

The Regulatory Process for Fisheries Management



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Types of Fishery Management Actions

- Fishery Management Plans (FMPs)
- FMP Amendments
- Framework Adjustments (w/in FMP)
- Annual Specifications
- Regulatory Amendments
- Technical Amendments
- Secretarial FMPs/Amendments
- Secretarial Emergency Rules
- Secretarial Interim Rules
- In-season Actions

Regional Office & Science Center Review

- FMPs, Amendments, Frameworks, and Annual Specifications are first reviewed at the Region
- Legal requirements, science, policy, implementation, and enforcement
- Review for compliance with NEPA
- Protected species review and consultation (MMPA and ESA Section 7)
- Essential fish habitat review and consultation
- Certify overfishing definition (Nat'l Standard 1)
- Certify economic analyses (E.O. 12866 & RFA)
- Forward to HQ unless fatally flawed

Headquarters Review (NMFS & NOAA)

- National perspective (i.e., consistency across Regions): NMFS - NOAA - DOC
- HQ coordinates reviews with other agencies and clarifies their requirements:
 - Environmental Protection Agency (NEPA)
 - Office of Management and Budget (PRA, E.O. 12866)
 - Small Business Administration (RFA)

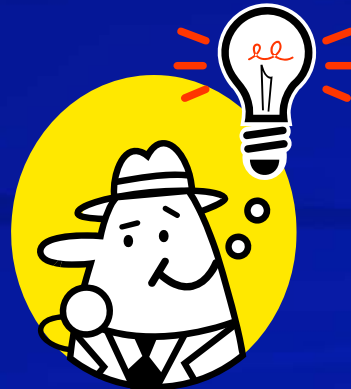
How is a Council FMP Reviewed?

Will answer the following 3 questions:

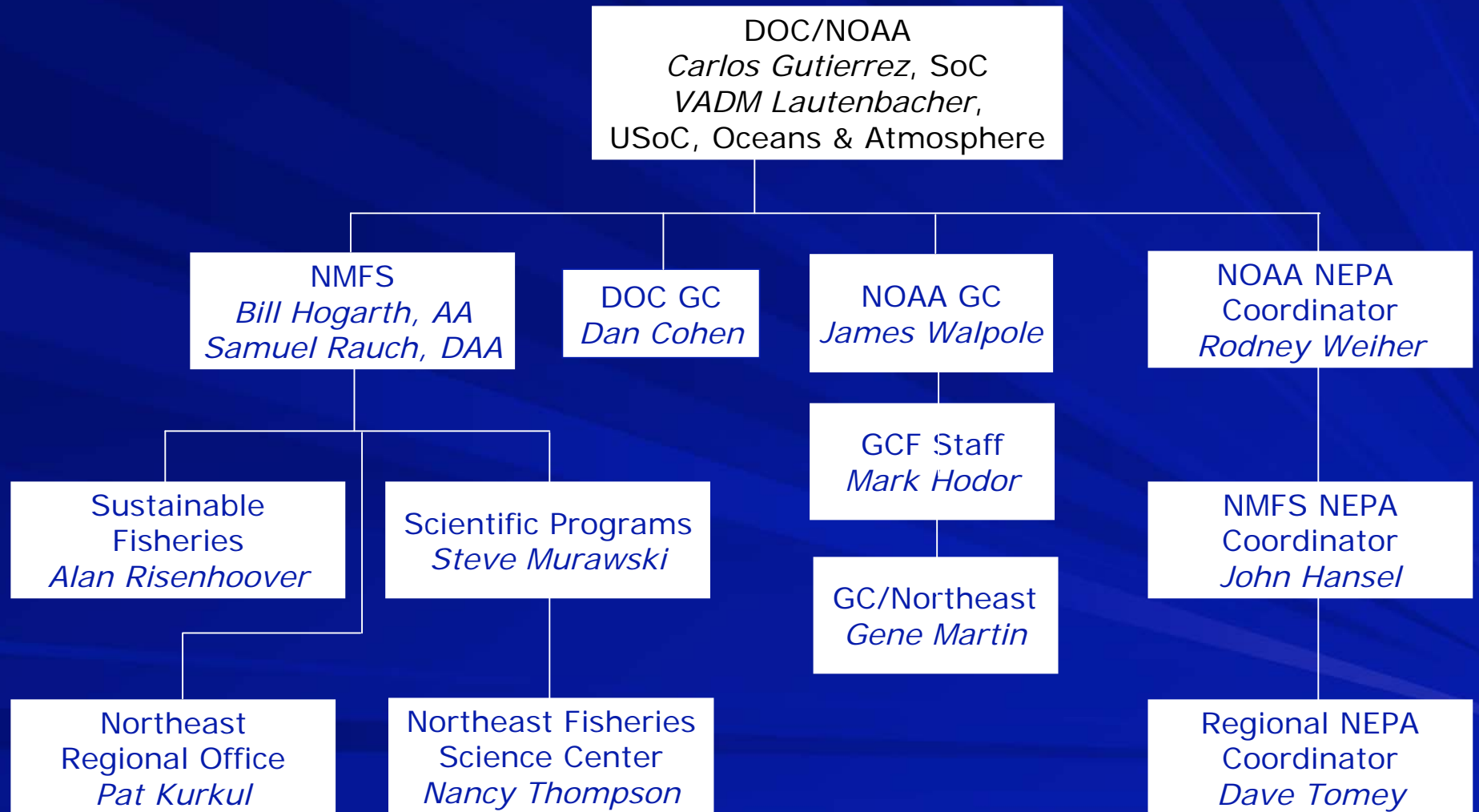
 Who does what?

 Why does it take so long?

 Why isn't the review process more open?



Major Review Participants

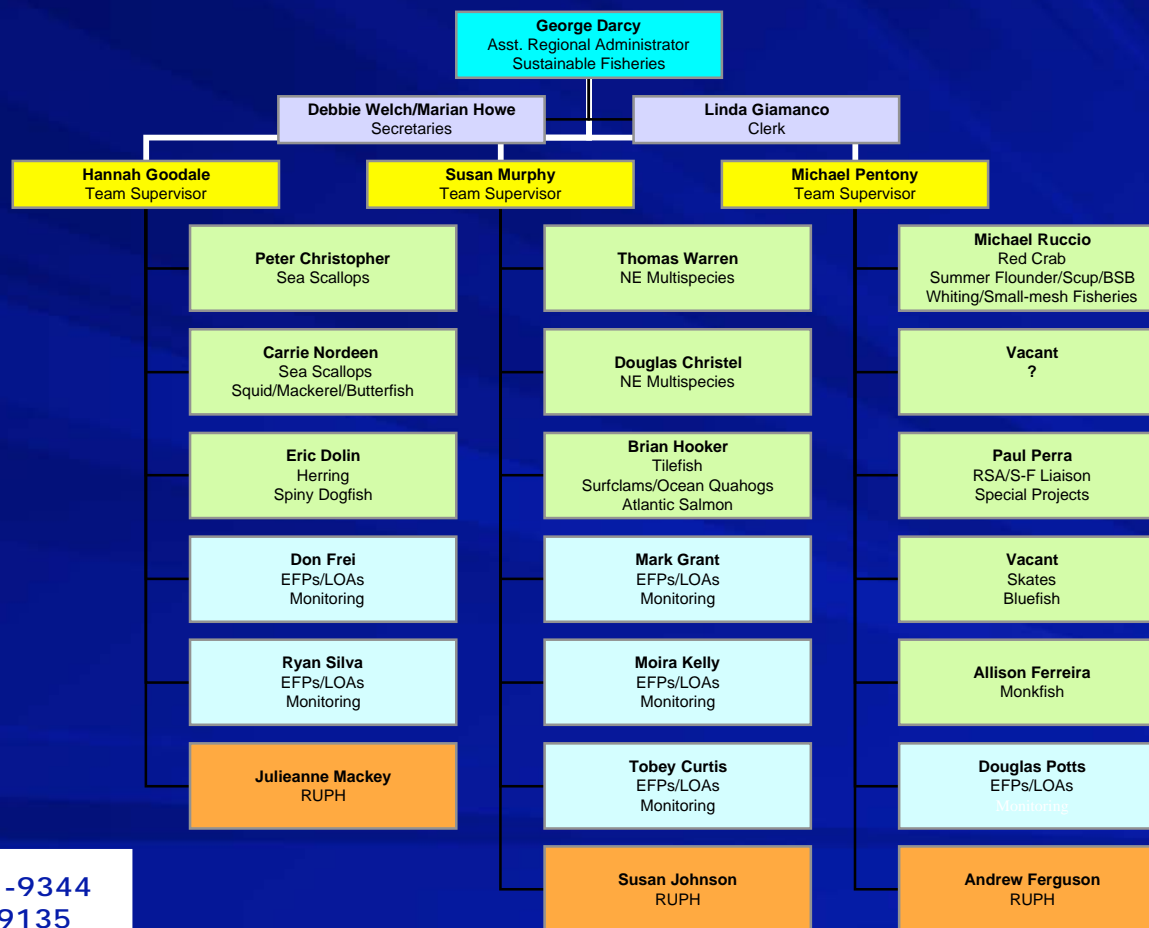


Northeast Regional Office



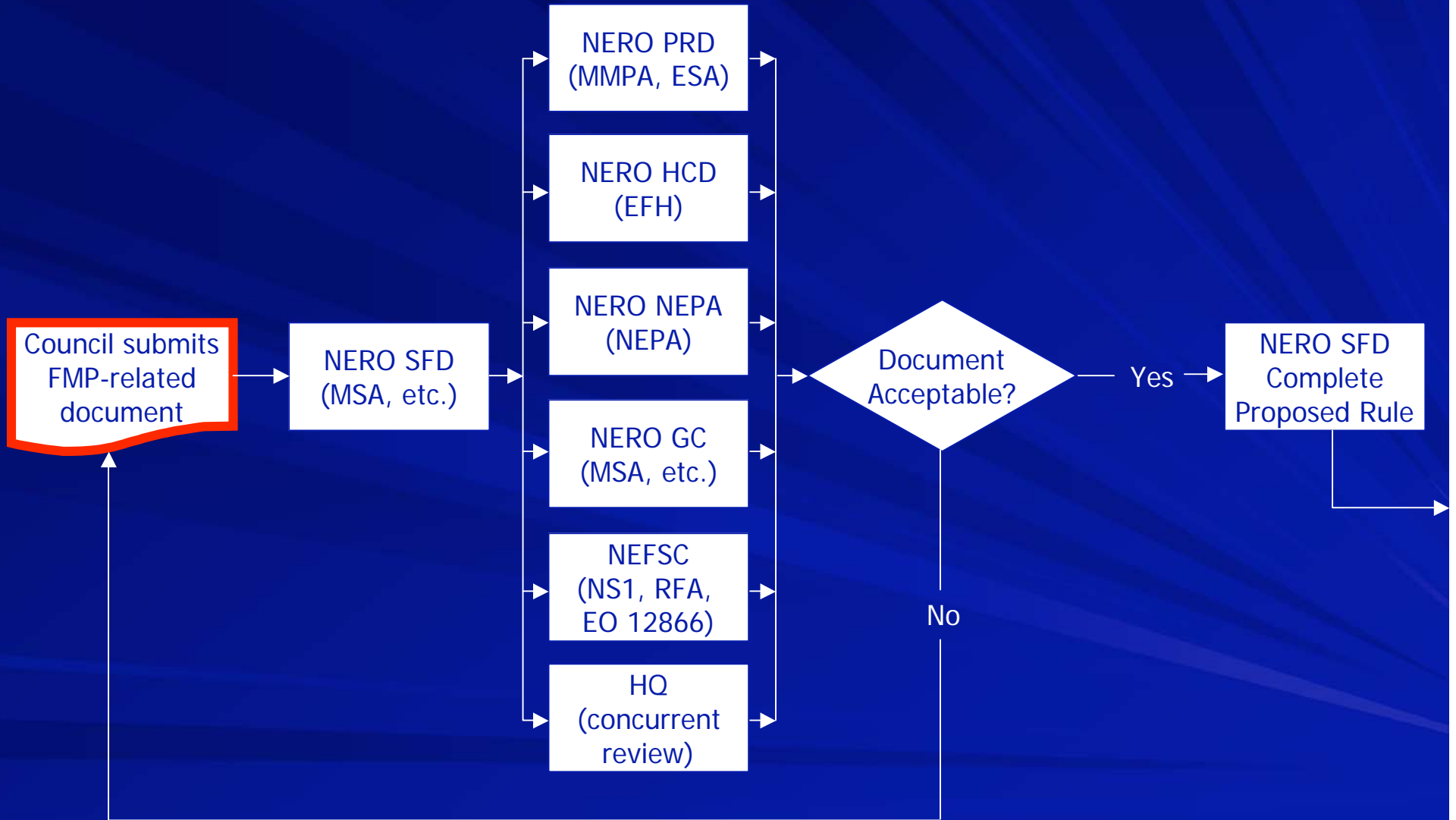
Sustainable Fisheries Division

Northeast Regional Office

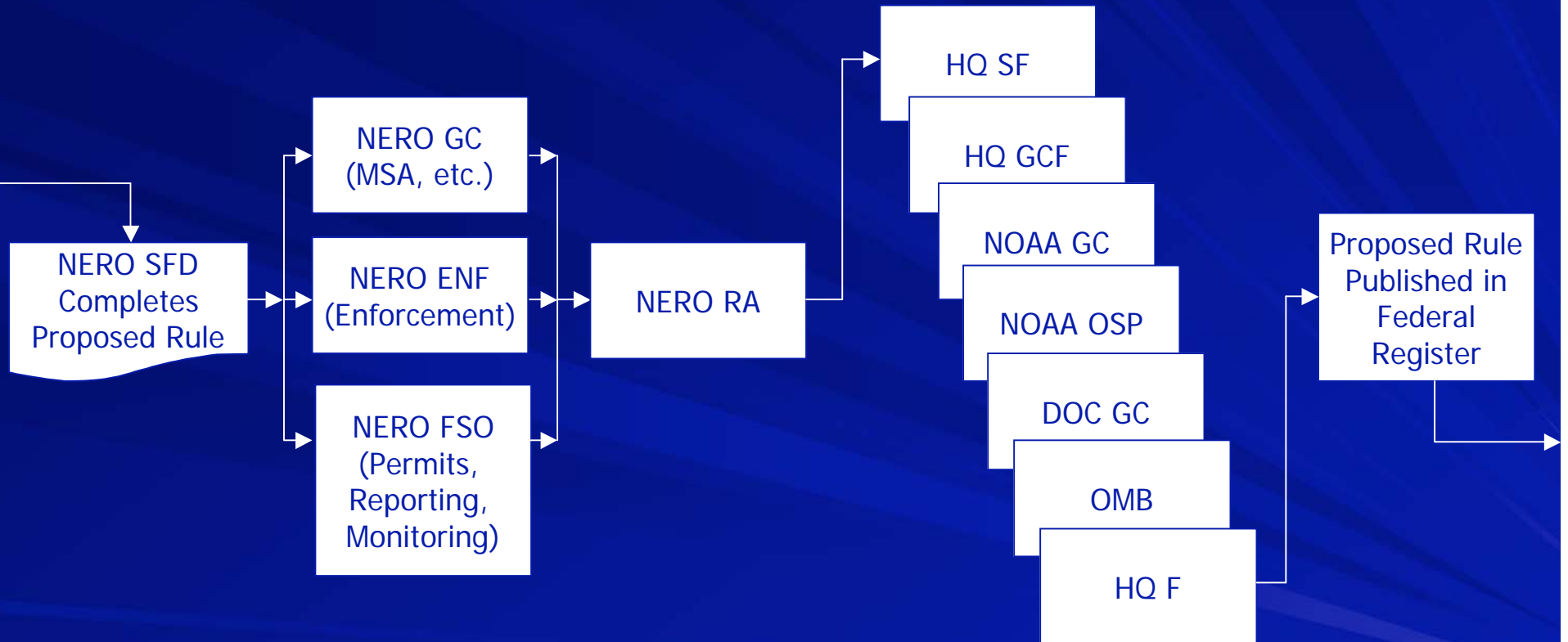


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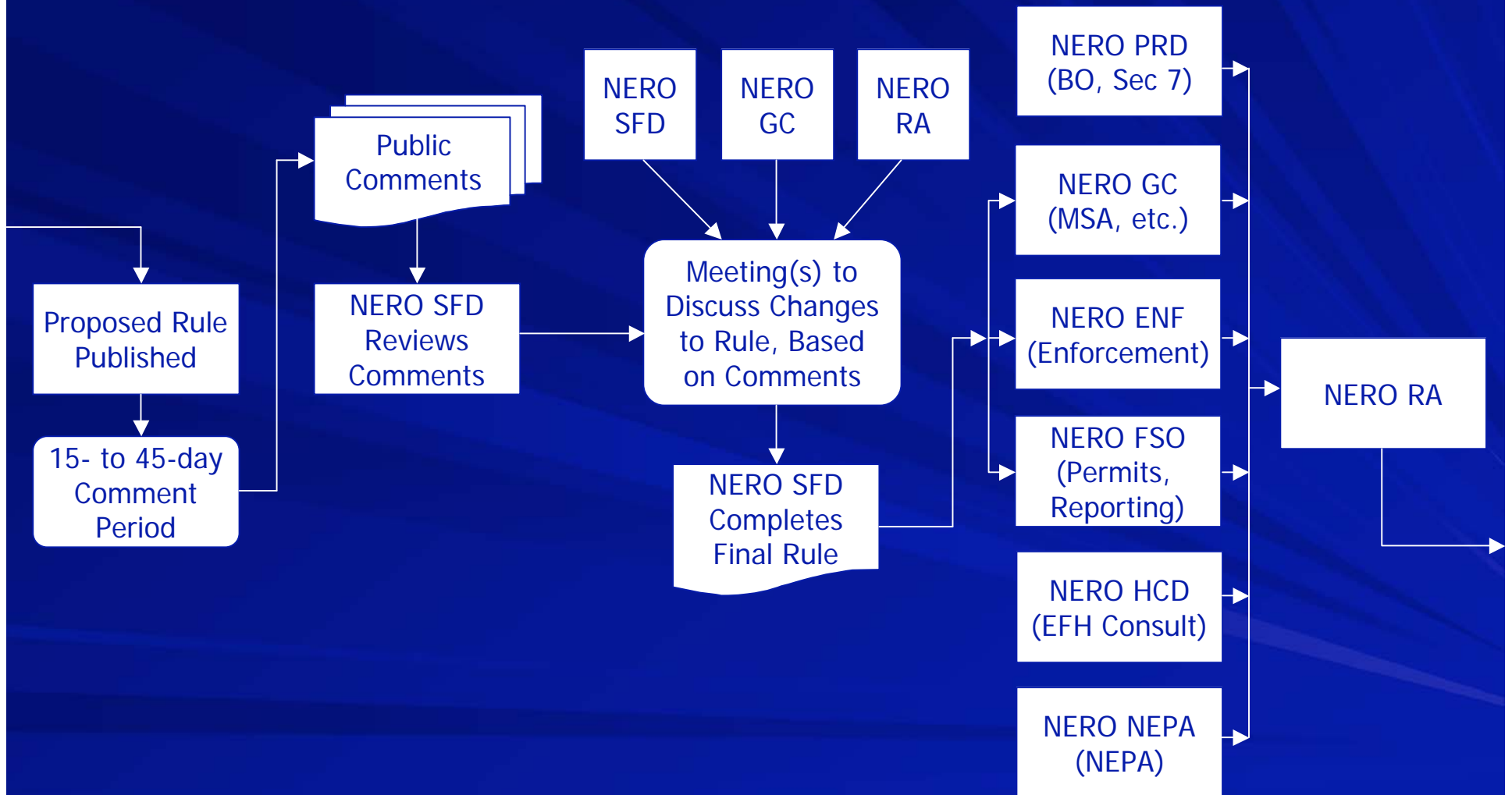
Regulatory Review Process (1st Phase)



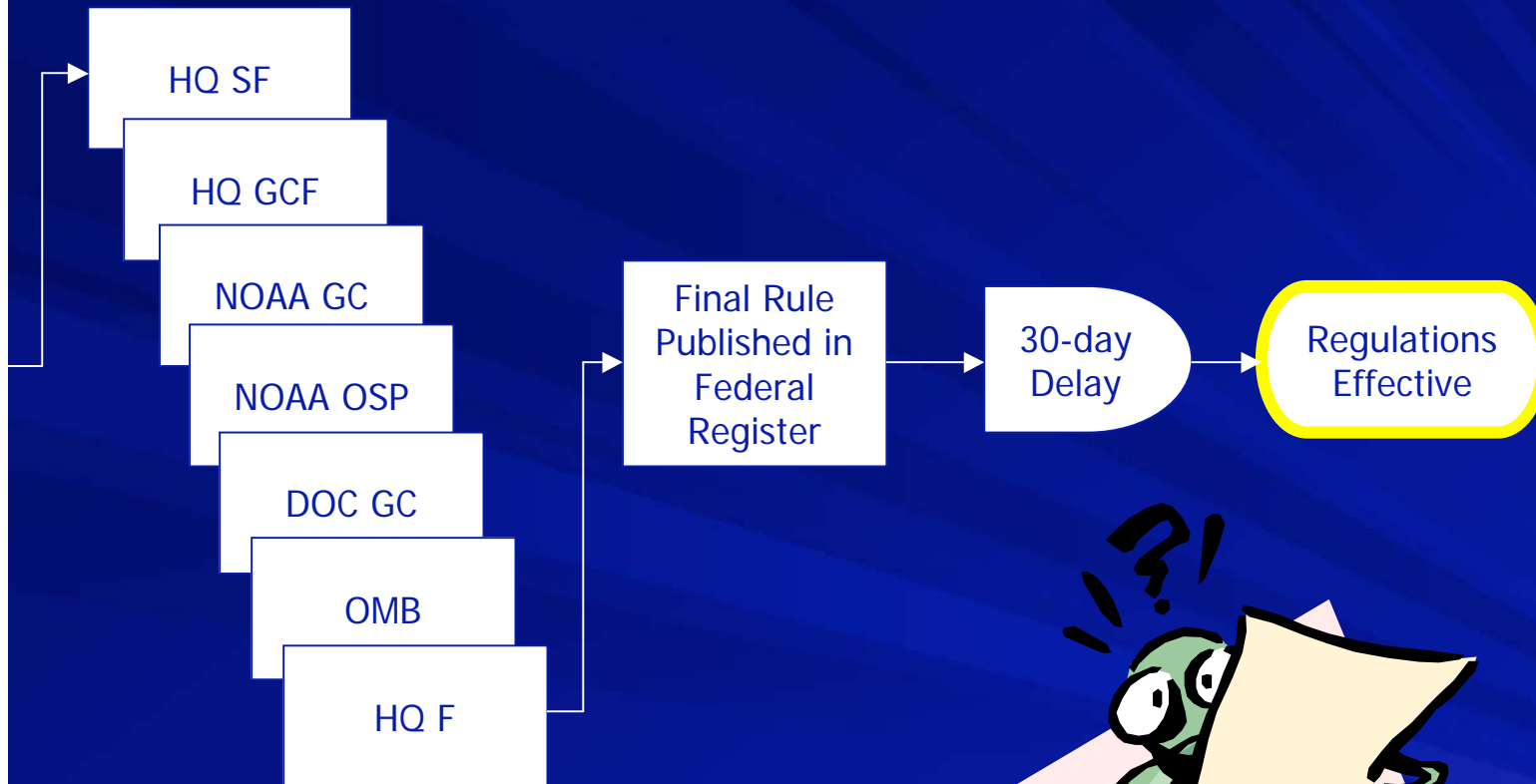
Regulatory Review Process (2nd Phase)



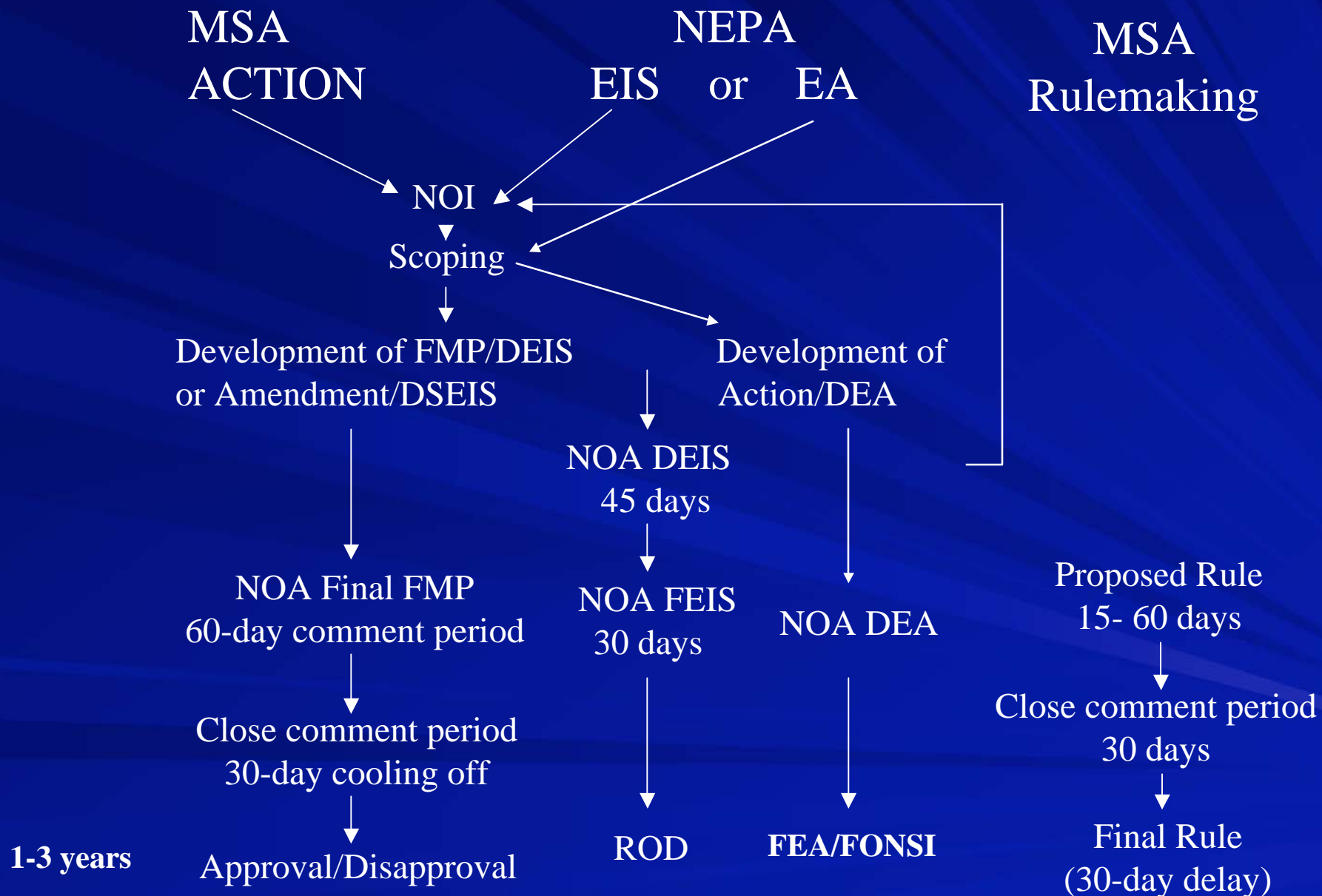
Regulatory Review Process (3rd Phase)



Regulatory Review Process (Final Phase)



Integration of Rulemaking and NEPA Process



Why Does Review Take So Long?

- Many laws have their own mandated timeframes (e.g., CZMA, PRA, APA)
- Magnuson-Stevens Act requires 95 days for FMP review after submission is complete
- Actions aren't just passed along -- there is internal review and debate at every stage
- Agency is exploring options for streamlining
 - "Front loading"
 - Concurrent reviews

Why isn't the Process More Open?

- Process IS very open....
 - Debate and decision-making takes place in Council arena (i.e., Committee and Council meetings)
 - After submission, review and comment process is formalized as per APA requirements – provides that all comments are treated equally
 - Everyone has equal chance to comment on the information in the record (e.g., during DSEIS, proposed rule, and/or MSA comment periods)
 - Management decisions are made based on the information in the record, including relevant comments received

Opportunities for Public Comment

- Initial scoping process (for FMPs and Amendments)
- Council/Oversight Committee/Advisory Panel Meetings
- Draft FMP/DEIS public hearings, review and comment period
- Final FMP/FEIS Notice of Availability review and comment period
- Proposed Rule review and comment period

Concerns with Process

- Despite rigorous process there are sometimes unintended consequences
- Details of implementation often reveal flaws of an FMP, requiring changes
- Need to insure consistency among fisheries and Councils can result in changes to an FMP
- “Adaptive” management approach - Process not conducive to this due to length of time involved

It's Finally Over!!

