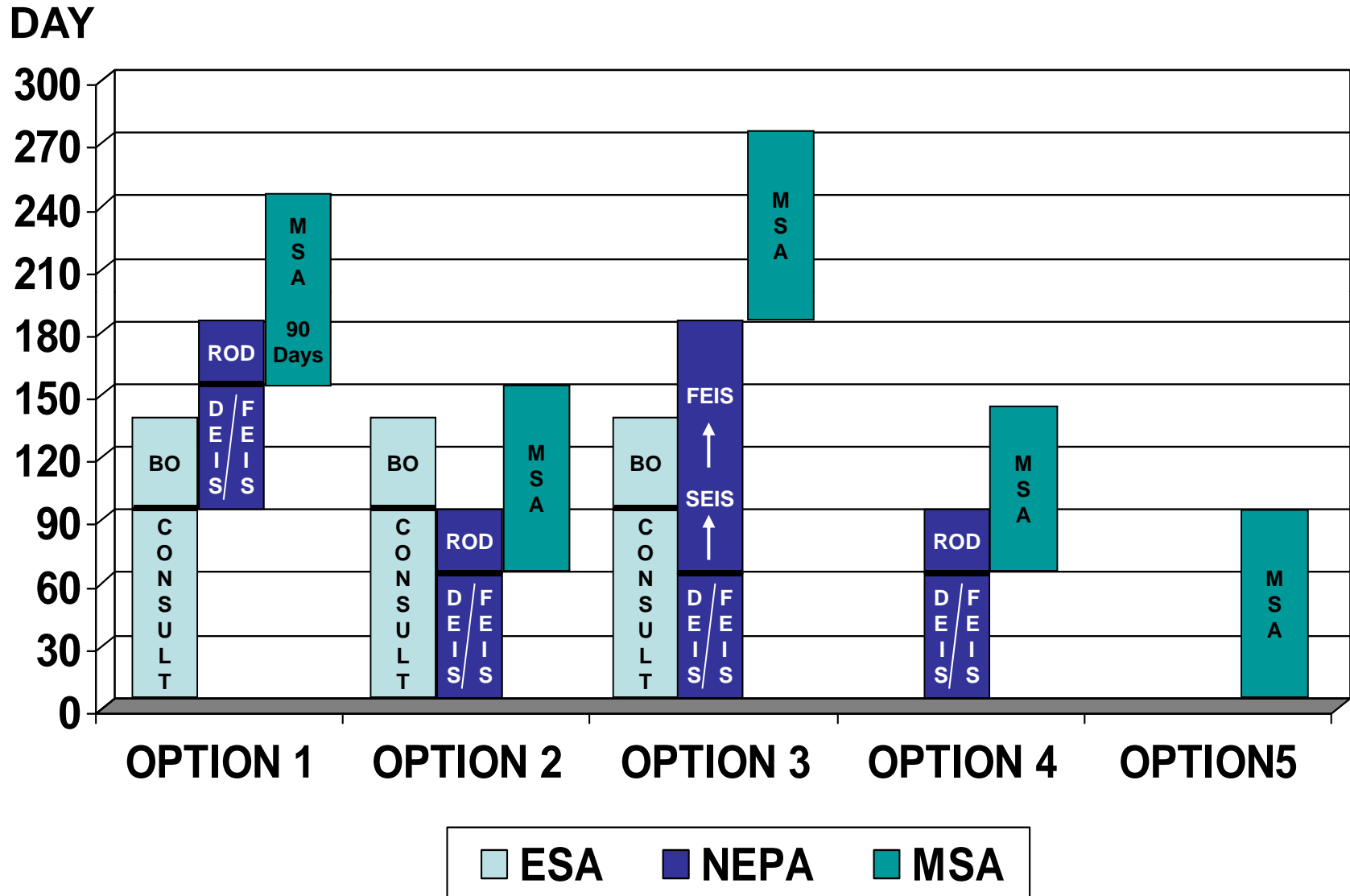


Fishery Management Timeline Options



Timelines Options Explained

Under Option 1 -- Begin with identification of preferred alternative, Add 90 days for consultation, At conclusion of consultation phase, reconcile with DEIS and publish on day 90. 45 days comment on DEIS, 15 days to convert to FEIS. On day 150, you have an FEIS ready to file. Transmit and start MSA clock. Decision Day is day 245 (about 8 months from identification of preferred alternative).

Under Option 2 – At time of identifying preferred alternative, initiate ESA consultation (90 days), and also publish DEIS (45 day comment period). Assuming ESA consultation results are consistent with DEIS and no new information arises through comment period, under NEPA, ROD could issue as early as day 90. However, ESA BO would not be complete until day 135. MSA clock could be initiated with FEIS (e.g., as early as day 60), and decision day could be as early as day 150. The results of the BO would be available on Day 135, the ROD on the EIS could be signed as early as day 90. MSA 90 days of review would include days 60-150, so results of the EIS comment period and BO could lead to disapproval with no option for modification. Total time after identification of preferred alternative would be 150 days (about 5 months). Shorter total time frame, greater risk of disapproval or compromised record.

Under Option 3 – Assume DEIS is published and ESA consultation initiated at the same time, e.g., at time of identification of preferred alternative. Assume results of consultation reveal new information. The DEIS must be revised and recirculated. It may be necessary to select a new preferred alternative. Assume the NEPA process takes 180 days instead of 90. Begin MSA clock when FEIS is prepared on day 180. MSA decision day would be day 270 (about 9 months after identification of preferred alternative).

Under Option 4 – assume no ESA-listed species are present. The Council might publish the DEIS prior to identifying a preferred alternative. There would be a 45 day comment period on the DEIS. Assuming no new information, the Council could immediately vote on the preferred alternative, transmit and begin the MSA clock, when filing the FEIS. MSA decision day could be (45 + 95) 140 days after identification of a preferred alternative.

Under Option 5, assume there are no listed species issues and an EA is the appropriate NEPA document. The only applicable timeline would be the MSA 95 day review.

Overview of Statutory Timelines

Prepared by NSIL, March 2005

MSA (FMPs)	MSA (regulations)	NEPA	ESA	CZMA	APA	EO 12866
0B Transmit 5B Pub. NOA (60 day cmt.) 10 15 20 - Pub Pro. Rule (45 day cmt.) 25 30 35 40 45 50 55 60 65 -----CPE/NOA and P.R. 70 75 (D.Day on 80 Rule w/in 30 85 days CPE /P.R.) 90 *95 ----- D.Day FMP 100 (and Rule if CPE on 105 day 65) Note that for NEPA compliance, the ROD on the EIS must be signed prior to MSA Day 95. The ROD on the EIS may not be signed sooner than 30 days after filing the FEIS. The FEIS should not be filed prior to signing the BO under ESA. And, because the FEIS should not be substantively different from the DEIS, the BO should be substantially completed prior to filing the DEIS for comment. (If significant new information arises after publication of the DEIS, it may be necessary to circulate a revised DEIS for additional comment).	0B Transmit 5B Review for up to 15 days 10 15 20 - Pub Pro. Rule (15-60 day 25 cmt.) 30 35 B CPE between days 35 and 80 40 45 *F.R. must pub. w/30 50 days CPE, may not 55 precede FMP decision 60 65 B Earliest possible deadline 70 for FR if no FMP and 15 day 75 cmt.; or CPE if 45 day cmt 80 B CPE if 60 day cmt. 85 90 *95 ----- FR must pub b/t 100 days 65 and 110 - may 105 NOT pub prior to dec. 110 on FMP -If 45 day cmt. must pub by Day 95.	0---- EPA publishes DEIS 5 w/45 day minimum 10 comment period 15 (Final decision cannot 20 be made sooner than 25 90 days after pub. DEIS) 30 35 40 Earliest possible 45 --- CPE on DEIS [53]-----File FEIS w/EPA 55 to act on day 90* 60 -----EPA must publish 65 FEIS by day 60 in order 70 for agency to act on day 90. 75 (must wait 30 days after 80 pub. FEIS to sign ROD). 85 90----- Earliest possible 95 day to sign NEPA ROD 100 105 110 *Note that EPA publishes items the Friday after the week in which EPA receives them. In order for EPA to publish FEIS on day 60, NOAA would have to file by day 53, and day 53 would have to be a Friday. The agency would have 1 week to turn the DEIS into an FEIS and respond to comment. For planning purposes, expect the NEPA process to exceed the hypothetical 90 day schedule.	0---- I.d. action/Initiate Consultation 5 10 15 20 25 30 35 40 45 50 55 60 65 70 75 80 85 90-- Complete consultation w/in 95 90 days (unless extended up to 100 60 days more) [*Pursuant 105 to OGs, provide here a 110 Consultation Assessment] 115 120 Complete BO w/in 45 125 of consultation (or 55 if 130 late comments recv=d) 135 ----- [Pursuant to OGs, draft 140 BO is completed later, 145 during cmt. on DEIS]. 150B (complete consultation 155 here if extended) 160 165 170 175 180 185 190 195----- Complete BO if 200 consultation extended 205 ----- and if late comments	0---- Agency provides 5 consistency determ. 10 to State 15 20 25 30 35 40 45 50 55 60 60C Agency may 65 infer State 70 concurs if no 75 response 80 85 90 ---- Earliest possible action day (unless State agrees otherwise)	0---- Publication of 5 Final Rule 10 15 20 25 30B- 30-day delay in 35 effectiveness 40 (unless waived). 45 50 55 60	*determination of significance (10 days) 0---- Submission 5 of Reg. text & 10 cost/ben 15 analysis for 20 Asignificant@ 25 actions 30 35 40 45 50 55 60 65 70 75 80 85 90 ---- Deadline for conclusion of OMB review

*Note that the clocks on these various requirements do not all start on the same day. Day 1 is determined for each individual statute based on the triggering of a criterion. For example, Council submission of an FMP or regulation starts the MSA clock. Publication of the DEIS starts the NEPA clock. And initiation of consultation starts the ESA clock.