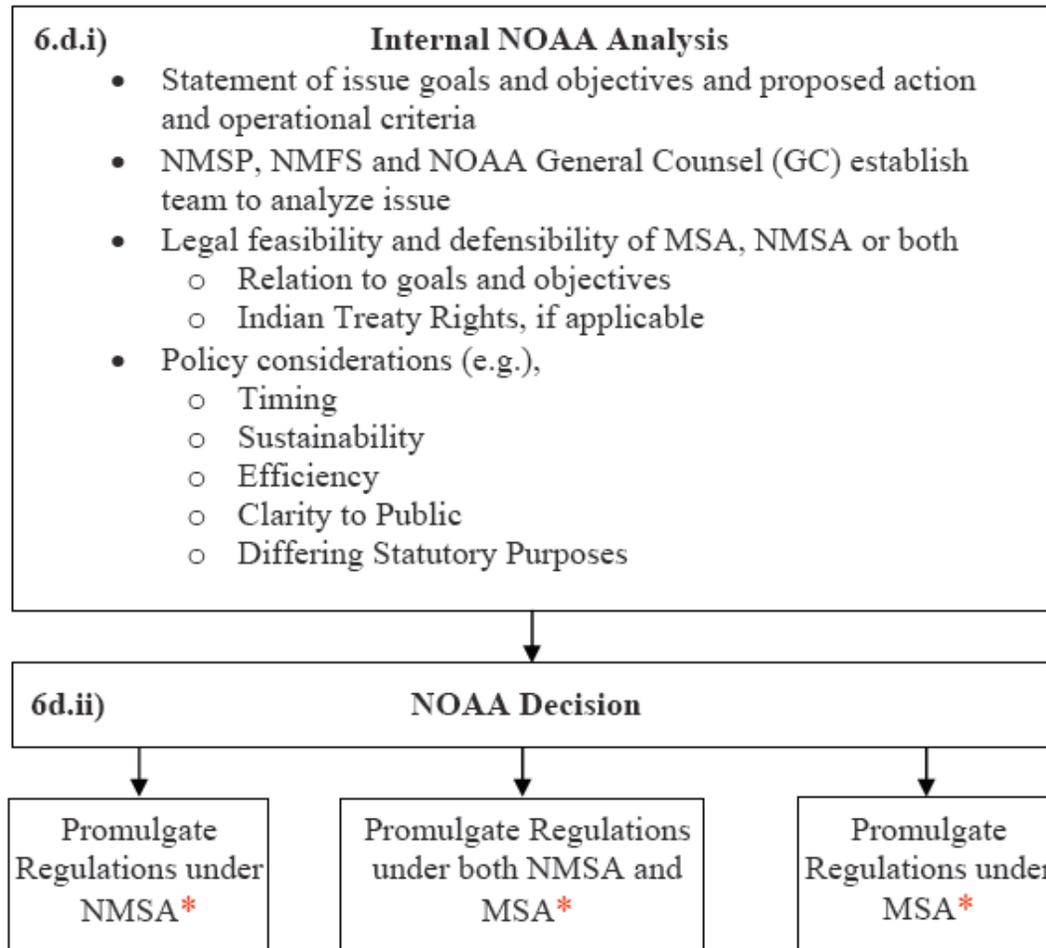


National Marine Sanctuary Act Regulatory Process



6d) NOAA Analysis

(Expansion of Box 6d on page 2. When complete, return to 6e – p.2)





Pacific Fishery Management Council

7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384
Phone 503-820-2280 | Toll free 866-806-7204 | Fax 503-820-2299 | www.pfcouncil.org
Donald K. Hansen, Chairman Donald O. McIsaac, Executive Director

July 29, 2008

Mr. Paul Michel, Superintendent
Monterey Bay National Marine Sanctuary
299 Foam Street
Monterey, California 93940

Dear Mr. Michel:

The Pacific Fishery Management Council (Council) appreciates the opportunity to review and comment on the Monterey Bay National Marine Sanctuary's (MBNMS or Sanctuary) process for moving forward with consideration of additional marine protected areas (MPAs) in Federal waters of the Sanctuary. The Pacific Council tasked me with providing this response, which is based on the results of the April and June 2008 Council meetings. I, and the Council would like to thank you and your staff for your participation in these two Council meetings. Your testimony and discussions with the Council and its advisory bodies were especially valuable during these early coordination efforts.

It is unfortunate that the Council and the Sanctuary were unable to begin a dialogue on the need criteria for additional protective measures as envisioned and prior to the Sanctuary's February determination on the matter. Your February 15, 2008 letter to the Sanctuary Advisory Council (SAC), in which you stated that the "MBNMS has concluded there is a need for MPAs in Federal waters of the Sanctuary" raised several concerns from the Council and the public because this determination preceded both the Council's opportunity to comment on the issue as per your July 26, 2007 communiqué, the supporting analysis of possible need criteria and a thorough analysis of any specific MPAs alternatives. However, the Council was encouraged by your verbal testimony at the April Council meeting during which you characterized the Sanctuary determination as a general decision to consider MPAs a management tool, and with regard to specific MPA proposals, to evaluate existing and proposed management measures and MPAs within the Sanctuary in coordination the Council to ascertain if any modifications are necessary to meet the Sanctuary's goals and objectives.

The Council is supportive of a collaborative review of the need for additional MPAs within the Sanctuary and will assign a Council staff member as a liaison with the Sanctuary to ensure the best use of Council's transparent public process and extensive scientific and fishery expertise in the future evaluation of MPAs within the Sanctuary. The Council anticipates potential benefits to fishery management through increased collaboration because the Sanctuary, under the authority of the National Marine Sanctuaries Act (NMSA), can comment on laws and regulate non-fishing activities that are separate from the Council process but have benefits to fishery resources under Council jurisdiction.



The Council is supportive of a collaborative review of the need for additional MPAs within the Sanctuary and will assign a Council staff member as a liaison with the Sanctuary to ensure the best use of Council's transparent public process and extensive scientific and fishery expertise in the future evaluation of MPAs within the Sanctuary. The Council anticipates potential benefits to fishery management through increased collaboration because the Sanctuary, under the authority of the National Marine Sanctuaries Act (NMSA), can comment on laws and regulate non-fishing activities that are separate from the Council process but have benefits to fishery resources under Council jurisdiction.