

COUNCIL COORDINATION COMMITTEE

MAY 2017 MEETING

*May 16-18, 2017 -- Gloucester, Massachusetts*

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1 **1. WELCOME/INTRODUCTIONS**

2  
3 *John Quinn:*

4 It's my honor to welcome you to Boston, Massachusetts, the home  
5 of our nation's oldest fishing port, settled here in the year 1623.  
6 We are proud to be hosting this year's CCC meeting here, right on  
7 the working waterfront, overlooking Gloucester Harbor. While I  
8 thought the St. Thomas view last year was best, I think we've got a  
9 little competition with the people from the Caribbean on the view  
10 out the window, and so maybe we'll open the curtains a little bit  
11 later.

12 This port, from Captain Courageous to Wicked Tuna, has long  
13 been a symbol of New England's deep ties to fishing and the sea.  
14 This region's seafood and recreational fishing industries,  
15 represented by this port, support over 135,000 jobs and contribute  
16 over \$5 billion to the nation's GDP. I can't think of a more  
17 appropriate location for this meeting. This is our normal weather,  
18 eighty to ninety in mid-May, and so those that are coming from  
19 other parts of the United States, this is how it is all the time in  
20 May.

21  
22 We have a full agenda for the next few days. We've also built in a  
23 couple of social events that we hope will give you a sense of the  
24 rich seafaring history of this community. While we are here in  
25 Gloucester for the 2017 meeting, we are fortunate enough to have  
26 many other important fishing ports in New England: the Boston  
27 and Cape Cod ports in Massachusetts; Portland, Rockland, and  
28 Port Clyde in Maine; Point Judith and Newport in Rhode Island;  
29 Stonington in Connecticut; Portsmouth and Hampton, New  
30 Hampshire; and, last, but certainly not least, my homeport, and  
31 John Bullard's homeport, New Bedford, the scallop capital of the  
32 world and the highest-grossing landings for fifteen years running.

33  
34 We are especially proud that several of our industry associations  
35 from many of these fishing communities have come forward to  
36 welcome the CCC and help sponsor our evening functions.  
37 Tonight, we will be heading off for a dinner cruise around the  
38 harbor. You will get a chance to see the piers and the harbor. We  
39 would like to extend a very special thank-you to our industry  
40 supporters who contributed to this event: the Fisheries Survival  
41 Fund, the Sustainable Harbor Sector, the Cape Cod Commercial  
42 Fishermen's Alliance, and the Associated Fisheries of Maine.

43  
44 Tomorrow night, we'll be heading off to the Cape Ann Museum,  
45 where you'll have a chance to see some amazing historical photos  
46 and memorabilia chronicling Gloucester's fishing heritage. For

1 this event, again, sponsors have stepped up, and they are the  
2 Northeast Seafood Coalition and the Gloucester Fishing  
3 Community Preservation Fund. We want to thank them publicly  
4 for their co-sponsorship.  
5  
6 These events do not happen on their own. We are very fortunate,  
7 here in New England, to have tremendous staff that put this  
8 together, and I want to publicly thank Tom Nies and Chris Kellogg  
9 and Joan O’Leary, Janice Plante, Woneta Cloutier, and Sam Asci  
10 for all of their work in putting this together, and so please join me  
11 in giving them a round of applause. (Applause)  
12  
13 That is all I have for opening remarks, and I’m going to turn it over  
14 to Sam Rauch for remarks, and then we will go around and  
15 introduce ourselves.  
16  
17 *Sam Rauch:* I think I’m on the agenda right after this, and I will just save my  
18 remarks for that and do it all together.  
19  
20 *John Quinn:* Very good. You’re the boss, and so we’ll do that. Why don’t we  
21 start with -- We all know who Sam is, and we’ll introduce  
22 ourselves going around that way, and identify where you are from.  
23  
24 *Alan Risenhoover:* Good morning. Alan Risenhoover, and I’m the Acting Deputy for  
25 Regulatory Programs at National Marine Fisheries from Silver  
26 Spring.  
27  
28 *Adam Issenberg:* Hello. I’m Adam Issenberg with NOAA’s Office of the General  
29 Counsel.  
30  
31 *Michael Duenas:* Michael Duenas, Western Pacific Council, Guam, and I also  
32 manage the Guam Fishermen’s Co-Op.  
33  
34 *McGrew Rice:* McGrew Rice, council member, Western Pacific Fisheries  
35 Management Council, charter boat captain and non-commercial  
36 fisherman.  
37  
38 *Ed Ebisui:* Good morning. I’m Ed Ebisui. I’m a council member from  
39 Hawaii, and I’m the current Chair.  
40  
41 *Kitty Simonds:* Kitty Simonds, Executive Director of the Western Pacific Council.  
42  
43 *John Gourley:* John Gourley, Vice Chair, Northern Mariana Islands.  
44  
45 *Frank Lockhart:* Frank Lockhart with the National Marine Fisheries Service, West  
46 Coast Region in Seattle.

- 1  
2 *Herb Pollard:* Herb Pollard, Chair, Pacific Council, representing Idaho.  
3  
4 *Chuck Tracy:* Chuck Tracy, Executive Director of the Pacific Council.  
5  
6 *Phillip Anderson:* Phil Anderson, Vice Chair, Pacific Council.  
7  
8 *Jim Balsiger:* Jim Balsiger, Alaska Region, NMFS.  
9  
10 *Bill Tweit:* Bill Tweit, Vice Chair of the North Pacific Council.  
11  
12 *Chris Oliver:* Chris Oliver, Executive Director, North Pacific Council.  
13  
14 *Miguel Rolon:* Miguel Rolon, Executive Director, Caribbean Council.  
15  
16 *Carlos Farchette:* Carlos Farchette, Caribbean Council Chair.  
17  
18 *Marcos Hanke:* Marcos Hanke, Vice Chair, Caribbean Council, charter operator.  
19  
20 *Carrie Simmons:* Carrie Simmons, Deputy Director, Gulf of Mexico Fishery  
21 Management Council, and our office is in Tampa, Florida.  
22  
23 *Leann Bosarge:* Leann Bosarge from Mississippi, Chair of the Gulf of Mexico  
24 Fishery Management Council.  
25  
26 *Andy Strelcheck:* Andy Strelcheck, Deputy Regional Administrator of the Southeast  
27 Regional Office in St. Petersburg.  
28  
29 *Michelle Duval:* Michelle Duval, Chair of the South Atlantic Fishery Management  
30 Council, and I'm from Morehead City, North Carolina.  
31  
32 *Gregg Waugh:* Gregg Waugh, Executive Director of the South Atlantic Council,  
33 based out of Charleston, South Carolina.  
34  
35 *Charlie Phillips:* Charlie Phillips, South Atlantic Council, Vice Chair, and I'm from  
36 Georgia.  
37  
38 *G. Warren Elliott:* Good morning. I'm Warren Elliott, and I'm from Pennsylvania,  
39 and I'm the Vice Chair of the Mid-Atlantic Council.  
40  
41 *Chris Moore:* Chris Moore, Executive Director, Mid-Atlantic Council.  
42  
43 *Mike Louisi:* Mike Louisi, Chair, Mid-Atlantic Council, and I'm from  
44 Annapolis, Maryland.  
45  
46 *Michael Pentony:* Mike Pentony from the Greater Atlantic Region of NMFS, here in

1 the beautiful city of Gloucester.  
2  
3 *John Bullard:* John Bullard, Regional Administrator, Greater Atlantic Region,  
4 and, in this setting, I can say longtime friend and neighbor of the  
5 Chair, John Quinn.  
6  
7 *Terry Stockwell:* Terry Stockwell from Mid-Coast Maine, New England Vice Chair.  
8  
9 *Tom Nies:* Tom Nies, Executive Director, New England Fishery Management  
10 Council.  
11  
12 *John Quinn:* Maybe Chris and the staff, and we can start with you, Chris.  
13  
14 *Chris Kellogg:* Chris Kellogg, Deputy Director of the New England Council.  
15  
16 *Mike Burner:* Mike Burner, Deputy Director of the Pacific Council.  
17  
18 *David Witherell:* Dave Witherell, North Pacific Council.  
19  
20 *Brian Chevront:* Brian Chevront, and the I'm the Deputy Director from the South  
21 Atlantic Council.  
22  
23 *Mike Collins:* Mike Collins, the Administrative Officer for the South Atlantic  
24 Fishery Management Council.  
25  
26 *Janice Plante:* Janice Plante, and I'm the Public Affairs Officer for the New  
27 England Council.  
28  
29 *John Quinn:* Great. Thank you very much. Sam, the floor is yours.

1 **2. NMFS UPDATE AND FY17 PRIORITIES**

2  
3 *Sam Rauch:* Thank you, John, and thank you to the New England Council for  
4 hosting us. I know that a lot of work goes into planning these  
5 meetings, and I am always impressed with the ability to bring it all  
6 together, and so I know we thanked the staff, but I also wanted to  
7 reiterate the thanks to all of those that worked on this.

8  
9 I am going to start with a few transitional personnel updates. As  
10 all of you know, I am normally the Deputy for Regulatory  
11 Programs at the Fisheries Service. I am acting until the  
12 administration announces a replacement. The way that the  
13 appointments go, we have a Secretary of Commerce, and there are  
14 political slots that remain unfilled between myself and the  
15 Secretary of Commerce. There is a Deputy Secretary, which has  
16 not been announced. We had one announced, but that person  
17 withdrew, and so there has not been a new selection for a Deputy  
18 Secretary.

19  
20 The head of NOAA is not announced either. Currently, Ben  
21 Friedman is acting in that role. At some point, that position will be  
22 announced, and that will have to be Senate confirmed, and so, even  
23 once announced, it will take a while for that person to come  
24 onboard.

25  
26 There is an Assistant Secretary at the NOAA level between my  
27 position and the head of NOAA that has also not been announced.  
28 Paul Doremus, who many of you know, is normally the Deputy of  
29 Fisheries in charge of Operations and Budget, and he is currently  
30 acting in that Assistant Secretary position, until there is a political  
31 appointee announced. That is also Senate confirmed, and so, even  
32 once that is announced, it may be a while before that person,  
33 whomever that would be, comes onboard.

34  
35 Then my position, as the head of the Fisheries Service, technically  
36 the Assistant Administrator for Fisheries, is a political position.  
37 Unlike all of those others that I just talked about, once that person  
38 is announced by the administration, that person can start relatively  
39 quickly. It is not a Senate-confirmed position, and so, when an  
40 announcement is made by the administration, we expect that that  
41 person may start relatively quickly, but the administration has not  
42 yet made a formal announcement on that yet.

43  
44 Then sort of, once that happens, we will go back and -- Alan will  
45 go back to the Office of Sustainable Fisheries, and I will go back to  
46 being the Deputy, and we will cascade back down from there, and,

1 at some point, Paul will come back to be the Deputy for  
2 Administration.

3  
4 In the meantime, Brian Pawlak, and I don't know whether he is  
5 here or will be here, but he is taking over a number of Paul's duties  
6 at the Fisheries Service level. You have heard from him before, or  
7 many of you have, and he is the head of our Office of Management  
8 and Budget, basically our CFO, and he will take over a number of  
9 Paul's duties, and has been in the interim.

10  
11 Those are a bunch of the temporary transitional issues. We do  
12 have some permanent changes that we've made, particularly with  
13 the Northwest Fisheries Science Center. Kevin Werner is now the  
14 new Director, and we were pleased that we were able to move that  
15 forward, and we recently announced his position. He previously  
16 served in the National Weather Service, in the Office of  
17 Organization Excellence, but we are glad that we could steal him  
18 over and have him take the Center Director's position.

19  
20 In addition, on the West Coast, we have a new Deputy Regional  
21 Administrator, Scott Rumsey. You may know Barry Thom, who  
22 was in that position, is now the Regional Administrator, and so we  
23 had to backfill for Barry, and Scott took that position, and so that is  
24 permanent as well.

25  
26 On other sort of transitional issues, we are going to talk later in this  
27 meeting about a number of the regulatory issues we have in this  
28 new administration. The President has issued a number of  
29 Executive Orders that are relevant to the work that the councils do,  
30 that we do. There are Executive Orders on regulatory reform that  
31 Alan will talk about later in the meeting, and so I'm not going to  
32 talk about those now.

33  
34 There are Executive Orders on the monuments, two of them, that  
35 I'm sure we're going to get into later in the meeting, and so we're  
36 not going to discuss them now, but we're working through all of  
37 those issues.

38  
39 There was, at one point, a hiring freeze that has been lifted. We  
40 are now processing through hiring. As I mentioned, we did make  
41 the selections that I talked about, and so some of those things -- It  
42 has become fairly normal practice, at the change of the  
43 administration, for there to be brief hiring freezes like we  
44 experienced, and we are through with that, and hiring is proceeding  
45 normally, and so we're able to do that, and so we're pleased to see  
46 that we're able to do that.

1  
2 We're going to talk about budget later in the meeting, and so I'm  
3 not going to discuss that, other than to say that we are currently  
4 operating under a continuing resolution for the remainder of the  
5 year, and, under that continuing resolution, we did not see  
6 significant cuts to the NMFS budget, the Fisheries Service budget,  
7 and there are a few modest increases, but, when we talk about that  
8 later in the meeting, we can discuss that.  
9

10 We do not know what the President's budget for 2018 will look  
11 like. We expect that to come later this month, and that, as you all  
12 are well aware, that is only the first step in that process. We also  
13 don't know what Congress would actually pass, in terms of  
14 appropriations for 2018, and so all of that has yet to be discussed,  
15 and we'll talk about those things later.  
16

17 The only other thing that I explicitly want to discuss, and I've been  
18 asked to discuss, is the Catch Share Program Review Policy  
19 Guidance. I think the North Pacific asked that we mention that  
20 briefly. We have talked about that with this group before. That  
21 guidance was finalized last month, and it's now available on our  
22 policy directives website. We do appreciate the feedback that this  
23 group or individual councils provided as we created the guidance.  
24 That did result in a better product.  
25

26 The two main changes that we made in response to the comments  
27 that we got is that the text is clearer now that the reviews only  
28 identify potential management issues. The councils still have the  
29 responsibility to determine recommendations for addressing the  
30 issues raised in the review. The section on allocations was updated  
31 to better match the NMFS allocation guidance, which we had done  
32 before.  
33

34 We are happy to answer questions on that. I think Kelly Denit is  
35 back there, and she can answer questions on that, if we have any,  
36 or you can talk to her later about that. Those, I think, are the main  
37 points that I wanted to cover. Once again, thank you to the New  
38 England Council staff for this meeting, and I look forward to a  
39 productive meeting, and I'm happy to take any generic questions  
40 on issues that we might not cover later in the agenda.  
41

42 *John Quinn:*

43 Thank you very much. Are there questions? Seeing none, we are  
44 going to move on to our next section, the Council Round Robin.  
45 We have allocated ten minutes per council, and I think we're going  
46 to go left-to-right and start with the North Pacific and go right  
around the table.

---

1 **3. COUNCIL ROUND ROBIN**

2  
3 *Chris Oliver:*

4 I can be pretty quick here this morning, Mr. Chairman. I kind of  
5 divided this into big issues, medium issues, and small issues. As  
6 we have reported in recent years, one of the things that we spend  
7 most of our time dealing with is bycatch of prohibited species in  
8 our groundfish fisheries, such as halibut and salmon. We have, for  
9 many years, had a fixed halibut PSC limit in, for example, our  
10 Bering Sea trawl fisheries, and we are now looking at developing  
11 an index, basically, that floats with halibut abundance. Obviously,  
12 as halibut abundance, exploitable biomass, has gone down over  
13 recent years, bycatch takes a proportionally bigger slice of the pie,  
14 and so that's an issue that we're dealing with.

15 Salmon, we have a Salmon Fishery Management Plan that  
16 essentially defers management of salmon to the State of Alaska.  
17 We recently amended it to essentially exclude three areas in the  
18 federal waters where salmon fishing does occur, in limited  
19 amounts. That was challenged, and we were directed by a court to  
20 re-amend our Salmon FMP to deal with the federal waters portion  
21 of that, in terms of ACL requirements and such, and so that was an  
22 unexpected issue on our radar screen that we're dealing with.

23  
24 We are in the process of developing an overarching ecosystem plan  
25 for our Bering Sea Fishery Management Area, and we also have  
26 been working really hard, in recent years, to integrate electronic  
27 monitoring into our observer program, and just a little bit of a  
28 shout-out to our Vice Chairman, Mr. Tweit, who, in addition to  
29 being our Vice Chair, also chairs our Ecosystem Committee as  
30 well as our Observer Advisory Committee and the associated  
31 Electronic Monitoring Workgroup, which probably are our two  
32 most active and time and labor-intensive committees that the  
33 council has, and so Bill may want to add a comment or two, but he  
34 doesn't have to.

35  
36 Most of our fisheries are already limited entry or some type of IFQ  
37 or cooperative management, but we are looking at some changes in  
38 some of our Bering Sea fisheries, further limiting entry into our  
39 yellowfin sole fishery and also looking at options to further limit  
40 participation in our trawl catch vessel cod fishery, and so those are  
41 some of our bigger issues that we're dealing with.

42  
43 Medium issues, as I mentioned earlier, we are constantly dealing  
44 with salmon and halibut bycatch, and we are doing some things in  
45 our Gulf of Alaska salmon fishery, where we're actually looking at  
46 increasing our salmon bycatch limits, due to increasing abundance

1 of salmon in the Gulf.

2  
3 The only recreational fishery that we manage, really, is halibut,  
4 and we're looking at further tightening our permit program for the  
5 charter halibut fishery. Our long-standing halibut and sablefish  
6 commercial IFQ program that's been in place since 1995, we have  
7 just recently completed a ten-year review of that program, and  
8 we're looking at some fairly minor tweaks to that program, but it is  
9 something that is currently on our plate.

10  
11 We are, per the policy directive that the CCC helped develop, in  
12 conjunction with the agency, we are looking at determining  
13 allocation review triggers and moving squid to the ecosystem  
14 component in our fishery management plan. We do have crab  
15 bycatch management measures in the Gulf of Alaska that we're  
16 reevaluating, and, more recently, we're looking more intensively at  
17 northern fur seal status, which is a declining population for quite a  
18 long time, and so that's a protected species issue that's on our  
19 radar screen.

20  
21 A few issues related to this meeting that we're going to discuss  
22 later on is the conflict of interest and recusal issue. We've had  
23 some recent experience in the North Pacific that we would like to  
24 have a discussion of, and we're, of course, interested in funding  
25 issues, as they relate to both the observer program and our stock  
26 surveys. One issue that has come up, and is probably part of our  
27 legislative discussion, and there's many issues in the potential  
28 Magnuson reauthorization bills, but the twelve-month limit on  
29 exempted fishing permits is of some concern to us. I think that  
30 covers what I wanted to say, and I will see if Mr. Tweit wants to  
31 add anything.

32  
33 *Bill Tweit:*

34 Thanks, Mr. Chair. Our Chair, Dan Hull, asked me to convey his  
35 regrets that he is not able to be here and pass on his regards to  
36 everyone, and that he looks forward to chairing this in another  
37 year, when we host. Beyond that, I am available for any questions.

38 *John Quinn:*

39 Very good. Moving on to the Pacific, Chuck Tracy.

40 *Chuck Tracy:*

41 Thank you. For our presentation, we kind of divided it up into our  
42 fishery management plans as well as some administrative  
43 and other duties. I was just going to hit a few highlights for each  
44 of our plans here.

45 Groundfish management, some of our big projects, we're in the  
46 middle of a five-year catch share review program. We've got a

1 large catch share program for our groundfish trawl fishery, and we  
2 are in the second year of a major review of that program. We are  
3 also conducting an allocation review, in parallel with that, for the  
4 groundfish fisheries.

5  
6 We've got a very long process to review groundfish EFH, and so  
7 the review process is over, and now we're into the implementation  
8 phase of implementing the recommendations that came out of the  
9 review to look at revising some of our EFH and also our Rockfish  
10 Conservation Area, which have similar impacts when you reopen  
11 areas that have been closed for a while.

12  
13 We're also involved with National Marine Fisheries Service, the  
14 West Coast Region, on an ESA listing salmon consultation  
15 recommendation. They reinitiated consultation on the groundfish  
16 fishery, and we are working together to try and come up with some  
17 recommendations for them to consider in their consultation  
18 process. That's what is going on right now.

19  
20 In the future, we will have some follow-on amendments from the  
21 catch share and allocation reviews that we'll be taking up later this  
22 year. This is a year for our stock assessments, and we're kind of  
23 on a biennial cycle, where we do stock assessments one year and  
24 management measures and specifications in another year, and it's a  
25 biennial management measure process, and so that's kind of how  
26 we split things up, but stock assessment years are very busy years  
27 for our science-related aspects of that fishery.

28  
29 Then, again, the specification of management measures for 2019  
30 and 2020, and we're looking to start planning that effort, and that  
31 will conclude about a year from now, a year from June, and then  
32 we've also got a number of efficiencies and improvements to the  
33 Groundfish Management Program. We've got a laundry list that  
34 we consider, and we call it the omnibus actions, and so maybe I  
35 will touch on that briefly.

36  
37 This is our EFH and Rockfish Conservation Area Amendment. On  
38 the left, there is a number of areas that are closed to trawl fishing  
39 or all bottom contact. We are looking at alternatives right now to  
40 modify some of those areas, open some and close some and change  
41 the boundaries, so they better reflect the information we got  
42 through the review about the habitat that is there.

43  
44 Also, Rockfish Conservation Areas were put into place to control  
45 harvest impacts on overfished rockfish species. With the  
46 implementation of our catch share program and 100 percent

1 monitoring and individual responsibilities for all the fishermen,  
2 there is some thoughts that those are not as necessary as they were,  
3 and so we are looking at some alternatives to perhaps reduce or  
4 remove some of those rockfish conservation areas.  
5

6 Also involved in this is protection of deep-sea coral, and that's a  
7 very popular component of this FMP amendment, and then this is  
8 scheduled for final action this year, and it's been quite a long  
9 process. The review took us several years, and the amendment has  
10 taken two-and-a-half years now, and so it's been a long process.  
11

12 These are sort of the efficiencies in the omnibus list of things that  
13 we're also looking at. We've got a number of active projects,  
14 again, to deal with outdated regulations or to modify regulations to  
15 increase the efficiency of the fishery and the administration of the  
16 fisheries, and so we've got quite a number of 2017 projects, and  
17 nothing that is scheduled for 2018 yet, but then, down lower,  
18 we've got another laundry list of things that are on people's radar  
19 screens that we'll be looking at in the future.  
20

21 For salmon management, currently, we have just gone through our  
22 annual process and set our salmon seasons for the West Coast, and  
23 so now we're involved in the in-season process. We're also  
24 involved in an ESA salmon consultation process, again with the  
25 West Coast Region, to develop recommendations for the ESA  
26 listing of Sacramento River winter chinook, and, of course, the  
27 Pacific Salmon Treaty is also being renegotiated right now, and  
28 that's a big deal for us, and so, although the council itself is not  
29 directly involved in the negotiations, it's a very important aspect of  
30 how we manage our salmon fisheries, since those fisheries impact  
31 quite a number of our stocks.  
32

33 For future activities, annual specifications and management  
34 measures, that's a yearly thing, and then, secondly, Klamath River  
35 fall chinook, which is a constraining stock for Oregon and  
36 California, it's a record low forecast this year. It hasn't met its  
37 escape goal the last two years, and we are expecting that to be  
38 declared overfished when this year's run is finalized, and so we'll  
39 be working on a rebuilding plan for that stock.  
40

41 The Sacramento River winter chinook ESA consultation that we're  
42 working on, we're just looking at developing a new control rule,  
43 and so we've got a number of options out there. The one in the  
44 center, at the bottom, is the current control rule. It's based on the  
45 previous three-year escapement objective, and that's how we plan  
46 for the upcoming year. All the rest of them use a forward-looking

1 forecast, and so we think that's more relevant to protecting the  
2 stock in the upcoming season, rather than basing it on what has  
3 already happened, and we're working with the National Marine  
4 Fisheries Service to develop those recommendations for 2018.  
5

6 For the Klamath, again, I mentioned that's a critical stock. On the  
7 left, you see our control rule for that, and you see where we're at in  
8 2017, way down at the bottom, where there is almost -- There are  
9 very de minimis impact rates allowed. On the map, you see the  
10 KMZ area, and that's completely closed to all fishing. In addition,  
11 the CO, Central Oregon, is also closed to commercial fishing.  
12 Then there is quite a number of constraints, very reduced fisheries,  
13 all the way from northern Oregon through basically Fort Bragg and  
14 San Francisco, and so it's been a big impact on our stock, on our  
15 ocean fisheries.  
16

17 I thought I would give you a little background on why that's been  
18 such a big deal. There is a big disease problem in the Klamath  
19 River, due to drought and dams and poor environmental  
20 conditions. There is a parasitic disease there that there has been a  
21 very high infection rate recently. The slow-moving water causes  
22 warm water, and that provides a good environment for the  
23 intermediate host, which is a polychaete worm, and it has really  
24 affected the survival.  
25

26 In addition to that, we've also had bad ocean conditions. If you're  
27 familiar with the warm blob and the El Niño situations that we've  
28 had recently, that has really hurt salmon survival for the last couple  
29 of years.  
30

31 The good news on the horizon is that the Klamath Dam removal is  
32 progressing. There are four dams on the Klamath that have been  
33 agreed to be taken out, and so that agreement was signed this past  
34 year. They're hoping to be out by 2020, and that will open a lot  
35 more spawning habitat, but it will also improve the existing river  
36 environment by restoring natural riverine processes, gravel  
37 recruitment and turnover, and it will hopefully reduce the risk of  
38 parasitic diseases.  
39

40 For highly migratory species, our current activities, the big ones,  
41 are we're federalizing a drift gillnet permit. We are also  
42 authorizing a new gear, deep-set buoy gear, to target swordfish.  
43 We're also updating our status determination criteria and reference  
44 points, a process to incorporate those, and, of course, we're  
45 involved in a number of international forums. Probably the highest  
46 profile there is rebuilding bluefin tuna in the Pacific, which is, I

1 believe, at about 2.6 percent of the historical biomass.

2  
3 For future activities, we'll be looking at potentially some limited  
4 entry provisions for our FMP, as well as authorizing longline gear,  
5 possibly.

6  
7 Just to show you what deep-set buoy gear is, the diagram on the  
8 right is a single set. Again, basically the theory is to drop your  
9 baits down below the areas where you might encounter turtles, and  
10 so it's been under an exempted fishing permit for the last few  
11 years. It has shown a lot of potential. The fishermen are learning  
12 how to use it, and their success rates are going up.

13  
14 There is also some new gear configurations that are being  
15 considered, this linked gear, where basically you link the buoy, the  
16 deep-set gear, together. We're going through a process to  
17 authorize that. That should be completed, in some form, this year.  
18 I don't know if it will be both gear configurations or not, but  
19 probably at least the single configuration.

20  
21 For coastal pelagic species, our current activities are an anchovy  
22 assessment and management review. Our OFL is outdated. It's  
23 currently a monitored stock and not actively managed, and we're  
24 going through some methodology reviews to look at aerial surveys  
25 as well as acoustic trawl surveys, to help improve our assessment  
26 capabilities there. In the future, we'll be looking at whether to  
27 change the anchovy management classification from monitored to  
28 active.

29  
30 Just a couple of pictures here with regard to the survey  
31 methodology. Part of the issue is that these coastal pelagic stocks  
32 are shallow. Sometimes they are shallower than the sonar that  
33 detects them in the trawl survey, in the acoustic trawl survey, and  
34 so there is some new technology coming onboard that we'll be  
35 looking at to help identify those shallower stocks. They're also  
36 talking about extending the surveys inshore, using either smaller  
37 vessels or drones, to extend our transects inshore, to where these  
38 stocks sometimes gather. As you can see, there is a pretty good  
39 abundance of anchovies in there, close to the beach, that big survey  
40 vessels can't account for.

41  
42 We also have a Fishery Ecosystem Plan. We've got our annual  
43 assessment, and we're also looking at a coast-wide sablefish  
44 ecosystem indicators initiative to sort of help us figure out what's  
45 going on with sablefish. On the lower-right diagram there, you can  
46 see that the recruitment continues to fall, despite our conservative

1 management efforts, and so we're going to look a little further  
2 afield to see what we can determine, in cooperation with Canada  
3 and Alaska, for assessing that stock.  
4

5 We're also looking at some initiatives to look at socioeconomic  
6 effects of fisheries on communities and recruitment into the  
7 fisheries, human recruitment into the fisheries. We're also looking  
8 at near-term climate shift and climate change on fish, fisheries, and  
9 fishing communities.  
10

11 With regard to our administrative activities, health care, we have  
12 embarked on a health care adventure, for the lack of a better term,  
13 for the last couple of years. We're learning a lot about providing  
14 health care to our employees and how to provide good benefits and  
15 still maintain a reasonable cost on that.  
16

17 Hotel contracts is always an ongoing priority for us, and, of course,  
18 we're planning for the SCS-6 meeting, which we'll talk a little bit  
19 more about later in this meeting, and we'll also be developing a  
20 public comment portal for people to submit comments to the  
21 council, just to improve our efficiency with that.  
22

23 In the future, we're going to be looking at a website revision. Our  
24 research and data needs update comes up, I believe, next year, and,  
25 of course, the renewal of the five-year grant in two years.  
26

27 Some of our priorities are, first of all, NMFS partnerships. As Sam  
28 mentioned, there is a lot of transition going on within NMFS, and  
29 also a lot in the West Coast area. The Northwest Science Center  
30 has a new director, and the Southwest Fisheries Science Center  
31 does not have a new director, but we're looking forward to that.  
32 With Barry Thom taking over the West Coast Region, we are sort  
33 of building our relationships there.  
34

35 The West Coast Region Groundfish Program has also had a  
36 number of staff transitions, and so that's a priority for us, and then,  
37 of course, our relationship with Headquarters. As Sam mentioned,  
38 that's all changing, and so those will be our priorities, to make sure  
39 that we maintain our communications and get familiar with how  
40 we all do things.  
41

42 Some of our concerns along that line are resources for our NFMS  
43 partners. Travel for NMFS, for the West Coast Region and the  
44 Science Centers, has been an issue for us sometimes, and so we  
45 would like to do our best to make sure that they can come and  
46 participate in the council process.

1  
2 Likewise, because of some staff turnover, there is a bit of a  
3 regulation backlog that we're hoping to get cleared up and to  
4 provide some assistance, if we're able to. Then we've got a  
5 number of mandates that we've been asked to comment on, such as  
6 the Stock Assessment Improvement Plan, the best scientific  
7 information available, conflict of interest, et cetera, and so we'll be  
8 looking at those.

9  
10 In terms of our own budget, that's always a concern for us as well,  
11 dealing with inflation and also trying to get some special project  
12 funding for some of those things like the omnibus workload that  
13 the council would like to do that industry is asking for and that we  
14 would like to be able to do.

15  
16 Then, finally, working with other agencies and stakeholders in the  
17 council process, again to manage the workload within our budget  
18 and make sure that their expectations have some reality built into  
19 them and let them know what our capabilities are.

20  
21 Also, to work and make sure that we are trustworthy partners and  
22 communicate the fact that we are a council that works through  
23 science-based management, with an open process to maintain their  
24 trust and to make sure that they recognize that the council process  
25 is a good process and that it does get things done and that it can  
26 address their needs and that we are a good way to go and to maybe  
27 -- I hope that we can try not to send them off in other directions,  
28 such as trying to legislate things, and work through the council  
29 process, and we would like to get that message across, that that's  
30 what we would like to do for them. Any questions?

31  
32 *John Quinn:* Thank you very much. Before we move on to the Western Pacific,  
33 Tom Nies had a quick question.

34  
35 *Tom Nies:* Chuck, we've been trying to keep an eye on your catch share  
36 program review, because we'll probably kick one off next year. I  
37 am just curious how long that's taken and if there is any lessons  
38 you learned that you would like to share with us.

39  
40 *Chuck Tracy:* Thanks, Tom. We started this about February of last year, and we  
41 initially planned on it being about two-and-a-half years. Now we  
42 have sort of accelerated the process, and we're hoping to take final  
43 action this fall for that review, including sort of getting a jumpstart  
44 on some of the follow-on actions that we expect to be identified  
45 through this process, and so, rather than waiting until the review is  
46 completely over and then going through a process of selecting

1 some things to change, the thought was that, well, there is probably  
2 some pretty obvious things that are going to come up through the  
3 course of the review, through the course of our hearings and  
4 advisory body comments, and so we were hoping to at least  
5 develop a range of alternatives for the council to start working on  
6 some of those solutions before we get to the end of the process.

7  
8 *John Quinn:* Any other questions of Chuck?

9  
10 *Chuck Tracy:* I guess I would just also mention that we also are doing an  
11 allocation review that is very closely related, and we have  
12 integrated that into this process as well, to sort of kill two birds  
13 with one stone, I guess, as best we could.

14  
15 *John Quinn:* Thank you very much. Moving on to the Western Pacific, Ed  
16 Ebisui.

17  
18 *Ed Ebisui:* Thank you, Mr. Chair. First of all, I would like to thank you and  
19 the New England Council for this incredible, historic, beautiful  
20 venue, and also for the beautiful weather, and so maybe we should  
21 move outdoors. What do you say?

22  
23 Here are our top-five priorities in the Western Pacific area. They  
24 include monuments, international negotiations, funding for our  
25 data-gathering capabilities, as well as coordination between our  
26 council and NMFS, and also more coordination with respect to the  
27 ESA consultations.

28  
29 Topping off our list are the National Marine Monuments. As you  
30 know, President Trump issued his recent Executive Order calling  
31 on the Secretary of Interior to review monuments larger than  
32 100,000 acres, and so, therefore, our first task was to convert our  
33 monument dimensions, which are stated in terms of square nautical  
34 miles, into acres. We did that, and the Executive Order covers all  
35 of the monuments in our area around the Islands of Hawaii, the  
36 Pacific Remote Area, the Marianas Islands, and also American  
37 Samoa. Again, it includes all of the monuments.

38  
39 I want to reiterate that our request for review of the marine  
40 monuments is not to review the designation, the monument  
41 designation. It's purely to review the anti-American fishing in  
42 American waters prohibitions.

43  
44 In addition to the review issue, there is current, or there has been  
45 for a while, ongoing efforts by the Sanctuary to overlay its  
46 jurisdiction over monuments. A few years back, our humpback

1 whale sanctuary in Hawaii, which is species-specific only to the  
2 humpback whale, sought to increase their jurisdiction to cover  
3 everything in the water column and everything on the bottom.  
4 Fortunately, that was turned down, but it hasn't stopped the  
5 movement towards sanctuary overlay. Our council is positioned to  
6 oppose another layer of federal bureaucracy over management.

7  
8 With respect to the international negotiations in the Pacific, the  
9 U.S. tuna fisheries are losing ground. Our longline allocation, at  
10 minimum, must be increased, and this is based upon our historical  
11 catches, our fleet capacity, responsible management record,  
12 stringent monitoring, and observer coverage. In the area where we  
13 fish, we are off of the equatorial area, which is the most heavily  
14 fished, but yet, given all those factors in the accountability of our  
15 management system, we're still going backwards. Our quota  
16 keeps declining, while other nations' quotas are increasing, and  
17 their quotas are multiple times the U.S. quota.

18  
19 We think that the administration must appoint a very strong lead  
20 negotiator to bring us back into the game. We need to focus on  
21 opposing proposals that disadvantage U.S. fisheries. We need to  
22 shift our focus away from compliance measures for sea turtles and  
23 seabirds, and we need to focus on fish. Our management plans  
24 already cover endangered and threatened species matters, and so  
25 let's bring the focus back to where it belongs, and that's the  
26 allocation of fish.

27  
28 Data collection and research, in the Western Pacific, we don't have  
29 the support of a commission like all of you do, nor do we have a  
30 FIN program to support us. The data collection, research, and  
31 coordination is handled by the Fishery Data Collection and  
32 Research Committee, which was formed by the council, and we  
33 need to have permanent funding for this, and so our proposal is  
34 that funding that's directed at the commissions and the FIN  
35 programs should also include funding for FDCRC, and so that is  
36 our position with respect to data.

37  
38 Coordination between NMFS and the council, we need timely  
39 processing of annual specifications and plan amendments.  
40 Specifically, this relates to the transfer of the tuna quotas  
41 established by the Western Central Pacific Commission. In 2016,  
42 there was a closure, due to delayed transfer of territorial quotas,  
43 and this could have been avoided. It could have been seamless, but  
44 it wasn't, for whatever reason, and we need to work on that. It's  
45 something that is easily anticipated. It's foreseeable, and we  
46 should get a jump on it and make the transition seamless.

1  
2 Also, in 2016, there was a premature closure of the Eastern Pacific  
3 Ocean tuna fishery, and it was compounded by a delayed  
4 reopening, and so all those things cumulate and really affect the  
5 fishery. Our ACLs for 2016 were not published until 2017, and so  
6 that's another area that needs to be worked on.

7  
8 ESA consultations, there have been improvements, and there have  
9 been challenges. The improvements include better coordination  
10 between the council and PIRO, primarily due to the integration  
11 agreement. This time around, the draft biological opinion for the  
12 tuna deep-set fishery was shared with the council. In the past, this  
13 has been an area of contention, but it has apparently been resolved.

14  
15 Challenges, again, include timing. The consultation took 346 days,  
16 and the statute mandates that it occur within 135 days, and so we  
17 need to work on that. The consultation was really just a  
18 reinitiation of three species of sea turtles, but the delays were due  
19 to apparent overload in PIRO and the Protected Resources  
20 Division and an unnecessarily complex consultation, which  
21 analyzed the impacts of each potential green sea turtle distinct  
22 population segment. Now, keep in mind that the fishery is  
23 expected to have less than one observed interaction per year, and  
24 so it's not a high amount of interactions, but, nevertheless, the  
25 consultations took almost a year. Thank you very much.

26  
27 *John Quinn:*

28 Thank you very much, Ed. Any questions for Ed? Seeing none,  
29 we will skip over New England. As the host, we will defer, and so  
30 we'll move on to the Mid-Atlantic and Mike Louisi.

31 *Mike Louisi:*

32 Thank you, Mr. Chairman. My name is Mike Louisi, and I'm the  
33 Chairman of the Mid-Atlantic Council, and I will be giving the  
34 report today. We have organized our presentation today into two  
35 functions, and so we're going to talk a little bit about some of our  
36 recent actions and then ongoing and upcoming activities.

37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
Blueline tilefish, and so the blueline tilefish was a recent action  
that we took when the Mid-Atlantic saw signs that there were  
rapidly increasing landings in our area, and, prior to these actions,  
there were no permanent federal regulations in the EEZ north of  
North Carolina, and so the South Atlantic Council was managing  
blueline, and we were just seeing more and more of them in our  
area, and so the council decided to take action to add blueline  
tilefish to the Tilefish FMP.

While we were working on that, we also worked with the National

1 Marine Fisheries Service to implement and establish emergency  
2 regulations to kind of curtail or curb these rapidly-increasing  
3 landings that we were seeing in our area, and so, while those  
4 emergency actions were in place, the council has now gone  
5 through the process of adding them to the Tilefish FMP and  
6 establishing commercial trip limits, permit requirements, and  
7 recreational season and bag limits.  
8

9 We also had to work closely with states to try to close any  
10 loopholes that there were regarding state regulations north of North  
11 Carolina. I think Virginia and Maryland had regulations in place,  
12 as a placeholder, but these fish were being landed in New Jersey  
13 and New York, and, if states didn't have similar regulations that  
14 the federal waters did, there was an opportunity there for a  
15 loophole in the restrictions under the commercial and recreational  
16 season limits.  
17

18 The next thing we want to discuss, under recent actions, is the  
19 Unmanaged Forage Amendment. This amendment was something  
20 that the council worked on, probably for I would say two or two-  
21 and-a-half years, and it was finalized last August. The forage  
22 amendment prohibits the development of new and expansion of  
23 existing directed commercial fisheries on a number of unmanaged  
24 forage species in the Mid-Atlantic federal waters.  
25

26 The protections that were put in place as a result of this  
27 amendment cover a little over fifty different species, and the  
28 prohibition that is established through these actions continue until  
29 the council -- If there was ever a desire to open one of the fisheries  
30 or to develop a new fishery on one of the forage fish that are  
31 protected here, we could do that through understanding and having  
32 better scientific information regarding those species, and so,  
33 working with the industry and working with stakeholders, we also  
34 have allowed, through this amendment, 1,700 pounds of species  
35 that are found, of the fifty that mentioned, as ecosystem  
36 components, and they are allowed to be landed just through the  
37 interaction of having some bycatch onboard, and I think, at the end  
38 of the day, we were all very happy with how this amendment came  
39 together.  
40

41 I will mention that there is kind of a linked action that we're taking  
42 as a result of the work that started under this amendment dealing  
43 with chub mackerel, but that's in the other section of our  
44 presentation today on current actions, and so we'll go ahead and  
45 close the Unmanaged Forage Amendment.  
46

1 The council has been working, for a number of years, on an  
2 Ecosystems Approaches to Fisheries Management Guidance  
3 Document. The purpose of this document is to enhance the  
4 council's species-specific management programs with more  
5 ecosystem science, broader ecosystem considerations, and  
6 management policies that coordinate council management across  
7 FMPs.  
8

9 This is not regulatory in any way. This is guidance for the council  
10 as we work on current FMPs and develop new FMPs for the future.  
11 The work that went into this guidance document happened over I  
12 would say a year or two, and so the council hosted four workshops  
13 in the areas of forage, habitat, climate change and variability, and  
14 interactions, where we convened council members, the science  
15 community, and stakeholders to develop the policy guidance that  
16 went into this guidance document.  
17

18 The last of our recent actions has to do with the Electronic Vessel  
19 Trip Report Framework that we're working on. In the Mid-  
20 Atlantic, federally-permitted for-hire fishing vessels are required to  
21 submit vessel trip reports documenting all fishing activities and  
22 catches.  
23

24 This action would mandate the use of electronic means for  
25 fishermen holding those federal permits to submit their catch  
26 information to NOAA. We hope, we expect, that this will help us  
27 with data acquisition and timeliness of those data and that it will  
28 reduce some of the reporting burden that the fishermen have now.  
29

30 In the Mid-Atlantic, there are some species and some permits that  
31 have to go down through the South Atlantic Offices and the  
32 Regional Offices, and there are some that go up to GARFO, and  
33 it's just a complete mess, and so we're hoping that, and I know the  
34 fishermen are hoping that, this is going to be a one-stop shop for  
35 them, in order to be able to supply that information to NOAA in a  
36 timely and accurate way.  
37

38 The last action that is expected from this is to increase the accuracy  
39 of the data as well, reducing the bias that comes with recall over  
40 time, and so this action would require those electronic reports to be  
41 submitted within forty-eight hours, and we had two workshops,  
42 back in April, to work with fishermen to get them on track with  
43 this electronic reporting.  
44

45 Moving on to ongoing and future activities, as I mentioned, as a  
46 result of the unmanaged forage amendment, one species in

1 particular has kind of surfaced, because of its importance to highly  
2 migratory species, such as tuna and billfish, and that's the chub  
3 mackerel. Chub mackerel has a directed fishery. There is a  
4 directed fishery in the Mid-Atlantic for chub mackerel.  
5

6 However, until just recently, landings were minimal. There was a  
7 spike, or a peak, maybe two years ago or three years ago, where  
8 landings went well above five million pounds, and it triggered this  
9 action, the understanding that, because of the importance of chub  
10 mackerel to those HMS species in the Mid-Atlantic, that we  
11 needed to take some additional action, rather than just lumping  
12 them in as ecosystem components.  
13

14 The Unmanaged Forage Amendment actually establishes limits. It  
15 establishes a cap on chub mackerel landings for the next three  
16 years, and that is going to be what we're using to limit landings to  
17 this point, but, as we work on this amendment, we will be  
18 considering adding chub mackerel as a stock in the fishery to this  
19 Mackerel, Squid, and Butterfish FMP.  
20

21 The other parts of this amendment will include options for catch  
22 limits, accountability measures, and other management measures  
23 needed for managing this fishery through optimum yield and  
24 preventing overfishing. We're currently in the scoping status of  
25 this amendment right now, and we're looking for feedback from  
26 stakeholders.  
27

28 Something we've been working on is Dr. Sarah Gaichas from the  
29 Science Center has been working with Chris and his staff, Rich  
30 Seagraves, and, through Warren Elliott and the Ecosystems and  
31 Ocean Planning Committee, in developing EAFM Risk  
32 Assessment.  
33

34 This comes as a need. We talk a lot about change in our area and  
35 vulnerability of species, and this work, I think, is going to help  
36 lead the council into its future planning on where to put the  
37 emphasis on certain groupings or certain species within stock  
38 groupings, and so what you're looking at there is -- I think it kind  
39 of as a heat map. Red is not good. If you see a lot of red, that's an  
40 area where those species may be at most risk. For instance, all the  
41 way to the right, about two bars down, we've got our black sea  
42 bass, summer flounder, and scup fisheries.  
43

44 Allocation and habitat are issues for those species, and so you'll  
45 see that they've been identified with red, and so this type of work,  
46 this type of assessment, is going to help lead the council in setting

1 up its strategic planning and implementation planning for the  
2 future on where we need to focus our efforts with the species that  
3 we manage.  
4

5 We are taking on and currently working on a squid amendment.  
6 This is a capacity amendment. There are two things that we're  
7 talking about. One is reducing latent effort. There is a  
8 considerable amount of latent effort in both the longfin and *Illex*  
9 squid moratorium permits, where just a very small number of boats  
10 harvest the majority of the quota for the year, and there is concern  
11 that, if that latent effort were to engage into the fishery, that  
12 seasons would become shorter and there might be additional  
13 increased catch of non-target species, and so we are currently  
14 looking at ways and considering alternatives on how we would  
15 reduce that latent effort with those moratorium permits.  
16

17 In addition to that, this amendment also reevaluates the  
18 management of the longfin squid fishery in Trimester 2. Trimester  
19 2 is May through August, and there has been some concern raised,  
20 and it's the inshore fishery during that time of year, and there has  
21 been concern raised about the interaction that the fishery has  
22 during the spawning period and egg development, with the egg  
23 mops for squid, and so we're taking a look at the quota that we've  
24 set up for Trimester 2, and I guess the idea is that, if it gets too  
25 large and if there's too much effort during that time in certain  
26 inshore areas, that it will have a negative impact on squid  
27 production, and so that's the other issue that we'll be thinking  
28 about in the squid amendment.  
29

30 The Comprehensive Summer Flounder Amendment, this began out  
31 of the visioning work that we did years ago at the council, and we  
32 are working now jointly with the Atlantic States Marine Fisheries  
33 Commission on the Summer Flounder Amendment. Some of you  
34 in the room had the pleasure of sitting through the joint meeting  
35 last week, the eight-hour board meeting on summer flounder and  
36 black sea bass, but let me get to summer flounder.  
37

38 This amendment started as kind of a catch-all. It was everything.  
39 Everything that you could think of that you wanted to deal with  
40 regarding summer flounder was in this amendment initially, and  
41 so, over the last couple of years, we have worked to kind of trim it  
42 down. There are reasons for that, and we can talk about that  
43 another time. There is too many details, but we currently are  
44 focusing on FMP goals and objectives and commercial  
45 management measures and permits.  
46

1 It's not that we don't believe the summer flounder fishery on the  
2 recreational side of the summer flounder fishery is important;  
3 however, there are changes with MRIP on the way, and stock  
4 assessments are all going to change as a result of MRIP  
5 estimations and procedures, and so we've decided to hold off on  
6 the recreational end and try to focus on the commercial end and get  
7 a few things done and take up recreational fisheries when all of  
8 that new MRIP information is available.

9  
10 Lastly, I just want to let you know, and Chris has mentioned it  
11 before, and others before me, that our council went through an  
12 extensive visioning process, which helped establish the strategic  
13 plan. That strategic plan was a five-year plan, and it's expiring at  
14 the end of 2018, and so we are going to, once again, begin the  
15 process of working on another five-year plan, through public  
16 outreach and stakeholder engagement, and developing a new  
17 strategic plan and then putting forth that implementation plan in  
18 late 2018. We will be set up for another five years, kind of in our  
19 look ahead, as to issues we can take on. Mr. Chairman, that's all I  
20 have, and I will take any questions, or Chris or Warren can also  
21 help me out, too. Thank you.

22  
23 *John Quinn:* Thank you very much, Mike. Any questions? Gregg Waugh.

24  
25 *Gregg Waugh:* Thank you, Mr. Chairman. Mike, your possession limit of 1,700  
26 pounds, I think that was for your ecosystem component species, is  
27 that all species, and is that per vessel, the trip limit?

28  
29 *Mike Louisi:* It would be everything that's listed, of the fifty species. If you had  
30 a bucket or a barrel full of all those little critters, whether they're  
31 this big or this big -- Well, they can't get too big in forage, but,  
32 yes. Instead of having to separate -- We went through the  
33 consideration of whether the species would have to be separated  
34 from one another, but, ultimately, working with enforcement and  
35 the fishermen, it was determined that a 1,700-pound limit would  
36 catch everything and that it would account for all that additional  
37 separate bycatch with those listed species.

38  
39 *John Quinn:* Any other questions? Seeing none, we'll move on to the South  
40 Atlantic and Michelle Duval.

41  
42 *Michelle Duval:* Thank you, Mr. Chairman. I am going to give a brief overview of  
43 the top issues that the South Atlantic Council is tackling, and so we  
44 have five major issues. Most of them are dealing with data  
45 deficiencies, but we're also addressing our Citizen Science  
46 Program, bycatch, stock assessments, and our Snapper Grouper

1 Vision Blueprint.

2  
3 Just digging right in, you've heard from the Mid-Atlantic about  
4 their electronic charter logbook reporting amendment, and we  
5 passed a similar amendment at I believe it was our December  
6 council meeting last year, and so it's our expectation that this will  
7 become effective January of 2018, and, really, our goal is to  
8 improve compliance and improve recreational data.  
9

10 As Chairman Louisi mentioned, this is all part of an effort, because  
11 of the overlap in some of the species and some of the permitting of  
12 some of the for-hire vessels. We want to make sure that captains  
13 are only having to submit a report one time where the data can be  
14 captured, hopefully, through the Atlantic Coastal Cooperative  
15 Statistics Program, and all of the users who need those data can  
16 access it that way, but we've been fortunate enough to work with  
17 our partners in the Regional Office to have a two-year pilot project  
18 funded to work on outreach, and this is also working with Harbor  
19 Lights Software.  
20

21 This comprises an Outreach Specialist to work specifically with  
22 the fishermen, in order to develop a help desk that would be  
23 available for those vessel captains to be able to access, so that, if  
24 they have any questions about how to use the different types of  
25 software and what they need to be doing and their reporting  
26 compliance and timeframes, that they would be able to access that.  
27 We want to make it as user-friendly for folks as possible, and then  
28 also this would involve outreach meetings with fishermen and law  
29 enforcement officers.  
30

31 Again, along the theme of trying to improve our recreational data,  
32 we also, with our partners in the Regional Office, had a two-year  
33 project funded to work on a pilot system with the Snook &  
34 Gamefish Foundation to implement, on a voluntary basis, reporting  
35 in the private recreational snapper grouper fishery, and so this is  
36 our biggest multispecies fishery.  
37

38 Really, the idea is to get better information on discards, but this  
39 would also be with the assistance of our Outreach Specialist.  
40 Again, we would look at developing a help desk component with  
41 that, and so we're looking to try to get, I think, fifteen to twenty  
42 fishermen who would be willing to volunteer to participate from  
43 each of the four states in the South Atlantic, and so we're trying to  
44 set up meetings with those fishermen, and this is a list of the data  
45 elements that we would like to capture on not just what they're  
46 catching, but where they're catching it, and I think, most

1                   importantly, discard location and depth.

2  
3                   Right now, MRIP just captures how many fish of what kind did  
4                   you throw back, and what's very important for our stock  
5                   assessments, and what would help reduce some of the uncertainty,  
6                   is what depth those fish are being captured at, because that would  
7                   help us to try to improve the information that we have with regard  
8                   to barotrauma and also capturing the length of the fish, you know  
9                   how big are these fish, and none of this is information that we  
10                  currently capture right now, and it's incredibly important for our  
11                  stock assessments.

12  
13                  We're focusing on red snapper with this, but cobia, which is one of  
14                  our other problem children right now, could be added, and there  
15                  are multiple states that are looking at different types of reporting,  
16                  either required reporting or voluntary reporting, of cobia at this  
17                  point, and so we're hoping that this is something that could  
18                  possibly complement state programs. Again, this is something  
19                  that, through the visioning project that we plagiarized from the  
20                  Mid-Atlantic, that we found that our private recreational  
21                  stakeholders were asking for.

22  
23                  One of the other things, and I mentioned this in some of our  
24                  conversations yesterday, was developing and implementing  
25                  alternative tracking methodologies for our annual catch limits.  
26                  Because most of the offshore trips tend to be a small component of  
27                  what MRIP actually samples, most of our species in the South  
28                  Atlantic actually tend to be more or less rarely-intercepted species,  
29                  and so we have these point estimates of harvest that can have  
30                  significant imprecision around those estimates, and so closing of a  
31                  fishery due to an annual catch limit being met by data points that  
32                  are seen as outliers, and stakeholders are digging into these  
33                  numbers. They're digging into the total number of intercepts, the  
34                  total number of fish measured, and they're not really happy about  
35                  it.

36  
37                  What we have proposed is hosting a joint workshop with a subset  
38                  of the South Atlantic, the Gulf of Mexico, and the Mid-Atlantic  
39                  SSCs, along with staff from the MRIP program, the Science  
40                  Center, and the Regional Office, to try to address some of these  
41                  issues.

42  
43                  The MRIP staff have gone out on a limb, and they have actually  
44                  developed some alternative tracking methodologies for annual  
45                  catch limits that could reduce the imprecision around those  
46                  estimates, and so we're interested in ensuring that, since these

1 species occur within that greater region and some of them are  
2 migrating up into the Mid-Atlantic area, that we're taking a  
3 consistent approach, in terms of using these alternative  
4 technologies.

5  
6 Then we come to our fishery-independent data, and funding is a  
7 big issue for us, and so one of the things that we noticed in the  
8 draft Section, I think 404, Research Priorities, and that's a report to  
9 Congress, was that increased funding for fishery-independent data  
10 programs was one of those priorities, but, unfortunately, in the  
11 South Atlantic, we have seen decreases in the funding for our  
12 MARMAP and SEFIS Programs and for our SEAMAP Fishery-  
13 Independent Data Collection Program, and we rely very heavily on  
14 those programs.

15  
16 I think particularly MARMAP, and SEAMAP is the one, the  
17 inshore trawl survey, that has even the slightest possibility of being  
18 used as a juvenile abundance index, and so we're very concerned  
19 about that, and so we are hoping to be able to work with the  
20 agency to ensure that adequate funding is available for all of these  
21 programs.

22  
23 I think the other thing that we're lacking, in the South Atlantic at  
24 least, is the current state of our economic and social data. The data  
25 that we have are often either outdated or insufficient, and, to be  
26 perfectly honest, neither the Regional Office nor the Science  
27 Center have sufficient resources to be able to devote the type of  
28 time and effort that is needed to update these, and so we're looking  
29 to do things like include some of those secondary components of  
30 the industry, the tackle manufacturers and bait shops and other  
31 areas of the economy that are very important to both the  
32 commercial and recreational fishing industries, and so, for  
33 example, we have limited data in terms of the recreational value  
34 for a lot of the species that we manage, or at least the most recent  
35 data goes back to 2012.

36  
37 We are very interested in updating that information, particularly  
38 because our staff are undertaking a social and economic profile of  
39 some of our fisheries, and, in order to actually do that, we need  
40 those types of data, and so that's one of the things that we are  
41 looking to improve.

42  
43 Our Citizen Science Program, and so I think it was probably the  
44 February CCC meeting last year where I gave a presentation to  
45 folks about our Citizen Science Program. We had just launched, at  
46 the end of January, a kickoff citizen science design workshop, and

1 so we have been working in cooperation with state and federal  
2 agencies and scientists and stakeholders and other organizations to  
3 try to get this up and running, and so this is one of our solutions to  
4 try to address some of these data deficiencies.  
5

6 Not all data deficiencies actually lend themselves well to a citizen  
7 science type of project, and we understand this, but I think, just to  
8 update you all on the progress that we've made, we actually hired  
9 our Outreach Coordinator to be the Citizen Science Program  
10 Manager, and have since been able to backfill her slot. We're  
11 actually working on setting up a suite of -- We're calling them the  
12 A-Teams.  
13

14 This is a group of folks that we'll be appointing at our upcoming  
15 June council meeting to help us think through and set up the  
16 infrastructure of the program. These are not what I would call  
17 permanent appointments, but really more, over the next year, to  
18 help us think about data management and volunteer management  
19 and education and outreach and prioritizing the types of projects  
20 that would be suitable for a citizen science approach, and so stay  
21 tuned. We've got our fingers crossed that this will be successful.  
22

23 Then, finally, I think, addressing bycatch and bycatch reporting,  
24 and so we're looking to try to improve our bycatch reporting, in  
25 order to comply with the Standard Bycatch Reporting  
26 Methodology. Our commercial fishermen, as part of their logbook  
27 requirement, have been required to fill out discard logbooks, or at  
28 least a subset of those fishermen have been required to fill out  
29 discard logbooks for some number of years.  
30

31 Some of the things that I mentioned earlier, we're trying to get a  
32 similar type of approach for the recreational component of our  
33 fishery, but we do have high levels of discards, particularly in the  
34 recreational component of the snapper grouper fishery. Red  
35 snapper, we've had a moratorium, a closure, the past two years,  
36 and limited reopenings the previous three years prior to that. Red  
37 grouper, black sea bass, and we're discarding more black sea bass  
38 than the recreational sector is actually bringing in, and we had kind  
39 of put some of that effort on hold, based on advice from NOAA  
40 General Counsel, to see some of the issues that folks in the Mid-  
41 Atlantic and the Northeast had worked out with their Standardized  
42 Bycatch Reporting Methodology, and so we're picking that back  
43 up and again and moving forward, and so we'll be addressing that  
44 over the next several council meetings.  
45

46 Stock assessments, we always want more. We have tried to plan

1 for four stock assessments per year, and that's really been based on  
2 sort of the capacity of the analytical team. Unfortunately, for one  
3 reason or another, our average output, over the last ten years, has  
4 only been about two assessments per year.  
5

6 We've had some special cases. We're currently working on a  
7 blueline tilefish assessment, and this is a pretty big thing. It spans  
8 from all the way up and down the Atlantic coast, and we've  
9 actually looked at some of the Gulf of Mexico data as well, but  
10 what we're finding out is that some of the delays in our  
11 assessments and the low productivity is actually due to the lack of  
12 staff on the data provider end, and so this includes the folks that  
13 read otoliths. This includes the time that it takes to actually query  
14 those databases and pull out the data that are needed and actually  
15 get it in the format that is necessary for the analysts to be able to  
16 do their part and development of indices, et cetera.  
17

18 The solution isn't necessarily more analysts, but really having  
19 more resources at that level, and, in some cases, folks are dealing  
20 with code that is old, and they're having to kind of sleuth it out, if  
21 we're updating an assessment that maybe is five years old or  
22 something like that, and so this all adds to those delays.  
23

24 Then, finally, our Vision Blueprint, and so, as I mentioned  
25 previously, we had plagiarized shamelessly from the Mid-Atlantic  
26 and also embarked on a visioning project for our snapper grouper  
27 fishery, and, in December of 2015, we adopted our final Vision  
28 Blueprints.  
29

30 We've been working on moving that forward, and so we have a  
31 couple of regulatory amendments underway right now, one in  
32 regards to the recreational fishery and one for the commercial  
33 fishery, and this is dealing with two of the biggest issues that came  
34 forward through our port meetings, which were seasonality and  
35 retention.  
36

37 The fishery varies quite dramatically, in terms of the availability of  
38 the species and the species composition from the Florida Keys all  
39 the way through the Outer Banks of North Carolina, and so that's  
40 what we are trying to address through this amendment, while  
41 reducing discards at the same time. Any questions?  
42

43 *John Quinn:* Thank you very much, Michelle. Any questions? Seeing none, we  
44 will move on to the Gulf of Mexico.  
45

46 *Carrie Simmons:* Thank you, Mr. Chairman. My name is Carrie Simmons, and I'm

1 the Deputy at the Gulf Council. Our Executive Director regrets  
2 that he couldn't be here. He had a family medical emergency that  
3 allowed him not to be able to travel, but they're expecting a full  
4 recovery, and so he's sorry that he can't be here.  
5

6 We have a little different approach. We have our activities, our  
7 resource issues, and needs. We wanted to highlight our 2016 and  
8 2017 major activities that we've been working on. One of the  
9 things that we just completed was the scoping on our mid and  
10 deepwater coral sites, and we did a round of, I think, at least nine  
11 meetings across the Gulf, and we're working towards an options  
12 paper.  
13

14 That is to establish potential protection on deep and mid-water  
15 corals. Some of the things the council is considering in that are  
16 whether to establish habitat areas of particular concern and  
17 whether those areas would have fishing regulations on them or not  
18 or they would just be habitat areas of particular concern by  
19 themselves. We are moving towards an options paper with that.  
20

21 Another thing we've just been working on is our five-year review  
22 of the Grouper-Tilefish IFQ Program. Our reviews are done a little  
23 bit differently. We rely on the Southeast Regional Office. We  
24 have been working with the Science Center staff and the Regional  
25 Office staff and our staff to begin this five-year review for  
26 grouper-tilefish.  
27

28 We also worked on a reallocation of red snapper from the  
29 commercial to the recreational sector. That was actually rejected  
30 by a court ruling. It was a 2.5 percent shift, and so we'll be  
31 looking at that some more in the next couple of council meetings,  
32 but we were unsuccessful with that.  
33

34 We just recently completed our electronic reporting and  
35 monitoring amendment for the for-hire sector, and we hope to  
36 transmit it this week. We worked a lot, off and on, with the South  
37 Atlantic Council in working out some of the details, so that some  
38 of the individuals with the same permits did not have to double-  
39 report, and we're really hoping that this program will develop  
40 quickly so that this can be implemented as soon as possible, and  
41 we hope that it will improve monitoring for the recreational sector  
42 through this for-hire monitoring and reporting amendment.  
43

44 Another thing that we worked on, I would say at least for a year-  
45 and-a-half, was the king mackerel reallocation sharing efforts.  
46 This was not a hard shift. It was a sharing percentage from the

1 recreational sector to the commercial sector. We did a round of  
2 public hearings, and we had several AP meetings. In the end, the  
3 council decided to postpone any further work on this amendment at  
4 this time, and so they may bring it up at a later time, but that was a  
5 very interesting idea, but they have decided to postpone it,  
6 currently.

7  
8 We are also looking at allocation-based management programs for  
9 the federal for-hire fleet, charter boats and headboats, and so it's  
10 the same permit in the Gulf of Mexico for both of those vessels.  
11 The problem is that headboats, which is a much smaller group,  
12 have landings history, whereas the charter boats do not, and so  
13 staff is really coming up with some very creative ways to address  
14 this issue, and I think this, if successful, would be one of the first  
15 times this is considered in the country, where you have a for-hire  
16 fleet that doesn't have landings-vessel-based or permit-based  
17 history and then you would be allowing them to have this  
18 allocation.

19  
20 Some of the ways they're looking at it is regionally, and they're  
21 also looking at the size of the vessels, the permit capacity, and  
22 they're looking at like a cyclical redistribution. After so many  
23 years, in the Gulf of Mexico, if you aren't landing that fish, then  
24 some percentage of it would be reallocated to other vessels that  
25 would be landing more of that fish, based on your landings out in  
26 the future, and so we're looking at a lot of different things there,  
27 and this is a pretty novel idea.

28  
29 We formed an advisory panel to discuss private angler  
30 management strategies for red snapper, as we have had the shortest  
31 federal season in the history of the council. It's a three-day federal  
32 season. The various Gulf States have their own number of days  
33 that they have put forth, as far as what their season length will be  
34 for red snapper, and so we've been getting a lot of great phone  
35 calls. I know the Regional Office staff has as well, a lot of happy  
36 people calling our office, and so that's been a little bit rough on  
37 everybody, but we're going to get through it.

38  
39 Some of our future activities, we want to continue to explore these  
40 reallocation options between the commercial and recreational  
41 sector. We are looking more at the guidance and review on the  
42 triggers that you guys have developed for us, but we would like to  
43 see this further developed, and I think this could be helpful for us,  
44 helpful for the staff and the council, and so this is something we  
45 would like to see.  
46

1 We want to move towards ecosystem-based management and  
2 incorporate these factors, but we really just need a lot more  
3 information, especially in the Southeast Region, and you will see  
4 that in the next couple of slides, some of our data limitations.  
5

6 As NMFS continues to help us with electronic monitoring and  
7 reporting, our next step is to move our commercial paper-based  
8 logbook to electronic logbooks, and so we're moving in that  
9 direction, slowly.  
10

11 Another thing that we've worked on that our staff is very proud of  
12 is we have redesigned our website. We've done a soft launch, and  
13 it will be live June 1, right before our council meeting, and so  
14 fingers crossed that everything will continue seamlessly.  
15

16 Some of our resource issues and needs, and you've heard some of  
17 this already from the South Atlantic Council and the Mid-Atlantic  
18 Council, but we have a large recreational fishery, maybe one of the  
19 largest in the country, and some of these changes to MRIP have  
20 been very confusing and very difficult, especially from a public  
21 buy-in and credibility perception, and it just makes it very difficult  
22 to manage the stocks that are primarily landed by recreational  
23 anglers under the ACL process and quota monitoring process.  
24

25 We have these ongoing challenges, as you've heard already, and,  
26 basically, we're waiting for these MRIP calibration methods to be  
27 completed, so that we can update our stock assessments with that  
28 new information, but that has also been delayed even further, and  
29 so this has been very difficult and challenging for us in the  
30 Southeast.  
31

32 As a result of some of this, the Gulf States have initiated their own  
33 data collection programs, and the idea is that it will replace MRIP.  
34 Louisiana's program has been certified, I believe, or most parts of  
35 it, and Mississippi and Alabama are moving in that direction as  
36 well, and Florida has initiated a plan, I believe, but there has been a  
37 lot of frustration there with this, and so these are some of the things  
38 that are going on in the Gulf in regard to these recreational data  
39 collection issues.  
40

41 You have heard some of this earlier as well, but we really need  
42 greater investments in fishery-independent surveys and  
43 environmental conditions. This is a big gap for us. A lot of our  
44 stocks, we don't even have some of the basic life history  
45 information for what we're trying to manage, and so we really  
46 need not only the samplers to go out and collect that information,

1 but we need to make sure that those samples are processed and  
2 ready before a stock assessment, from the larval indexes to the  
3 ageing to the age-growth curves, and that all of those are available  
4 for input into the model before the stock assessment is initiated,  
5 and this has been a big hurdle for us in the Southeast.  
6

7 If we can get additional single-stock assessments faster and in  
8 greater frequency, I think we can move towards ecosystem-based  
9 management strategies, but, until then, it is very difficult for us, if  
10 we can't get the basics, to move in that direction.  
11

12 This is a Mr. Gregory slide. He said a significant uncertainty is the  
13 current and potential impacts of climate change, especially with  
14 regard to the effects of increases in ocean temperature and acidity  
15 and how that's going to impact the Gulf. With that, I will take any  
16 questions. Thank you.  
17

18 *John Quinn:* Thank you very much. Any questions? Charlie Phillips.

19  
20 *Charlie Phillips:* Carrie, I think that three-day red snapper partially is payback, but  
21 how much of it is inversely related to the length of the state  
22 seasons that seem to be getting longer?  
23

24 *Leann Bosarge:* It is one single stock, and so, essentially -- Andy may want to  
25 answer this. He will probably do it better than I will, but, yes,  
26 essentially, the first thing we have to do is try and get a handle on  
27 what we think the state seasons will be for the upcoming year and  
28 how many fish will essentially be killed during that season, and  
29 that has to come off the overall quota that we use to develop a  
30 federal season. Yes, as the state seasons have been getting longer  
31 each year, that does have to come off what we're allowed to kill or  
32 catch in federal waters, and so, yes, they're definitely related.  
33

34 *John Quinn:* Any other questions? Chris Moore.

35  
36 *Chris Moore:* Carrie, I am curious about the point on your -- It was like your  
37 second-to-last slide or third-to-last slide, but it says the Gulf States  
38 have initiated their own data collection programs to replace MRIP,  
39 and so what's going on there? Are they actually developing  
40 programs that will supplement MRIP or actually replace MRIP?  
41

42 *Leann Bosarge:* Just for one clarification, by Gulf States, she doesn't mean the  
43 commission. She means like each individual state. For example,  
44 in Mississippi, Mississippi has developed a data collection  
45 program for snapper where, before you leave the dock, you have to  
46 log-on to the app and get a number, a trip number, essentially, and

1 then, when you get back -- If you're boarded offshore, you better  
2 have that trip number, if you're fishing for snapper.  
3

4 Then, when you get back, you have to input the information on  
5 what you caught or discarded, et cetera, and so that would be the  
6 Mississippi program. Then Alabama has stood up a program that's  
7 similar, but not exactly the same. Louisiana has their LA Creel,  
8 and I think they're the closest to actually being vetted through the  
9 agency, and that will replace MRIP. Now, I will say that I think  
10 Louisiana has stopped participating in MRIP, and so maybe that  
11 will streamline the vetting process. I don't know. I don't know  
12 how that's going to work out, but --  
13

14 *John Quinn:* Chris.

15  
16 *Chris Moore:* I am just curious. So those states that you mentioned are -- It  
17 sounds like they have their own sampling program. Are the MRIP  
18 folks still working in those states?  
19

20 *Andy Strelcheck:* The MRIP survey is continuing, with the exception of Louisiana, at  
21 this point. Texas has their own survey for thirty years, and hasn't  
22 participated in MRIP for that timeframe. As was being mentioned,  
23 Florida and Louisiana have developed reef fish surveys, and so it's  
24 more than just red snapper, but the intent there is still not to  
25 necessarily replace MRIP, but it's more supplemental surveys that  
26 would focus on key species. Alabama and Mississippi are focused  
27 solely on enhancing data collection for red snapper, but MRIP  
28 would be continuing for all the other species, including red  
29 snapper, at this point. What it's setting up though is a very  
30 complicated data collection process, because all of these surveys  
31 are being designed with different methodologies.  
32

33 *John Quinn:* Any other questions? Seeing none, Caribbean.

34  
35 *Carlos Farchette:* Thank you, Mr. Chair. I'm Carlos Farchette, Caribbean Council  
36 Chair. We don't have a PowerPoint, and so it's going to be short  
37 and sweet. I want to thank the New England Council for the  
38 beautiful venue, and, yes, the view of your harbor and town is  
39 spectacular.  
40

41 The Vice Chair and I walked around yesterday quite a bit, and he  
42 got so excited, being close to the water, that we stopped at the  
43 Fishermen's Outfitter and he bought himself a rod-and-reel and  
44 bought a fishing permit, and we walked all the way up by some  
45 high school out there and he went fishing. I was really cold, but he  
46 was so excited that I put up with it. We didn't catch anything, but

1 he got his fix.  
2

3 I would also be remiss if I didn't mention that, for those of you  
4 who haven't seen it yet, our very own John Bullard is a movie star  
5 on the documentary *Sacred Cod* being aired on the Discovery  
6 Channel. It's a must-see. That's a great job, John. Look out,  
7 Hollywood.  
8

9 On data needs, the Caribbean Council is working with National  
10 Marine Fisheries Service for the implementation of MRIP in the  
11 U.S. Caribbean. The plan has been submitted and approved, and  
12 we hope this plan will improve the recreational fishery data  
13 collection needs for assessing the status of the fishery to implement  
14 OFLs and ACLs, et cetera.  
15

16 The Caribbean Council is assisting the spiny lobster trap fishers in  
17 the development of a voluntary data collection project initiated by  
18 the fishers seeking to obtain better data that could be used for  
19 determining the right level of annual catches that would allowed  
20 when it comes to spiny lobster. A similar project will be  
21 conducted for the deepwater snapper grouper complex fishery.  
22 That is really beginning in Puerto Rico, and it probably, hopefully,  
23 will move over to the U.S. Virgin Islands if it's successful.  
24

25 On electronic reporting, the Caribbean Council is still working on  
26 the implementation of an electronic data collection program. This  
27 ER will be implemented by the Puerto Rico Department of Natural  
28 Resources. It is expected that the program will be up and running  
29 in 2018 or 2019 for the commercial fishing sector. If successful, it  
30 will be mirrored for the U.S. Virgin Islands; however, funding for  
31 data collection is always needed.  
32

33 Since we are moving into Island-Based Fishery Management  
34 Plans, the Caribbean Council has started developing the Island-  
35 Based FMPs for the Islands of Puerto Rico and the two U.S. Virgin  
36 Islands. These are expected to be approved for submittal to the  
37 Secretary of Commerce for consideration by the end of 2017.  
38

39 A workshop will be conducted, with an invitation to the local  
40 decision-makers from Puerto Rico and the USVI. The workshop  
41 will present the island-based plans and seek their cooperation in  
42 establishing management regimes from the shoreline to the outer  
43 limits of the EEZ with compatible regulations. It is expected that  
44 the Island-Based FMPs will be ecosystem-based, wherever and  
45 whenever possible.  
46

1 On international activities, the Caribbean Council will be  
2 coordinating with FAO and Central American and CARICOM  
3 countries in preparation of two workshops for updating and  
4 implementing the queen conch international FMP, with the  
5 participation of the Convention for International Trade in  
6 Endangered Species, CITES.

7  
8 Queen conch is under Appendix II of CITES, meaning all trade of  
9 the species harvested has to come from sustainable stocks.  
10 Another workshop in 2017/2018 will examine the status of species  
11 that aggregate to spawn and the governance to protect and manage  
12 these species.

13  
14 A management strategy was approved to combine the commercial  
15 and recreational sector ACL allocation. This will help avoid  
16 closures because of overages in total landings of species managed  
17 if one of the sectors is still under its allocation. In the other words,  
18 if the sum of the two sectors does not surpass the total ACL for  
19 both, then there is no need for closures.

20  
21 We also support the continuation of funding for SEAMAP by  
22 NMFS. This has proved to be a valuable program for the U.S.  
23 Caribbean, and this ends the Caribbean report, Mr. Chair.

24  
25 *John Quinn:*

26 Thank you very much. Any questions for the Caribbean? Seeing  
27 none, back to New England, which I will deliver the report. One  
28 of the good things about going last is most of the topics have been  
29 discussed and kicked around in the first seven reports, and so some  
30 of the stuff will be a little bit redundant, but I first want to start on  
31 the Fishery Ecosystem Plan.

32 I am going to highlight the efforts to develop this plan. It will be  
33 based on energy flows through the system, establishing catch  
34 levels for functional groups of species rather than individual  
35 stocks. The goal is to identify the strengths and limitations of such  
36 an approach, including identifying any legal or policy restrictions  
37 that hinder its implementation.

38  
39 We are well on the way to developing an example for Georges  
40 Bank, but many challenges remain, not the least of which is six  
41 fisheries management bodies have an interest in this area for which  
42 we're trying to put the FEP in place, but I think we're confident  
43 that, with a lot of effort, we will forge a path forward for EBFM in  
44 the region.

45  
46 The second topic I want to talk about is the Herring ABC Control

1 Rule, accounting for a role as a key forage species. We have taken  
2 a little bit different approach. Rather than a broad, ambitious  
3 approach, we took a very practical approach, and we followed the  
4 management strategy evaluation approach. We had two  
5 workshops, and they were very well-attended meetings, and we  
6 engaged the stakeholders at the frontend, and we think that was  
7 very helpful.  
8

9 One of the big challenges we see is time. If you're going to do this  
10 correctly, and I know there is talk of trying to bring this to different  
11 species, but it's very labor intensive. The council and the Science  
12 Center were heavily involved, and it's taken us over a year, from  
13 starting to engage the stakeholders to where we are now, and so  
14 time is a big, big issue, if we're going to implement MSE in other  
15 areas as well.  
16

17 User conflicts, we're all familiar with user conflicts. They're not  
18 new, and they are becoming more complex, due in part to our legal  
19 requirements, whether it's competition between fisheries for  
20 limited ACLs, state-water fisheries that threaten to trigger federal  
21 accountability measures, or disputes between users of herring or  
22 sea scallops, and we have both, and these issues still consume a  
23 large amount of council time.  
24

25 In some cases, resolving the conflicts is hampered by a lack of  
26 fine-scale data that could be used to address the claims of  
27 competing factions. A couple of those examples are the scallop  
28 industry, the herring, and the localized depletion of the federal and  
29 state halibut management as well.  
30

31 Data, data, data. Data is a challenge for all of us. In some cases,  
32 we don't have the data needed to resolve competing interests. We  
33 recognize the importance of accurate data being behind every  
34 effort to resolve troubling data issues. Regional efforts to improve  
35 fishery-independent data collection are making slow progress.  
36

37 The council recently adopted an industry-funded monitoring  
38 amendment, and we continue to work on monitoring the  
39 Groundfish Catch Share Plan, and we are pursuing electronic  
40 monitoring in several fisheries. We are also working to improve  
41 our observer program, but fisheries-independent data are not the  
42 only issue.  
43

44 Unfortunately, the industry has a lack of confidence in the federal  
45 trawl survey, but we are fortunate, in our region, that there's an  
46 innovative approach by the Northeast Fisheries Science Center to

1 integrate commercial vessels into the survey, and it's bringing  
2 hope to areas that there is skepticism. The Center is considering  
3 using industry boats to augment, or even perhaps replace, the  
4 federal survey, and we are very optimistic about that approach.  
5

6 Program review of council operations, we started down a path this  
7 year to review operations, modeled after similar reviews performed  
8 by many fisheries management organizations, and the focus will  
9 simply be on how we do business. This is the second review that  
10 we've done. We did one in 2010 as well, and we're in the process  
11 of identifying an external review panel, and so you probably want  
12 to turn your cellphones off.  
13

14 On the horizon, we've got several things that are similar to other  
15 regions. We continue to be challenged by the rapid warming of the  
16 waters off the New England coast, and we're already seeing  
17 changes in productivity and distribution that complicate our  
18 management efforts.  
19

20 The difficulty is getting timely assessments. That means we're  
21 often slow to react to these changes, hampering our rebuilding  
22 efforts. Increasingly, the public and the council have difficulty  
23 getting access to information needed to make informed decisions,  
24 due to the strict data confidentiality restrictions that are in place.  
25

26 Finally, in spite of decades under MSA, different federal and state  
27 management approaches can be hard to reconcile, and so we've got  
28 plenty on our plate. We think we've had a productive year, and  
29 there are plenty of topics to work on in the year to come. That  
30 concludes my report. Any questions to this report? Mr. Stockwell.  
31

32 *Terry Stockwell:*

33 Thank you, Mr. Chairman. Just one supplement, and that is that I  
34 wanted to give a big shout-out to Bill Karp and to John Hare, who  
35 I saw earlier this morning, and I don't know if he's still here, but  
36 the Science Center has been instrumental in working with both  
37 councils and the commission to improve the industry's confidence  
38 in the trawl survey.

39 We have formed a Northern Trawl Advisory Panel that has  
40 representation of both councils, the commission, and a number of  
41 industry members who are working on a number of issues that  
42 John referred to, and it's slowly gaining traction.  
43

44 *John Quinn:*

45 Any questions? Seeing none, before we take a break, we're going  
46 to take something out of order. Michael Collins, who is not going  
to be able to be here on Thursday, is going to make the

1 presentation on the Report of the Administrative Officers Meeting,  
2 the working group. Mr. Collins.

1 **4. REPORT OF AO MEETING**

2  
3 *Mike Collins:* First, I want to thank all the AOs that attended the meeting. Their  
4 contributions made it an effective meeting and contributed to this  
5 report. I also want to thank the EDs for making it possible for the  
6 AOs to get together in February.

7  
8 The Administrative Officers met in conjunction with the CCC  
9 meeting, from February 28 to March 1, 2017. In attendance were  
10 AOs from the Gulf, North Pacific, Pacific, Western Pacific, Mid-  
11 Atlantic, and the Caribbean. Additionally, other council staff  
12 members attended the GSA portion of the meeting via webinar.

13  
14 The AOs met with Brian Fredieu. After introductions, we  
15 discussed the need for a central point of contact for all business  
16 and legal-related questions that come up frequently that the AOs  
17 deal with. It was decided that this contact would be Brian, while  
18 also keeping the regional General Counsels in the loop.

19  
20 We considered the possibility of adding an administrative portion  
21 to the CCC website, with the legal opinions from prior years and  
22 workers' comp and unemployment information that pertains across  
23 all councils. The AOs then adjourned and sat in on the budget  
24 briefing.

25  
26 Upon reconvening, the AOs received a comprehensive briefing  
27 from the GSA, and this presentation was prompted by a decision a  
28 couple of years ago where the GSA decided that the councils could  
29 not have the centrally-billed travel card, and I tracked down  
30 somebody in GSA, on a Metro Station in D.C., and he asked me  
31 what rationale we had for having the travel card, and I quoted him  
32 from MSA, and he asked me to send it to him. The paragraph that  
33 we discussed was the Administrator of the General Services shall  
34 furnish each council with such offices, equipment, supplies, and  
35 services as authorized to furnish any other agency or  
36 instrumentality of the United States.

37  
38 The GC reversed their decision, and the councils were able to keep  
39 their centrally-billed travel cards, which saves the councils  
40 probably, particularly on tax-exempt status for hotels and meeting  
41 spaces, \$40,000 or \$50,000 a year.

42  
43 I brought the GSA in, and they gave us a very comprehensive  
44 briefing on the availability of goods and services, pre-negotiated  
45 contracts with vendors through government-wide acquisition  
46 contract systems, which would allow the councils to obtain

1 competitive pricing on copies, IT services, leases, and that type of  
2 thing. The GSA also offered future assistance on any type of help  
3 that the councils would need dealing with contracts and vendors.  
4

5 Part of the MSA mandate to GSA to support the councils is  
6 hampered by the continuing issue with the DOC's decision not to  
7 allow councils access to the GSA SmartPay Program. For  
8 example, to buy goods through the GSA, the only way to pay for  
9 that is with the credit card, with the GSA credit card, and the way  
10 it's been explained to me is, since we don't have federal  
11 employees, we can't enter into a contract with a vendor as a  
12 member of the federal government, and so we're not allowed to  
13 have that credit card.  
14

15 As a workaround, it was suggested that the GSA and the  
16 Department of Commerce issue a joint letter to the councils so that  
17 they could present that to vendors, explaining that we are tax  
18 exempt. The status of that right now is that GSA feels that, since  
19 we're part of Commerce, Commerce should initiate that letter.  
20 Commerce doesn't know who in Commerce should begin that  
21 process, and so we're kind of in a hold pattern right now, but I  
22 have been talking to some of the attorneys up at Commerce to see  
23 if we could get that started. With that letter, we might be able to  
24 get some tax-exempt help with some of the goods and services.  
25

26 The GSA also briefed us on the fleet vehicle program. The GSA  
27 would provide pricing for vehicle purchases and, more  
28 importantly, vehicle rentals for periods as short as one day to -- In  
29 our council, we have these three-week public hearing runs, and so  
30 we would be able to access their services with that. They also  
31 talked about office spaces and helping find federally-leased  
32 buildings.  
33

34 The AOs had several discussions with Dan Namur concerning the  
35 five-year budget creation and no-cost extensions. These dealt with  
36 the assumptions regarding annual budget increases, the lack of  
37 guarantees for future no-cost extensions, and the pros and cons of  
38 the five-year cycle.  
39

40 Several issues were discussed with Brian Fredieu and Stacey  
41 Nathanson of NMFS. They affirmed and answered questions  
42 regarding the requirement for council members to retain emails, as  
43 they are considered agency records and subject to FOIA. There  
44 was a clear recommendation for members to keep their personal  
45 emails separate from official emails by creating new, unique email  
46 accounts.

1  
2 Record retention and disposition options were discussed, including  
3 sending permanent paper records to the National Archives. They  
4 concurred that the Paperwork Reduction Act does not affect  
5 councils regarding the conducting of surveys, as if they are  
6 directed by councils and not directed by NMFS.

7  
8 The AOs asked Brian and Dan Namur for a point of contact and  
9 policy information regarding workers' comp claims and  
10 unemployment, and this request is still pending resolution.

11  
12 As it is the first cycle of the new audit requirements, the impact  
13 was discussed in theory, but the AOs are confident that the audit  
14 process will not be significantly impacted. The requirement for  
15 internal financial control documents were discussed, and templates  
16 were provided by both Patricia Crouse and Joy Stein.

17  
18 Benefits, particularly health insurance options, were discussed. All  
19 councils, even those tied to state programs, are realizing negative  
20 financial effects from increased health insurance costs. As a side  
21 note, the South Atlantic Council went to a self-funded health  
22 insurance policy, which has helped us negate an 18 percent  
23 increase this year, and what means is that you really basically have  
24 two policies, one an estimated benefits based upon health history  
25 and then a second policy that's a stop-loss policy that, in case that  
26 estimate is wrong, it kicks in and helps you cover those unexpected  
27 payouts.

28  
29 The acquisition fee for service was discussed regarding contracts  
30 over a certain amount and how it will apply to our cooperative  
31 agreements, and we know that's still being determined.

32  
33 As the council staffs are aging, benefits for retired council  
34 members was discussed. Some councils provide full coverage for  
35 retirees, some none, and some a benefit plan to pay for premiums.  
36 The cost considerations for offering these benefits wasn't fully  
37 understood and prepared for in prior years, and I thank you for the  
38 opportunity to slide into this slot, and, if you have any questions, I  
39 will be glad to take them.

40  
41 *John Quinn:* Thank you very much, Mr. Collins. Any questions? Mr. Nies.

42  
43 *Tom Nies:* Thanks, Mike. Our AO was unable to attend, and not to go  
44 through all this, but you made a lot of things that were clarifying  
45 policies. Did we get anything in writing from anybody? For  
46 example, that PRA doesn't apply to councils, did anybody spell

1 that out to us or is there any document for that?

2

3 *Michael Collins:* I do have an email that I can share with the EDs, yes. That came  
4 from Jeff Joyner up at DOC.

5

6 *John Quinn:* Any other questions? Gregg Waugh.

7

8 *Gregg Waugh:* Thank you. Thanks, Mike. A question for Sam and maybe Alan.  
9 Do you all have any suggestions for who we can pursue this issue  
10 within Commerce to get this joint letter started, so that we can get  
11 access to that tax-exempt status? Everybody is pressed for budget,  
12 and that would really save ongoing costs.

13

14 *Alan Risenhoover:* I hadn't heard that, and so I need to loop back with Brian Fredieu  
15 and see where he's at and see if we can push that or find  
16 somebody, and so Brian is on a detail right now, but, Hannah, why  
17 don't we, when we get back, next week or the week after that, start  
18 working with folks and see what the status is?

19

20 *John Quinn:* Any other questions? Seeing none, thank you very much, Mr.  
21 Collins. We are going to take a break now.

22

23 *(Recess)*

1 **5. EM/ER COST ALLOCATION**

2  
3 *John Quinn:* Kelly Denit is going to give a presentation on EM/ER Cost  
4 Allocation. The floor is yours.

5  
6 *Kelly Denit:* Great. Thank you, Mr. Chair. Good morning, everyone. We're  
7 going to continue the controversial train that's been running. It  
8 started with the allocation policy development with you all a few  
9 years ago, and then it continued with the catch share review  
10 guidance, and now we're going to talk a little bit about electronic  
11 monitoring cost allocation.

12  
13 As the Chair mentioned, my name is Kelly Denit, and I'm the  
14 Chief of the Domestic Fisheries Division. I also have here with me  
15 Brett Alger, who many of you up here in the Northeast should  
16 know from GARFO. He is starting a detail with us in  
17 Headquarters, and he's going to be our Electronic Technologies  
18 Coordinator. Many of you have interacted with George LaPointe  
19 over the last few years, and George's contract has come to an end,  
20 and so Brett is stepping in and taking over George's role,  
21 essentially.

22  
23 Let me just jump right in. I will quickly just give you an outline of  
24 the presentation today. I'm going to talk a little bit about the  
25 policy directive that we put out back in 2013, and then I will jump  
26 into some of the specifics of cost allocation. I do want to  
27 emphasize that this is specific to electronic monitoring and is not  
28 related to electronic reporting, and so this will be specific to our  
29 efforts on using video cameras and such in a variety of the  
30 fisheries, and many of you have been working on these programs  
31 already.

32  
33 Just as a quick reminder, we put the policy directive out in 2013. It  
34 covered everything from VMS to electronic reporting to electronic  
35 monitoring, and it was really focused on encouraging all of us to  
36 implement electronic technologies where they would help  
37 complement and improve the cost-effectiveness of our data  
38 collection programs.

39  
40 The focus was on aligning management goals, data needs, funding  
41 sources, and our regulations. You will recall that, at that time, and  
42 it continues, there is a big push for improving the cost-  
43 effectiveness of our monitoring programs. Included in that policy  
44 was a direction to come up with how we would allocate costs  
45 between the agency and industry, and so that's what we're going to  
46 focus on a bit today.

1  
2 Just as a quick overview graphic, many of you are familiar with  
3 this type of image from your work in developing these programs,  
4 but this is just a little snapshot to show you what EM looks like, in  
5 general, with our GPS receivers, the main control unit, as well as  
6 multiple video cameras that are across the ship, or the vessel. The  
7 fish comes up onboard, and the cameras capture the images. That  
8 all gets stored on a hard drive on the vessel, which is then collected  
9 later on.

10  
11 Quickly, in terms of just an overview of cost allocation, many of  
12 you brought it up in your council presentations this morning, and  
13 there continue to be challenges with funding and increasing data  
14 demands, and so how do we best come up with solutions in the  
15 most-cost effective way to achieve what we want to collect  
16 electronically.

17  
18 We have formed an Electronic Technology Working Group  
19 internally, to try and really focus on how we can share solutions  
20 across the different regions. What's happening in Alaska, and how  
21 might that be relevant on the east coast? What's happening on the  
22 east coast, and how might that be relevant on the West Coast?  
23 That's to try and help get some of those economies of scale, so we  
24 don't have to constantly reinvent the wheel.

25  
26 What we're going to focus on today is the specifying costs and  
27 monitoring functions between the fishing industry and NOAA  
28 Fisheries. One of the key provisions that came out of the policy  
29 was looking at our existing cost recovery provisions, and so many  
30 of the regions have limited access privilege programs, LAPP  
31 programs, in place, which already have cost recovery programs,  
32 and so that's one aspect that we want to make sure that we're  
33 taking into account. Then, of course, Alaska has the North Pacific  
34 Observer Funding Authority, which allows them to also collect  
35 fees for observer programs and EM, and so we want to make sure  
36 that that's included.

37  
38 I wanted to highlight upfront that many of you who have industry-  
39 funded observer programs, what we are trying to lay out here in  
40 this presentation is very similar to the approach that's been used  
41 for how costs are divided for observer programs, in the sense of  
42 sort of your at-sea costs versus your shore-side costs, and so we'll  
43 get into that here in just a second.

44  
45 I have kind of hit on a lot of this already, but, based on the policy  
46 directive, we're not going to approve a program if the provisions

1 create an unfunded or unsustainable cost. We have just kind of  
2 talked through the funding that should be considered, which  
3 includes the range of funding authorities, whether it be that cost  
4 recovery provision or industry funding, and then any approved  
5 programs are going to be developed in partnership between us and  
6 all of you in pulling those together.

7  
8 Jumping right into the meat of it, here is a breakdown of what  
9 we're calling the sampling costs category, and so this would be  
10 similar to what you often hear referred to as the at-sea costs in an  
11 observer program context.

12  
13 Here, we're calling it sampling costs, and this is what we would  
14 anticipate that the fishing industry would be responsible for, and so  
15 a lot of this is focused on hardware, hardware maintenance, and so  
16 whether that be purchases, leases, installation, taking care of the  
17 cameras, training of captain and crew, the development of vessel  
18 monitoring plans, and so these are those plans that will be specific  
19 to each vessel that will lay out where the cameras will be placed,  
20 what do you do if something goes down, what are all those sort of  
21 processes and procedures to help make sure folks know what the  
22 expectations are for roles and responsibilities, data transmittal, and  
23 then any service provider fees and overhead for any of the EM  
24 service providers who are helping operate and implement those  
25 video cameras and such.

26  
27 NOAA Fisheries costs are focused on what we have kind of termed  
28 the administrative side, and so overall program administration  
29 support, staff time and equipment to support that. Similar to the  
30 observer model, we're looking at trying to set up situations where  
31 EM service providers -- There would sort of be a minimum  
32 threshold that we would review.

33  
34 If an EM service provider hits that threshold, they would be, quote,  
35 unquote, approved and then available for the industry to use, to  
36 contract with for their services, and then the final big category is  
37 perform performance, and so that would include auditing the  
38 service providers, reviewing any additional data, if we do see  
39 issues, in terms of discrepancies between the data that we're  
40 getting from the providers and what we're seeing, and any sort of,  
41 essentially, kind of QA/QC on that video review and such.

42  
43 Then we have a category of costs that are going to be program-  
44 dependent. The biggest one here is probably data processing, and  
45 so this is the actual video review and summary data collection. In  
46 most cases, the programs that are moving forward right now are

1 going to involve third-party review of the video and then that data,  
2 that review data, will then be summarized in what will be provided  
3 to the agency, and I highlight that just because it's tied to that third  
4 bullet down there, which is the data storage, where the expectation  
5 is that the raw video is going to be maintained by the fishing  
6 industry, unless it's been submitted to the agency, and that might  
7 be a situation, if there was an enforcement issue or something like  
8 that, where the agency had to go back in and wanted to look at the  
9 video.

10  
11 In that case, that would then become the agency's responsibility.  
12 Then any of the summary data that is collected and provided to the  
13 agency, that would be NOAA Fisheries' responsibility for storage.  
14 Then data security, part of all of the encryption of information  
15 right now, we're still mailing hard drives and things like that. If  
16 that changed in the future, and we all became Wi-Fi enabled and  
17 everything was moving electronically, that would also be  
18 something that we would have to be thinking about.

19  
20 Overall, the timeline that we are laying out as part of specifying  
21 how these costs will be distributed would be that programs, EM  
22 programs that are coming online within the next two years, would  
23 specify how those costs are going to be allocated between the  
24 fishing industry and NMFS, but the implementation can occur at a  
25 later date, and so, in other words, there can be a bit of a ramp to  
26 transition those costs from NMFS, who, at this point is paying for  
27 most of the costs in many programs, and not all, to industry and  
28 that those provisions would be included, and there could be, like I  
29 said, step-wise funding transitions to industry, which might depend  
30 on how much funding we have available as well as status of stocks  
31 and other factors that would part of that decision-making.

32  
33 The last slide is to quickly just touch on next steps. Our goal is to  
34 kick off this conversation with you all here and answer any  
35 questions and provide a draft of the policy directive, in terms of  
36 how we would lay out these costs to you all later this month, give  
37 you the rest of the summer to review that document in detail, and  
38 then provide any feedback to us, with the hope of us being able to  
39 incorporate your feedback and respond to any comments by this  
40 fall.

41  
42 As I mentioned, that would include then -- We would move  
43 forward with transitioning any existing programs to implement this  
44 cost allocation, and then, of course, there's a couple of additional  
45 EM challenges that are still out there, that many of you are on the  
46 front lines and dealing with, as you're finalizing your respective

1 EM programs, and so that includes data confidentiality and video  
2 retention requirements as well as minimum participation in EM  
3 programs.  
4

5 I would say that we're moving along pretty well, in terms of data  
6 confidentiality, and I think we'll be able to provide some more  
7 specifics and something actually written, something for you all to  
8 chew on, a little bit later this year. With that, I will quit  
9 yammering, and I'm happy to answer any questions, and Brett can  
10 chime in as needed as well.  
11

12 *John Quinn:* Thank you very much, Kelly. I will open the floor to questions.  
13 McGrew Rice.  
14

15 *McGrew Rice:* How much funds are available for ER and EM in 2016 and 2017,  
16 and what is the funding level proposal for 2018?  
17

18 *Kelly Denit:* Great question. In 2016, Congress enacted a new budget line for  
19 electronic technologies that is \$7 million. \$3 million of that,  
20 Congress specified is to go to the National Fish and Wildlife  
21 Foundation, NFWF, which I believe many of your industry  
22 partners have been applying through their grant program to support  
23 EM, and that same amount of funding and that same language was  
24 rolled over in FY17, what was passed by Congress last week or the  
25 week before. I have no idea what is in the FY18 budget, and I will  
26 be finding out with the rest of you next week when it comes out.  
27

28 *John Quinn:* Chuck Tracy.  
29

30 *Chuck Tracy:* Thank you, and thanks, Kelly. The last slide in your presentation,  
31 that you haven't gotten to yet, just a question about the cost  
32 provision and the determination of whether a program is unfunded  
33 or has unsustainable costs, and can you go into a little bit about  
34 how that determination is made and what the coordination with the  
35 councils is on that?  
36

37 *Kelly Denit:* Sure. Thanks, Chuck. I think we've only had that situation  
38 happen once, and it was a determination by NMFS and the  
39 Secretary that the program that had been created by the council  
40 was creating an unfunded mandate for NMFS and essentially  
41 requiring us to spend funding sort of backwards to the way the  
42 budget process is supposed to work, and so we ended up partially  
43 disapproving that program, and so I would say it's a general  
44 conversation between us and you all, as the councils, as programs  
45 are being developed, to make sure that we don't end up in that  
46 situation.

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*John Quinn:* Bill Tweit.

*Bill Tweit:* Thanks, Mr. Chair, and, thanks, Kelly, for the presentation. I guess I'm going back to, I think, Slide 6. You've got the bullet to improve programs and developing future funding arrangements, and I am wondering what the range there is of funding arrangements, in NMFS's mind, at this time.

*Kelly Denit:* Right now, we have the existing range is NMFS-funded to variations on partial funding by industry and a combination with NMFS, and I think that is the direction that we're looking to go, is the situation where we're going to have industry contributions covering the costs that laid out there and NMFS covering the infrastructure and administrative costs, and so, generally, that would be the model that we would anticipate moving towards. Does that answer your question?

*Bill Tweit:* Partially. One of the things that I am wondering about is, as we look at the challenge of trying to fund our new EM program through the fees that fishermen are charged on each landing that then go into the Treasury and then come back to NMFS, the time delay that's created there is much larger than we ever thought it would be. It's over a year, and that is creating some real challenges for us, and not just with the time delay of collection, but also the timing of release, even after it's been collected and held and everything else.

It can still take quite a while for release, and it's creating a lot of instability, and so I guess what I was wondering, in developing future funding arrangements, is the agency putting some work into ensuring that, if a council uses that kind of funding approach, there is mechanisms in place where the fishermen's money, the money that industry has actually paid in, is going to be available to be useful in a fashion where you can actually run a predictable program?

*Kelly Denit:* I would have to follow up on that, Bill, because I'm not 100 percent sure how, when we're under CR and all of those kinds of things, how we're able to access that, and so let me ask our budget folks and get back to you.

*Bill Tweit:* It just seems like that's a really important element to industry funding, if they're using that model. Obviously, if industry is contracting directly with third-party contractors, that's a different situation.

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*Kelly Denit:* Yes, and we'll follow up.

*Bill Tweit:* Then, Mr. Chair, if I may.

*John Quinn:* The floor is yours.

*Bill Tweit:* I have a question on a different -- The Slide 9, where the program-dependent costs, in particular the data processing, which is a large total cost, and are you, in essence, saying that this is something that will be negotiated between the agency and the council and industry for each program, or do you have some pre-existing criteria in mind, at the agency level, for when this would be an industry cost and when this would be an agency cost, because it's a big part of the whole.

*Kelly Denit:* No, and that's a great question, Bill. We are expecting that, for the most part -- This was one of the key areas that we heard, I think, at the National EM Workshop, where folks were interested in discussing at that regional level what would work the best for them, and I think, from our perspective, in situations where the EM is being put in place as part of an overall industry effort to reduce costs for monitoring -- That then would then fall to industry to fund that data processing, and so there might be situations where, for example, I believe, with the existing Alaska program, with the observers, just to monitor for salmon bycatch, where you might have a very different situation. Maybe the video doesn't need to be kept as long, or you might have a different funding structure for how that is paid for compared to an overall program that is being implemented for monitoring catch accounting or auditing what you're seeing on the video versus what fishermen are reporting in their vessel trip reports.

*Bill Tweit:* Thanks.

*Kelly Denit:* Sure.

*John Quinn:* Tom Nies.

*Tom Nies:* Thanks, Kelly, and I would like to follow up on Bill's line of questioning a little bit. When we worked on our industry-funded monitoring amendment, there was considerable discussion, when we were talking about splitting the costs for an observer program, and not an electronic monitoring program, but there was considerable discussion about something that the agency kept referring to as an inherent governmental function, and that the

1 industry could not, and would not, be allowed, even if they wanted  
2 to, should they want to, to take on an inherent governmental  
3 function.

4  
5 That includes processing and handling observer data, and so I  
6 guess I'm curious why processing and handling observer data is  
7 something that, according to what we were told, has to be funded  
8 by the agency, but processing video is something that doesn't have  
9 to be funded by the agency, and the agency can shift those costs to  
10 the industry. Has that issue come up at all?

11  
12 *Kelly Denit:* I have not heard anybody refer to the inherently government  
13 function yet as part of the EM discussion. I am imagining largely  
14 because folks have been focused, at least from our perspective, that  
15 that summary data review and looking at that information would be  
16 where that sort of inherently government function would come in,  
17 but I don't know for sure, and I don't know if Sam or Alan or  
18 Adam want to add in more.

19  
20 *Adam Issenberg:* I will just say that there is a Department of Commerce General  
21 Counsel opinion that addressed that issue about the inherently  
22 government function, and we can follow up with them.

23  
24 *John Quinn:* Thank you. Michelle Duval.

25  
26 *Michelle Duval:* Thank you, Mr. Chairman, and thanks, Kelly, for the presentation.  
27 I was just following up on, I think, Bill's first question, which had  
28 to do with a program creating unfunded or unsustainable costs, and  
29 so if it's a cost-sharing type of program between the agency and  
30 industry, and I guess it sounds like the unsustainable costs, the way  
31 it's been considered thus far, has been really more just from the  
32 perspective of the agency, and I'm wondering where unsustainable  
33 costs to the industry comes in and if that's part of the  
34 consideration. I mean, profit margins differ widely across the  
35 nation, and so I don't know if you all have had any conversations  
36 about that.

37  
38 *Kelly Denit:* Thanks, Michelle, and definitely. I think that was one of the key  
39 things that we heard at the National EM Workshop this past fall, is  
40 how do you make this cost effective for both sides of the equation,  
41 and that's certainly going to be a consideration, and I would  
42 anticipate that there is not going to be a lot of industry support for  
43 programs that end up creating a cost for them that they can't  
44 afford, and I think that's one of the reasons why we've tried to lay  
45 out the transition process and how that might work, so that there is  
46 a ramp for folks and you're not necessarily just going on or off.

1  
2 You have an opportunity to kind of work through implementation,  
3 as we've seen with a lot of the EFP programs on the West Coast  
4 and the pre-implementation in Alaska, and the efforts in the  
5 Northeast as well. We've tried to work out a lot of those kinks, so  
6 you can figure out what's really going to be the most cost-effective  
7 way to design your program and then move forward implementing  
8 it for both sides.  
9

10 *Brett Alger:* One thing that some regions have started on a few years ago, and I  
11 think is starting to become more widespread, is trying to automate  
12 the video review, which I think is going to be a significant cost  
13 savings to the industry, and so, right now, there is a limited ability  
14 in certain fisheries to process video quickly, in terms of just you  
15 typically have a human reviewing that, but there is cases now  
16 where you're starting to automate that, or semi-automate that, and I  
17 think that's something the agency is really ramping up and will  
18 significantly reduce costs.  
19

20 I think the other one, even on the slide here itself, is with data  
21 storage, looking at finding ways to reduce the amount of time that  
22 data is stored and finding alternatives and cheaper ways to store  
23 that video.  
24

25 *John Quinn:* McGrew Rice.  
26

27 *McGrew Rice:* On the data, who owns the electronic logbook data, and are there  
28 opportunities for the fishermen to access their electronically-  
29 submitted data for use in other software programs?  
30

31 *Kelly Denit:* I can thankfully plead ignorance. I do not know very much about  
32 the electronic logbook electronic reporting aspects, and so I don't  
33 know if someone from -- I am not sure, but we can follow-up and  
34 let you know.  
35

36 *John Quinn:* Anybody else? Gregg Waugh.  
37

38 *Gregg Waugh:* Thank you, Mr. Chairman, and thanks, Kelly, for the presentation.  
39 In your Slide Number 11, talking about timeline to completion and  
40 getting input from the councils during the summer, we meet in  
41 June and then again in September, and so, for us to get it on our  
42 June agenda, we would need that information by sort of  
43 Wednesday of next week, so that we could include it in our  
44 briefing book. If we miss June, then it will be September before  
45 you get any input.  
46

1 *Kelly Denit:* Thanks for that, Gregg. We'll see how fast we can get it done,  
2 and, if we miss those June council meetings, then we might have to  
3 stretch our timeline out, and so thank you for that feedback.  
4

5 *John Quinn:* Seeing no other questions, thank you very much, Kelly. We  
6 appreciate your time.  
7

8 *Kelly Denit:* Thank you, guys, and I'll be around all week as well, and so, if you  
9 want to talk on the side, just let me know.

---

1 **6. LEGISLATIVE UPDATE**

2  
3 *John Quinn:* We're running ahead of schedule, and Dave Whaley is first after  
4 lunch, and so we'll take him before lunch, and then we will take  
5 lunch.

6  
7 *Dave Whaley:* Great. To start off, I am going to quote from Chairman Farenthold  
8 at the red snapper hearing that was held a couple of week ago. He  
9 said blessed are the brief, and so, having said that, I have been  
10 asked to try and make sense of Washington for you guys, and so I  
11 will see if I can be brief and make sense of it.

12  
13 As you guys know, we have a unique situation in D.C. right now.  
14 The White House, the House, and the Senate are all controlled by  
15 the Republicans, and that's kind of a unique situation. What that  
16 does not mean is that the two houses and the White House are on  
17 the same page. It does not mean that they can do anything they  
18 want. The Senate rules still allow one member to block a lot of  
19 legislation, and so those are two things that that does not mean.

20  
21 What it does mean is that some laws that have been on the books  
22 for a long time and have not been amended or reauthorized for a  
23 long time now may be looked at a little more seriously. The  
24 Endangered Species Act, the Marine Mammal Protection Act,  
25 NEPA, and some of these other acts, Congress may start taking a  
26 look at those and seeing if there are some amendments or at least  
27 whether we ought to reauthorize the Act.

28  
29 One of the reason that I mention this is that, in past years, the  
30 Republican appropriators had an unwritten rule that if a law was  
31 not reauthorized and did not have a current reauthorization level,  
32 they were less likely to want to fund it, and so, the Endangered  
33 Species Act, which hasn't been reauthorized in twenty-some years,  
34 there is no authorization level for the Endangered Species Act. If  
35 an appropriator started looking at that and saying, well, you know  
36 what, if the authorizers aren't going to do their job, we're not  
37 going to fund the act, and that might be an incentive for the  
38 authorizers to go back and take a look at some of these acts that  
39 haven't been looked at. Anyway, that is on the table.

40  
41 The other thing to keep in mind is we're in the 115<sup>th</sup> Congress. It's  
42 a two-year Congress. It just started, and so, while there's a real  
43 flurry of activity in these first hundred days, we have two years to  
44 get things done, including the Magnuson Act, and so, if you're not  
45 seeing the kind of pace that you were hoping for, don't worry.  
46

1 A couple of big-picture observations that I've picked up on from  
2 this administration, and this is my view, but the administration  
3 seems to believe that states can do things better. They seem to be  
4 of the opinion that the federal bureaucracy should be further  
5 shrunk, and I am noticing that a lot of political folks from previous  
6 administrations, particularly the Bush administration, are starting  
7 to come back to Washington, and so you're getting a little bit of  
8 historical memory coming back into some of the agencies.

9  
10 I know at the Department of Interior, in particular, a lot of Bush  
11 administration people are coming back, and I have also noticed, at  
12 the Department of Interior, that they're stealing a lot of Hill staff to  
13 come in and take political positions. They have taken three or four  
14 people from the House Natural Resources Committee, and so,  
15 while people are concerned that there are a lot of outside folks  
16 coming into the administration, there are also folks that  
17 understanding the process who are coming in who can help balance  
18 that out.

19  
20 Unfortunately, we don't have politicals down at the Department of  
21 Commerce, except we do have Earl Comstock, who is the Director  
22 of the Office of Policy and Strategic Planning at the Department of  
23 Commerce. Many of you may remember Earl. He worked for  
24 Senator Stevens and did fisheries issues. He was also on the  
25 Senate Commerce Committee, and so he has a very long-running  
26 familiarity with the council process, with the Magnuson Act, and  
27 he actually -- I will come back to this later, but he did testify at the  
28 red snapper hearing recently, and so, for those of you who want to  
29 get a little snapshot into what at least one political person is  
30 thinking on fish issues, you might want to go back and take a look  
31 at that hearing.

32  
33 There are a number of committees that would like to get going on  
34 things. The House Natural Resources Committee would like to get  
35 going on things like Magnuson, but there has been a reluctance to  
36 do hearings until we do have some political folks at the  
37 Department of Commerce, and so, once these appointments are  
38 made, I think you're going to start seeing a little faster pace on  
39 some of the fishery issues.

40  
41 As I mentioned, the Department of Interior already has a lot of  
42 their politicals in place. At the Department of Interior, they had a  
43 transition team, they had a landing team, and they had a beachhead  
44 team, all of which were waves of temporary political people  
45 coming into these jobs to keep the process moving and keep the  
46 agency up to speed.

1  
2 There are a couple of uncertainties that I think you guys might be  
3 interested in. CEQ was very active under the Obama  
4 administration. It's a little unclear what the role of CEQ is going  
5 to be under the Trump administration. There was some talk, early  
6 on, of eliminating CEQ, which I don't think the administration can  
7 do, because it's set up under statutory authority, but there is some  
8 question about what their role will be, and so keep an eye on that.  
9

10 Also, I recently heard that -- The National Ocean Policy was set up  
11 by Executive Order, and there has been some discussion with the  
12 White House to either pare back that Executive Order or eliminate  
13 it totally, and so I know there's a split on the councils of whether  
14 people thought the National Ocean Policy was a good thing and  
15 whether it was helpful or not, and so you may want to keep an eye  
16 on that, because it could affect what you do and your relationships  
17 with the agencies under the National Ocean Policy and also  
18 funding for some of the things under the National Ocean Policy.  
19

20 Congress, for the first hundred days or so, they were mainly  
21 looking at big-picture items. They did do a couple of things that  
22 they considered old business, the Dungeness Crab Bill was  
23 considered old business, and they were able to get that out through  
24 the House without even doing a hearing, and so there are some old  
25 business things that are moving, but, under the first couple of  
26 months, it was almost all big-picture things, healthcare and tax  
27 reform and building a border wall and our relationship with Russia  
28 and that sort of thing.  
29

30 You also may have noticed that, right before every congressional  
31 recess, or what they call district work period, there is a flurry of  
32 bills that are introduced, and there is going to be a recess coming  
33 up for the Memorial Day period, and I suspect that there are going  
34 to be a number of bills introduced, and I am hearing rumors that  
35 there may be a new red snapper bill that may come out right before  
36 the break. A lot of members like to introduce bills right before  
37 they go home and face their constituents, and so, if they've  
38 introduced a bill, they can go back and say, I'm working for you  
39 and here is what I did for you right before I left.  
40

41 As always, I will send out the monthly report that will list any new  
42 bills. If there is something that comes up that I think is timely or  
43 pertinent, I will send a note to Tom, and he will send it out that  
44 something was just introduced.  
45

46 Sam touched a little bit on appropriations, and I guess we're going

1 to hear a little bit more from Brian tomorrow. As mentioned, we  
2 have appropriations for the rest of Fiscal Year 2017, and that's  
3 great news. We're not doing a series of CRs, which is  
4 uncomfortable for everybody.  
5

6 The President did release what they called the Skinny Budget,  
7 which was a very 30,000-foot look at what they were thinking for  
8 FY18. There were some things in there like Sea Grant was  
9 eliminated, and you will notice that, for the rest of FY17, Congress  
10 did not follow that recommendation.  
11

12 Appropriations, under the Constitution, are the authority of  
13 Congress, and so the President's budget is informative of what the  
14 administration's priorities are, but Congress is the one that passes  
15 the appropriation bill and funds the agencies, and so what you may  
16 see from the President's budget may not be what Congress's  
17 priorities are, despite the fact that we have Republicans in both  
18 houses and in the White House.  
19

20 Some specific issues, Magnuson is obviously a big issue for  
21 everybody here. H.R. 200 is still the only bill that's been  
22 introduced that reauthorizes the Act. H.R. 200 is actually based on  
23 the bill that actually passed the House last Congress, and so the  
24 House is on record and has a position on Magnuson, which will  
25 make it much easier for them to pass a bill this year. The Senate  
26 has not, and I will come back to this in a minute, but there is no bill  
27 that has been introduced in the Senate to reauthorize the Act yet.  
28

29 Right now, there have been ten bills that have been introduced that  
30 would amend the Act. Most of you are aware of those. There is a  
31 shark-finning bill. There is a billfish bill. There is several red  
32 snapper bills and a Dungeness crab bill, but, again, in both the  
33 House and the Senate, H.R. 200 is the only bill that reauthorizes  
34 the Act.  
35

36 I had a chance to talk with some of the Senate Commerce  
37 Committee staff before I came here, and all of this is obviously  
38 subject to change, but the first priority for the Senate Commerce  
39 Committee right now is the Coast Guard bill, and they are marking  
40 that up this Thursday. The second priority is they had a hearing  
41 already scheduled on sanctuaries, and, again, I will come back to  
42 that.  
43

44 That is now scheduled for early June. They have one more  
45 member priority hearing, and the next step will be Magnuson, and  
46 they are expecting the first of a series of Magnuson hearings to be

1 late June to mid-July, sometime in that period. They're still trying  
2 to scope out how they want to structure the hearings. I think, at the  
3 February meeting, I told you that what they wanted to do was to do  
4 a series of hearings based on regional priorities. I think they're  
5 rethinking that, and they may do it on issues, but that is still under  
6 discussion.

7  
8 The hearings would be held by Senator Sullivan, who is the sub-  
9 committee chairman, a Republican from Alaska, and he is new as  
10 sub-committee chair, and he wants to hear from a lot of people.  
11 He wants to have a good basis and understanding of the Act before  
12 he introduces a bill, and so there could be three or four hearings  
13 before the Senate has a bill introduced.

14  
15 My understanding is he also wants to do some listening sessions,  
16 and he may do some of those up in Alaska early this spring, late  
17 May or early June, and, on the House side, again, as I noted, they  
18 don't want to do any hearings until we have political in place.

19  
20 Hopefully that's going to be the June/July timeframe and then they  
21 can start doing hearings. It's likely they'll only do one hearing on  
22 H.R. 200 and then go to the floor. Their timetable is to be on the  
23 floor in the fall of this year, and so we're on a fairly tight timeline  
24 on the House side.

25  
26 Having said all of that, red snapper, in both the House and the  
27 Senate, is going to be a key issue for members to resolve before a  
28 bill will get floor time. As I mentioned on the Senate side, one  
29 member can hold up a bill if they don't like what's going on, and,  
30 right now, there are a number of senators who don't like what's  
31 going on with red snapper and will likely use Magnuson as the  
32 vehicle to fix red snapper.

33  
34 One other issue that recently came up, or came to my attention,  
35 was, right now, in Magnuson, there is a section that says each  
36 council shall develop annual catch limits for each of its managed  
37 fisheries that may not exceed the fishing level recommendations of  
38 its SSC. I have heard now twice that staff are interested in looking  
39 at whether this is too restrictive and whether councils are being  
40 held hostage by their own SSCs and whether there is not enough  
41 flexibility once an SSC has reported an annual catch limit for the  
42 councils to provide some flexibility for community impacts or  
43 something else.

44  
45 This was not part of the discussion that Gregg's Legislative  
46 Committee has talked about, but it's a recent issue that came up

1 that councils might want to think about. I don't think the intent is  
2 to undermine the science-based decision-making process, but I  
3 think the issue is whether there is a little more flexibility that might  
4 be needed, and so keep that in mind.  
5

6 On the issue of monuments and antiquities and sanctuaries, there  
7 have been a number of hearings, and there was a recent hearing by  
8 the House Natural Resources Committee Federal Lands Sub-  
9 Committee, and that's a sub-committee that has no water  
10 jurisdiction whatsoever, but they did a hearing on monuments, and  
11 the reason I bring it up is the chairman's opening statement,  
12 Chairman McClintock from California, was very informative on  
13 Congress's view of the difference between congressional authority  
14 and presidential authority.  
15

16 It was a very interesting discussion, and I'm trying to get a hard  
17 copy of his statement to send out to folks. The sub-committee staff  
18 told me that it was not yet available and wouldn't be available until  
19 the transcript is finalized, which makes me think that maybe the  
20 congressman did it off the cuff, which is even more interesting,  
21 but, anyway, if you get a chance, you might want to watch that,  
22 just the opening statement.  
23

24 There have been approximately thirty-five bills dealing with  
25 monuments. Most of those would make specific changes to  
26 specific monuments. There have been a couple that would change  
27 how monuments are designated. Those changes include requiring  
28 congressional approval for any monument, requiring governor or  
29 state approval for any new monuments, and requiring NEPA  
30 compliance for monuments, and so those are interesting changes to  
31 the Act that Congress is looking at.  
32

33 Kitty is going to talk a little bit more about this, but, as you know,  
34 there was an Executive Order that called for a review. Secretary  
35 Zinke, the Secretary of Interior, has already started that review,  
36 and some of you may have read that he was out in Utah last week,  
37 and so he's not only actively involved personally, but it seems to  
38 be a priority for the department, and so keep that in mind.  
39

40 Red snapper, I touched on this a little bit. It's a very divisive issue  
41 in Congress. There was a recent hearing by the House Oversight  
42 and Government Reform Committee, which is not known for its  
43 understanding of fisheries issues or its interest in fisheries issues,  
44 but the sub-committee chairman is from Texas, and he was  
45 convinced that it would be a good idea for him to hold a hearing on  
46 red snapper.

1  
2 This seems to be a trend by some groups that are not happy with  
3 the Senate Commerce Committee and the House Natural  
4 Resources Committee, and so they're what we call venue  
5 shopping. They're finding other sub-committees that might have a  
6 tangential interest in the issue. This is one case, and I think you  
7 may remember, the last Congress, there was a hearing by one of  
8 the Senate Small Business Sub-Committees, because there was a  
9 chairman from Louisiana that was there.

10  
11 Another interesting thing was that there were more members who  
12 were not on the committee who showed up to the hearing than  
13 were actually on the sub-committee that was holding the hearing,  
14 and so it showed a little lack of interest of the members of the  
15 committee that had that jurisdiction, but, anyway, again, it was an  
16 interesting hearing. I don't think a lot is going to come out of it.  
17 That sub-committee does not have any legislative jurisdiction over  
18 red snapper. They only have oversight authority, so they can make  
19 recommendations, but any recommendations would then have to  
20 go back to the House Natural Resources Committee.

21  
22 I don't know if it was intentional or not, but, the same morning that  
23 the hearing was scheduled was when NOAA released the 2017  
24 season, which was the three-day federal season. I don't know  
25 whether that was intentional, but certainly it provided a lot of  
26 fodder for members on the sub-committee.

27  
28 As I mentioned, this was the first time that Earl had testified, the  
29 political person from the Department of Commerce, and so, again,  
30 if you want to hear some of his comments, he testified first, and  
31 then, at the very end, he answered some questions, and that was  
32 interesting.

33  
34 A couple other quick issues. The Endangered Species Act, again,  
35 it's not necessarily a priority for Congress, but certainly picking up  
36 some steam. There have been thirty-eight bills that have been  
37 introduced in a couple of different categories. One category is  
38 specific critter fixers, like gray wolf or sage grouse, and the second  
39 category is projects or categories of exemptions. For instance,  
40 there's a bill that would exempt certain highway projects from  
41 endangered species review. The third type of category is regional  
42 fixes. There is a bill that would deal with the Hudson River  
43 Valley, and there's another one that would deal with the Northern  
44 Rockies ecosystem. It would change the way the Endangered  
45 Species Act is implemented in those specific regions.  
46

1 The fourth category is amending the Act and how it is  
2 implemented across the board. One of the key issues there is to  
3 provide more state involvement. We have seen a lot, in western  
4 states, where there's been a real fight between the federal  
5 government and the states over management and whether state  
6 management activities are sufficient to meet the ESA.

7  
8 There have already been a couple of hearings, primarily on the  
9 Senate side, and so, anyway, keep an eye on that. It's likely there  
10 will be legislation introduced that will start moving, not necessarily  
11 in a priority manner, but in the next year.

12  
13 NEPA is another issue that I know you guys are concerned about  
14 and have an interest in. There have been fifty-seven bills dealing  
15 with NEPA that have been introduced so far this Congress. Again,  
16 a couple of different categories. One that would exempt specific  
17 projects, and that's the majority, and the second is, again, broad  
18 category exemptions.

19  
20 One of the big concerns that I have heard raised about the language  
21 that's in H.R. 200 and changing the relationship between  
22 Magnuson and NEPA is that, by doing that, you would eliminate  
23 the court decisions that have been compiled on how NEPA  
24 interacts with other acts. I don't know if that's a legitimate  
25 concern. I don't know if it's only a concern that the environmental  
26 community has raised, but you might want to keep an eye on that.

27  
28 Dungeness crab, I know that's an interest for at least one council.  
29 As I mentioned, H.R. 374 has already passed the House. It's being  
30 held at the desk in the Senate. H.R. 61, which is the Senate  
31 version, has been marked up and ordered reported, but the report  
32 has not been filed, and, until the report is filed, they can't take it to  
33 the floor, and so I don't know what the hold-up is, but I heard last  
34 week that there is a rumor that there may also been a hold on the  
35 bill, again over red snapper.

36  
37 Finally, on the issue of sanctuaries, I mentioned that the Senate  
38 Commerce Committee is going to do a hearing on sanctuaries. It's  
39 a little unclear what the scope is going to be, but there is a real  
40 interest in members at looking at the Sanctuary Program, as well as  
41 monuments, and whether the designation process and the  
42 nomination process should be changed. I won't say fixed, but  
43 changed.

44  
45 Lastly, for those of you who want to go back and listen to any of  
46 the hearings, the monthly report that I think all of you get should

1 have links to all of the hearings. As I hear of hearings, I try and let  
2 you know in advance. Most of the committees only have a two-  
3 day requirement for public notice, and so I apologize in advance if  
4 I don't hear about a hearing early enough.  
5

6 The red snapper hearing was at a committee that I don't pay  
7 attention to, and I didn't know about it until Doug Gregory actually  
8 mentioned it to me, and so I try and let you guys know, but, if I  
9 can't, I apologize. I do try and attend most of the hearings, and so,  
10 if there's something that comes up that's of interest to a particular  
11 council, I try and let you know. There should be section-by-  
12 section of all the Magnuson bills on the website. If you don't have  
13 those, let me know, and I guess that's it. Any questions?  
14

15 *John Quinn:* Thank you very much. Are there questions? Tom Nies.

16  
17 *Tom Nies:* Dave, I've got maybe two questions, sort of unrelated to each  
18 other. The first one was your comment about the National Ocean  
19 Policy. I am not sure that I followed it exactly. If the  
20 administration decides to deemphasize the National Ocean Policy,  
21 would that have an effect on the regional planning bodies that  
22 exist?  
23

24 *Dave Whaley:* Absolutely. Absolutely. One of the concerns I know that's been  
25 raised is the marine spatial planning aspect of the Executive Order,  
26 and the other is funding. Funding would be a key issue, and  
27 funding primarily, right now, is going to the regional planning  
28 bodies. As I mentioned, the big concern is with the marine spatial  
29 planning part. The part of the Executive Order that deals with  
30 agency coordination I don't think is in any danger, but it's the  
31 marine spatial planning part.  
32

33 *Tom Nies:* My next question relates to -- I might have lost track a little bit  
34 about whether this attitude is coming from Congress or the  
35 administration, but I think you mentioned that there seems to be a  
36 sense, down in Washington, that there are many responsibilities the  
37 federal government is doing that might be better handled by the  
38 states, but I am curious whether that discussion includes done by  
39 the states with federal dollars or done by the states and the states  
40 finding their own money. Some of the news releases seem to have  
41 suggested if the states -- We're going to shift this to the states, and,  
42 if they want to do it, they're going to have to have their own  
43 dollars to do it. Is that accurate?  
44

45 *Dave Whaley:* You've touched on the key issue. Looking at the red snapper  
46 issue, there was a big decision that the states could do this better,

1 and they went to Congress and said we want to do this, and  
2 Congress looked at the idea and had a hearing and said, okay,  
3 maybe we'll think about this, but you're going to have to eat the  
4 cost, and suddenly the states backed off.  
5

6 I think there is a recognition, at least in natural resource  
7 management areas, that the federal government has a responsibility  
8 to at least fund part of it, but I think, if states want to take over  
9 management, they're going to have to fund a significant portion of  
10 it.  
11

12 *John Quinn:* Frank Lockhart.

13  
14 *Frank Lockhart:* Could you remind me where we could find the McClintock  
15 testimony that you talked about?  
16

17 *Dave Whaley:* It's the Federal Lands Sub-Committee of the Natural Resources  
18 Committee, and the hearing was -- I can get it to you, Frank.  
19

20 *Frank Lockhart:* Okay. Thank you.  
21

22 *Dave Whaley:* As I mentioned, I'm trying to get a hard copy of it that I will send  
23 out with the next monthly report.  
24

25 *John Quinn:* Leann.  
26

27 *Leann Bosarge:* I don't have a question about red snapper, even though I'm from  
28 the Gulf. My question is on the Coast Guard bill that you said was  
29 going to be marked up on Thursday. Is that the bill that has to do  
30 with the alternative safety compliance for our offshore vessels and  
31 bringing them up to -- Not class, but about as close to class as you  
32 can get?  
33

34 *Dave Whaley:* I believe so, but I haven't seen the text of the bill.  
35

36 *John Quinn:* Kitty.  
37

38 *Kitty Simonds:* I have several questions. One is how far away did they move CEQ  
39 from Jackson Place? I hope it was very far away.  
40

41 *Dave Whaley:* I don't know.  
42

43 *Kitty Simonds:* CEQ has been the bane of our existence since the Bill Clinton  
44 administration, and so I'm glad that they're away for a while, until  
45 we get through the monument and sanctuaries review. The other  
46 thing that I wanted to ask you about is the billfish legislation.

1 When would or does the Congress seek the advice of the  
2 administration on a bill?

3

4 *Dave Whaley:* Sam can correct me if I'm wrong, but, generally, other than at a  
5 hearing, there is not a Statement of Administration Policy until the  
6 bill actually passes the Senate.

7

8 *Kitty Simonds:* Okay, because there is a bill in the House and a bill in the Senate  
9 on this really terrible, unconstitutional billfish legislation.

10

11 *Sam Rauch:* Just a little bit of an elaboration. It is correct that the  
12 administration does not express its support for the policies  
13 endorsed in a bill until that statement of intent, which is usually  
14 later in the process. Occasionally, the legislative committees will  
15 ask the administration for technical drafting assistance, in which  
16 we are not providing an opinion on whether it's a good idea or not,  
17 but just giving them -- Making sure that it is implementable and  
18 working with them to achieve their objectives, but that does not  
19 mean that's the administration supporting that. That happens  
20 based on whether the committees or the legislator ask for that. It  
21 doesn't have to happen, and some bills get passed without ever  
22 coming to us for technical drafting assistance. Others will come  
23 and ask, and so that's an informal process, and, in that process, we  
24 never take a position on the bills. That position is reserved for the  
25 President when they do the Statement of Administration Policy.

26

27 *Kitty Simonds:* The reason I was asking is that the council wrote a letter to  
28 Secretary Ross about this situation and hoping that he would  
29 support what we asked him, and that's why I wanted to know  
30 where in this whole process would the administration say  
31 something.

32

33 Basically, our blue marlin, which is sold for food to the mainland,  
34 is not in an overfishing condition or overfished, but the blue marlin  
35 in the Atlantic is overfished, and so our thing is that, if those  
36 senators and congressmen who introduced the bills on behalf of the  
37 recreational fishermen there, they should take care of their  
38 overfished fishery and not impose not allowing us to sell our fish,  
39 which is for food and not for play, and so we've made that request  
40 to Secretary Ross, and thank you very much.

41

42 One other thing was you were talking about funding for National  
43 Ocean Policy, and I thought there wasn't any funding. I recall our  
44 region telling us that they are working on -- The regional planning  
45 that's been going on in the region is not funded and that they had  
46 to use their own funds to do the planning throughout our territories,

1 and so, when you said something about funding, I was kind of  
2 surprised. I thought there was no funding from the Congress.

3

4 *Dave Whaley:* It looked like Sam was about to say something, but --

5

6 *Kitty Simonds:* So yes or no?

7

8 *Dave Whaley:* Some of the agencies have been creative in funding the regional  
9 planning bodies through other statutory authorities, like coastal  
10 zone management, and so there's been some shifting of funding to  
11 keep that effort going.

12

13 *Kitty Simonds:* Right, and so if the National Ocean Policy would go away, they  
14 would still be funded, if they're using funds from other pots, but,  
15 as I recall, the Congress didn't fund the National Ocean Policy.

16

17 *John Quinn:* John Bullard.

18

19 *John Bullard:* I just wanted to follow up on Tom Nies' question on regional  
20 planning bodies that Dave talked about, because the two regional  
21 plans that have been completed have both been in our region, and  
22 I've had this conversation with Dave in his current life and also in  
23 his previous life.

24

25 I make this observation because this body has weighed in when it  
26 found policies to be detrimental to its interests, and so I wanted to  
27 make an observation that, in our regions, I think one of the things  
28 that has spurred the activity in what Dave described as marine  
29 spatial planning is the increased activity in federal waters, which  
30 used to be just fishing and shipping, and now there is, as people  
31 know, a lot of activity in renewable energy, and I think one of the  
32 benefits that has come out of the marine planning is the gathering  
33 of data and a series of mapping and, more importantly, a series of  
34 conversations in this planning process that have allowed the  
35 fishing industry, represented in many cases by the councils, to  
36 engage with offshore wind developers.

37

38 Sometimes these conversations are animated and high-stakes, but  
39 they occur, and, if they occur early in the process, they can be  
40 resolved, and so I just want to lay that out there, that, in this  
41 process of regional planning, there is data underneath it of where  
42 fishing takes place, and not just fishing, but where energy or other  
43 uses might take place, where conflicts therefore may take place,  
44 and it can happen early on, when it's easier. Not easy, but easier to  
45 resolve that.

46

1 While sometimes it can be framed as this is government overreach,  
2 in our region, it also allows for conflict resolution, and so at least  
3 that is what has happened in our region, where the two regional  
4 plans actually have been put together.  
5

6 I mean, should the councils look at that and say there is actually a  
7 benefit to this, and I think Kitty is right. I think the agencies have  
8 signed commitments, all of them, that the mapping and other  
9 things are things we want to maintain, because we see value. From  
10 my perspective, looking at the conversations between the fishing  
11 industry and between memberships of the councils on this, to have  
12 the wind developers talking to fishermen early in the process, that  
13 tends to be, from a practical standpoint, very good.  
14

15 *John Quinn:* Thank you very much. Anybody else? John Gourley.

16  
17 *John Gourley:* Thank you, Dave, for the overview. What is your opinion on how  
18 much traction the shark finning bill is getting? It seems like we're  
19 getting some interesting opinion pieces out in the public from  
20 people that I would normally assume would be more leaning  
21 toward the environmental edge, but yet they're coming out against  
22 this shark finning bill, for what I see are obvious reasons. You are  
23 catching a fish that is being fished sustainably, and you're cutting  
24 off a piece of the fish that has value, and you're throwing it into  
25 the garbage can, and so what is your feeling on the traction of this  
26 particular bill?  
27

28 *Dave Whaley:* The Senate Commerce Committee is -- I believe they're going to  
29 mark that up also on Thursday, and so there is some movement on  
30 the Senate side. I don't see any movement on the House side.  
31

32 *John Quinn:* Gregg Waugh.

33  
34 *Gregg Waugh:* Thank you, Mr. Chairman. Dave, thanks for that presentation and  
35 your monthly report. That's very helpful to try to keep up with  
36 what's going on. Do you have any advice to a council -- We're  
37 going to be looking at several of these bills, and time is short on  
38 agendas, and what I got was it perhaps would be more effective to  
39 focus on H.R. 200. Should we also try and take a look at H.R.  
40 2023, and are there any others that we should try and look at for  
41 some component of?  
42

43 *Dave Whaley:* Yes, I think you should look at H.R. 2023. That was a bill that was  
44 drafted primarily with the recreational fishing interests involved. I  
45 think that's kind of a blueprint of what they want to see in  
46 Magnuson, and I suspect the portions of that will be merged into

1 H.R. 200 as it moves. I have been asked, since I was here, to put  
2 together a comparison of H.R. 200 and H.R. 2023, and I will do  
3 that once I get back home and send it out. There are a number of  
4 similarities.

5  
6 *John Quinn:* Anybody else? Leann.

7  
8 *Leann Bosarge:* Since we have kind of given feedback on some of these different  
9 bills that are going through, I would like to just kind of maybe give  
10 the Gulf's feedback, for the rest of the group around this table, on  
11 that Coast Guard bill, and so it's my understanding that that would  
12 be something that will affect the entire nation and not just the Gulf,  
13 and what was driving that train was some NIOSH data that came  
14 out as to the number of deaths in the commercial fishing industry  
15 and how dangerous it had become, per that data.

16  
17 That bill is focusing a lot on the physicality of the vessels and  
18 making changes physically to the vessels, to improve stability and  
19 things of that nature, which is not a bad thing. I think one of the  
20 issues that we have in the Gulf is that -- This won't affect every  
21 boat. It's larger vessels, offshore vessels. There is a lot of  
22 stipulations, but one fleet that it will impact is the shrimp fleet in  
23 the Gulf, which is a permitted fleet of about 1,400 boats, and so it  
24 is one of the larger fleets in our country that will be affected by this  
25 bill.

26  
27 The issue, I think, in the Gulf is that where we seem to be a little  
28 different from the other fleets in different regions is that our deaths  
29 are being driven by individual man-overboard, and so not a boat  
30 rolling over because it had too much gear on one side and it was  
31 unstable or this or that. It's more that it's a crew of three people,  
32 or maybe four, max, and so there's not somebody that has eyes on  
33 everybody all the time. They do a lot of fishing at night, and,  
34 honestly, we have a lot of fishermen that cannot swim.

35  
36 When you get into a man-overboard situation where he falls  
37 overboard, for one reason or another, if you can't swim, you're not  
38 going to last very long, and that's just me being honest, and so I  
39 hope that maybe we can keep that in mind as we move forward.  
40 This is a very old fleet, and it's not an extremely profitable fleet.  
41 To come up to class, or close to it, would put a lot of that fleet out  
42 of business, and, to me, if you want to save lives, and those are my  
43 friends and my family, there are other things that you could do, the  
44 Coast Guard could look at doing, that would actually save some  
45 lives in the Gulf, and so that's my two-cents, for the record.  
46

1 *John Quinn:* Thank you. Anybody else? Seeing none, thank you very much,  
2 Dave, for your presentation. We will now adjourn for lunch.  
3  
4 (*Recess*)

1 **7. LEGISLATIVE WORKGROUP REPORT**

2  
3 *Gregg Waugh:* We're going to be working from the materials in Tab 5, and  
4 primarily the overview document and Attachment 4, but, first, I  
5 would like to thank the workgroup. They've put in a lot of time  
6 and effort on this: Michelle from the South Atlantic; Terry from  
7 New England; Kitty from the West Pacific; Dan from the North  
8 Pacific, who, unfortunately, couldn't be here, but he has  
9 contributed a lot; Doug and Carrie from the Gulf; David Crabbe  
10 from the Pacific; Carlos from the Caribbean; and Dave Whaley.  
11 They have really contributed a lot to this document that you will  
12 see today.

13  
14 If you do look at that overview document, what we're going to try  
15 to achieve today is to go through that draft working paper and add  
16 to it and modify it, as appropriate, and approve as many of those  
17 topics as is possible. Then we will discuss and take action on some  
18 of those recommendations from the Legislative Workgroup.

19  
20 Just in terms of a brief background, the Legislative Workgroup met  
21 in March and April, and we've got reports from those meetings  
22 that are included, and you can look at those to find out some of the  
23 specific recommendations, and Dave Whaley gave us an update at  
24 our April 21<sup>st</sup> meeting, and that has some interesting materials in  
25 there as well.

26  
27 The Mid-Atlantic Council developed the initial working paper  
28 back in January of 2015, when they hosted the CCC meeting.  
29 They also developed a legislative page that was very helpful to this  
30 group, and I would like to give a shout-out, particularly to Chris  
31 and Mary from the Mid-Atlantic, for all their work and help and  
32 getting that information transferred to the Regional Fishery  
33 Management Council Website.

34  
35 As we discussed, two MSA-related main bills have been  
36 introduced, H.R. 200 and H.R. 2023, and we have materials in  
37 there that you all can look at that have details on those, and the  
38 Legislative Workgroup updated that working paper, and the track  
39 changes version, for any of those who want to see all the specific  
40 changes that were made, is included as Attachment 3. I don't  
41 know about anybody else, but that gets hard to read, and so we  
42 have a clean version in there, and that's what we'll be working  
43 from, Attachment 4, and the intent is to go through that document.

44  
45 I will point out any changes, and, members of the workgroup, feel  
46 free to chime in. Any place where we've changed or are adding to

1 wording that the CCC has previously approved, we'll point that  
2 out. Then, if there's no objection from anybody on the CCC, we'll  
3 assume that was adopted by consensus, and I will revise the  
4 document and shoot out another version tomorrow, so that you can  
5 look at it. Then, at the end of each day, we've got some time to do  
6 review. If you have any questions or want to modify some specific  
7 wording, we can address it then.  
8

9 Briefly, the Introduction, pages 3 through 8, we updated that to  
10 mention the current bill and the wording approved by the CCC.  
11 There is a break to show where the Legislative Workgroup starts in  
12 the newer topics. Topics 1, which is Stock Rebuilding, through the  
13 Annual Catch Limits, Number 3, were included in the January  
14 2015 document that we looked at the last meeting. We have  
15 updated those, and we do need a consensus position on Topic 2,  
16 Ending Overfishing. Topics 4 through 10 have been discussed  
17 within the working group. Those are new. Many councils have  
18 provided regional perspectives, and some CCC positions were  
19 pulled from the previously-approved wording.  
20

21 Topics 11 through 15 are new. These are items that surfaced  
22 within the workgroup as we were discussing this document, and  
23 Dave Whaley suggested that maybe we want to look at this SSC  
24 ABC setting process, and so that may be a new topic, but we'll be  
25 looking for guidance as to whether these topics should be added to  
26 the working paper, and then we've got three recommendations.  
27 We'll deal with one during the discussion of Attachment 4 and  
28 then pick up the other two at the end.  
29

30 If we start with Attachment 4, it's the Draft Regional Fishery  
31 Management Council Positions on the Magnuson-Stevens Act  
32 Reauthorization Issues. It's highlighted in yellow right at the top.  
33 Again, the introduction has been updated.  
34

35 The first place we have an addition is on pages -- It starts on page  
36 4 and carries over to page 5, and this is where we're talking about  
37 management flexibility and data-limited fisheries. The last  
38 sentence of that statement is: While ACLs and AMs have been  
39 effective management tools for many fisheries, they may not be the  
40 best tools for managing incidental or small-scale, data-limited  
41 fisheries. In these situations, councils should have discretion to  
42 determine alternative control mechanisms. This is the suggested  
43 addition, to insert the wording "or utilize ecosystem-based fishery  
44 management approaches" and then it continues with "for data-  
45 limited stocks".  
46

1 Are there any questions about adding that? Is everybody able to  
2 find that document? I don't want to get too far ahead if people are  
3 having trouble finding it. It's in Tab 5 in the MSA folder. It's  
4 Attachment 4. It's Draft MSA Working Paper All Changes  
5 Accepted. I am not seeing any interest in changing that wording.  
6 Go ahead, Chuck.

7  
8 *Chuck Tracy:* Thank you. Maybe just a clarification from the Western Pacific on  
9 what sort of ecosystem-based management approaches are you  
10 thinking about that would replace the ACL or AM-type  
11 management approach.

12  
13 *John Quinn:* Chuck, could you repeat the question? We couldn't hear.

14  
15 *Chuck Tracy:* Thank you. My question was, for the highlighted text at the top of  
16 page 5 on Attachment 4, there is some suggestion that some  
17 ecosystem-based fishery management approaches could be used, I  
18 think, rather than an ACL and AM-type of management approach,  
19 and so I guess I was just looking for an example or some  
20 clarification on what that might look like or what circumstances  
21 that might be applied in.

22  
23 *Kitty Simonds:* I don't have any explanation at this moment.

24  
25 *Gregg Waugh:* Okay. I think we're trying to get the projector set up so that we'll  
26 be able to show the attachment. I guess my suggestion would be,  
27 if we're not clear on that wording, then let's hold off on inserting  
28 that now, if that's okay, Kitty. That wording is at the top of page  
29 5, if we can show page 5 on that document.

30  
31 *John Quinn:* Kitty, that language is up on the board there.

32  
33 *Kitty Simonds:* I said that I would get back to you all later, and so he's saying let's  
34 just wait on making a decision. That's fine with me if it's fine  
35 with everybody else.

36  
37 *John Quinn:* Okay. Then we'll move on.

38  
39 *Gregg Waugh:* Thank you, Mr. Chair. On the bottom of page 7, this is where we  
40 switch from -- That's prior wording that the CCC has approved,  
41 and we've got new positions and topics added here, and the  
42 Legislative Workgroup recommendation that we would like you  
43 all's guidance on -- It starts on the bottom of page 7 and carries  
44 over to page 8.

45  
46 We recommend that this format be continued and the working

1 paper can be used as a source document when the CCC is  
2 responding to a request for comments. The working paper can also  
3 be attached to a letter to provide more details. The reason for  
4 doing this is that the regional perspectives and examples are an  
5 excellent way to describe how the requirements could affect  
6 different councils differently. Then the suggestion is just to add  
7 any new topics to the back of this working paper and update it, as  
8 usual, and this will be used to inform individuals new to the  
9 council process, and so if we could have your concurrence to set  
10 that sort of process in place.

11  
12 *John Quinn:* We're going to take a minute and take a look at that. The intent,  
13 Gregg, would be that we could adopt this change, if there's no  
14 objection, by consensus and move on to the next section. Then  
15 you will have a clean copy of the letter at some point later on  
16 tomorrow or the next day for us to finalize?

17  
18 *Gregg Waugh:* That's correct.

19  
20 *John Quinn:* Okay. Is there any objections to this new language proposed by  
21 the workgroup or any questions or comments about it? Gregg, do  
22 you want to go through this section and then go specific-comment-  
23 by-specific-comment?

24  
25 *Gregg Waugh:* Yes, because all we were addressing there was that  
26 recommendation that we use this format, and so now we'll go  
27 through all the individual recommendations.

28  
29 *John Quinn:* Seeing no objection, we will adopt, by consensus, this format  
30 language. Now we'll go into the individual recommendations.

31  
32 *Gregg Waugh:* On page 9, the first topic is Stock Rebuilding. Again, what the  
33 workgroup did was went through individual positions.

34  
35 *John Quinn:* Gregg, hold on one second.

36  
37 *Chuck Tracy:* I've got a question on page 8, on Topic 12, and I guess I'm unclear  
38 whether I should be asking that now or I should be waiting until  
39 we get farther down below.

40  
41 *Gregg Waugh:* I would suggest waiting until we get to that topic. This was just a  
42 place to show what the new topics are.

43  
44 *John Quinn:* It's like an index for us to then go through.

45  
46 *Gregg Waugh:* So page 9, we have changed any positions, where say "support" or

1 “recommend”, and we have changed that to be in compliance with  
2 the NOAA GC guidance, and we had those individuals on the  
3 workgroup go through their wording. We are very hesitant to  
4 change any individual council’s wording, and so that’s why we  
5 also have the track changes version if you want to see it.  
6

7 The first decision, if you scroll down towards the bottom of the  
8 page, there is a modification to the first sentence. There is a  
9 suggestion that we drop the wording “would be beneficial”. The  
10 first sentence reads: In general, the CCC believes the addition of  
11 measures that would increase flexibility with respect to stock  
12 rebuilding for certain types of fisheries. The suggestion from the  
13 Pacific is to end it there, or to keep “would be beneficial”.  
14

15 *John Quinn:* Why don’t we stop there, if you want to comment on that, and then  
16 we’ll open up to any questions or comments on that language  
17 change. Gregg, do you want to -- The Pacific was the one that  
18 suggested that “beneficial” language?  
19

20 *Gregg Waugh:* Yes, and that’s just to drop the “would be beneficial”. Again, the  
21 workgroup is trying to be careful here. Any time we change  
22 wording that the CCC has approved, we want to make sure you all  
23 are in concurrence with any modifications to that language.  
24

25 *John Quinn:* Chuck and then Bill.  
26

27 *Chuck Tracy:* Thanks. I guess I will just -- Since it was my suggested change, I  
28 will just speak to it a little bit. Basically, I guess my thinking was  
29 that, any time you make a judgment that something is beneficial,  
30 you have really sort of weighed the pros and cons and decided  
31 what beneficial means, and I guess, in my thinking, it’s better to  
32 just lay out what the pros and cons are, rather than trying to make a  
33 judgment.  
34

35 I mean, there’s always going to be a tradeoff between conservation  
36 and utilization, and to make that blanket judgment, I think I would  
37 prefer to avoid that, if we can, or if there is any question about it,  
38 and so that was just my way to just say let’s just state what the  
39 impacts are and not get quite as judgmental about whether it’s  
40 good or bad.  
41

42 *John Quinn:* Bill Tweit.  
43

44 *Bill Tweit:* Thanks, Mr. Chair. I am just following up on Chuck’s point. As I  
45 read it, at least, the version that’s being proposed by the Pacific  
46 Council is clearly accurate. The initial version isn’t necessarily

1 always accurate, and so I think that's a positive suggestion from  
2 the Pacific Council.

3  
4 *John Quinn:* Thank you very much. Any other comments on that language  
5 change? Seeing none, seeing no objection, we will adopt, by  
6 consensus, that language change. Seeing none, it's adopted.

7  
8 *Gregg Waugh:* Thank you, Mr. Chairman. The next item is on page 14. This is  
9 dealing with Ending Overfishing. We've got regional  
10 perspectives, but there is not a consensus position. I don't know if  
11 anyone has some suggested wording now that they're willing to  
12 offer. They could email it to me, or I can touch base with a couple  
13 of workgroup members and we can insert some draft wording for  
14 you to see in the version that you will get tomorrow.

15  
16 *John Quinn:* Any objection to Gregg and working group putting some language  
17 together that we can look at in the final draft? Tom Nies.

18  
19 *Tom Nies:* Gregg, could you perhaps summarize why we were unable to reach  
20 a consensus position here? What seemed to be the divergent  
21 viewpoints?

22  
23 *Gregg Waugh:* This wasn't discussed amongst the workgroup, and this issue  
24 actually predates me. This was left from the original work version  
25 of the working document, and so I can't really answer that, Tom.

26  
27 *John Quinn:* Michelle Duval.

28  
29 *Michelle Duval:* Thank you, Mr. Chairman. I was a part of that original working  
30 group, and we simply could not come to consensus, and so we  
31 didn't -- This iteration of the workgroup did not try to modify that  
32 at all. That was just one of the topics that we -- All the councils  
33 had differing viewpoints on this particular provision, and so we  
34 just left it without a consensus statement.

35  
36 *John Quinn:* Maybe, without objection, Gregg, if you could propose some  
37 language that we could attempt to reach consensus when the final  
38 draft is prepared with the track changes.

39  
40 *Gregg Waugh:* Will do, Mr. Chair. Topic 3 that begins on page 15, we have just  
41 added, and this is some discussion from the original working  
42 paper, but we're adding a sentence talking about the discussion  
43 draft that was released, and we'll make sure we've got which  
44 Congress was the correct one to reference there.

45  
46 Then, later in that paragraph, on page 16, that proposed language

1 was removed from a subsequent draft released by the House  
2 Natural Resources Committee, and so we're just making that  
3 change to Issue Number 1 on the bottom of page 15 and carrying  
4 over to page 16.

5  
6 *John Quinn:* Okay. Any comments or questions on that language change?  
7 Seeing none, seeing no objection, we will adopt, by consensus, that  
8 language change.

9  
10 *Gregg Waugh:* Then Issue 2 is Incorporating Updated Stock Information. The  
11 Pacific felt this was not an ACL issue and that it's a rebuilding  
12 plan issue. We could move it to the rebuilding plan discussions,  
13 but part of it does talk about the councils setting ACLs, and I think  
14 that's probably why the original group put this here, and so we're  
15 looking for guidance whether we leave it here or move it to the  
16 rebuilding plan discussion.

17  
18 *John Quinn:* I see that the Pacific proposed that. Maybe you want to speak to  
19 that, Chuck.

20  
21 *Chuck Tracy:* Thank you, Mr. Chair. Again, the whole scenario laid out here is  
22 an example of what occurred at the Pacific Council with regard to  
23 rebuilding widow rockfish, and, again, the National Standard 1  
24 Guidelines statement is a referral to ending rebuilding plans, and  
25 so I guess I just don't -- I mean, it would affect the ACL, but it's  
26 really -- It affects the ACL because of the rebuilding plans that we  
27 need to recalculate anyway, and so it just seems like this is just out  
28 of place here.

29  
30 *John Quinn:* Michelle Duval and then Tom Nies.

31  
32 *Michelle Duval:* Thank you, Mr. Chairman. It might be that we really are mixing  
33 up a couple of different things here, because I think an SSC has the  
34 ability to modify their catch level recommendations based on new  
35 information that is outside of any rebuilding plan, and so it might  
36 be that we need to take another look at this language and clearly  
37 distinguish between the situation that the Pacific Council had with  
38 a stock rebuilding plan and consideration of new information that  
39 would allow an SSC to just make a different catch level  
40 recommendation for a particular fishery, regardless of whether or  
41 not it's under a rebuilding plan, which we've had a situation like  
42 that before in the South Atlantic, and so it seems like we need to  
43 go back and work on this one a little bit more and move some  
44 things around.

45  
46 *John Quinn:* Tom Nies.

1  
2 *Tom Nies:*

I was trying to double-check something in the new revised Guidelines. It seems like we're also mixing up some issues here in this particular paragraph. The Pacific Council talks about having to continue a rebuilding plan to a biomass target after new stock assessments indicate the stock was never overfished.

7  
8 We had a situation like that with Georges Bank winter flounder  
9 back in the early 2000s. When we got a new stock assessment, we  
10 noted that the new stock assessment said that the stock was never  
11 overfished. We put it in an amendment and stopped the rebuilding  
12 plan, and the agency approved the document.

13  
14 It seems like that has been carried over into the new National  
15 Standard Guidelines, I think, based on the language that I was just  
16 reading a minute ago, assuming that the stock was never  
17 overfished and not below the MSST, two criteria.

18  
19 The last sentence seems to confuse that issue with a stock that's  
20 been rebuilt, perhaps. It doesn't include the provision that it was  
21 never overfished in the past. It just says that recent revisions to the  
22 Guidelines state rebuilding plans can be discontinued based on  
23 new assessments that show the stock is no longer overfished.  
24 Well, that's true, in two cases, one if you rebuilt the stock that was  
25 overfished before, but this is a different situation that we're talking  
26 about here. I think, just to be consistent with the earlier comment  
27 in the paragraph, that sentence needs to be edited a little bit to say  
28 the stock is no longer overfished and was not overfished when the  
29 rebuilding plan was started.

30  
31 *John Quinn:*

Chuck Tracy.

32  
33 *Chuck Tracy:*

Thank you. I agree. The issues are being confused in this paragraph, and Tom is right that it does -- That last sentence does not say it was never overfished, but it does actually bring up another point, and so, based on that last sentence, is that inferring that the rebuilding plan can be stopped as soon as the stock is above MSST, but not yet at OY?

34  
35  
36  
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39  
40 That is a completely different issue, and we should try and separate  
41 things out here and just talk about what we're trying to talk about,  
42 whether that's adjusting an ACL because you've got new  
43 information or whether the stock is overfished and rebuilding or  
44 fine. Are you talking about ending a rebuilding plan because the  
45 stock has reached some level that's above MSST, but below OY,  
46 or what exactly are you trying to talk about here, because we've

1 got about three different things going on in this paragraph, and I  
2 think one thing that shouldn't be in there is about ending a  
3 rebuilding plan for a stock that is never overfished. That belongs  
4 somewhere else.

5  
6 *John Quinn:* Gregg Waugh.

7  
8 *Gregg Waugh:* Mr. Chair, we'll take that back, this paragraph back, to the  
9 workgroup and rework that and bring it back to you all at a future  
10 date.

11  
12 *John Quinn:* Very good. Good approach.

13  
14 *Gregg Waugh:* Continuing then with the consensus position, this was pulled from  
15 the previous letter that the CCC has approved, and so this is  
16 language that you all have approved, and we're suggesting that we  
17 put it in here. It says: The CCC believes further consideration of  
18 exemptions, or alternatives to, the existing ACL requirements for  
19 data-limited species would be beneficial, and then it continues.  
20 The last sentence, there is a suggested addition from the West  
21 Pacific that reads: In these situations, councils should have  
22 discretion to determine alternative control mechanisms, and, again,  
23 it's inserting that wording "or utilize ecosystem-based fishery  
24 management approaches", and so we'll get that guidance and insert  
25 that for tomorrow's version.

26  
27 *John Quinn:* Kitty, would you like to be heard on that?

28  
29 *Kitty Simonds:* I don't have an exact example, but, as you know, we have  
30 thousands of species that we have no information for, and so we're  
31 in the process of binning some of these stocks into an ecosystem  
32 bin, and, yet, that doesn't mean that we don't want to manage it,  
33 but there needs to be other ways to deal with how we manage those  
34 stocks that we're binning, and ACLs may not be the best approach,  
35 and so that's why we keep including that, just because of the way  
36 we manage and how many stocks we have that we know nothing  
37 about out in the Pacific, and so, if nobody else has any heartburn  
38 about it, we would like to include it.

39  
40 *John Quinn:* Chris Moore.

41  
42 *Chris Moore:* I am just wondering, Kitty, whether or not an ecosystem-based  
43 fishery management approach falls into the category of alternative  
44 control mechanisms, or do you consider it something separate?  
45 Are you proposing the language as an example of an alternative  
46 control mechanism or something entirely different?

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*John Quinn:* Kitty.

*Kitty Simonds:* It doesn't matter to me, as long as we have those words in there.

*John Quinn:* Anybody else on inserting that language? Without objection, we'll adopt that, by consensus, to put that language in. Next one, Gregg.

*Gregg Waugh:* Thank you, Mr. Chair. It's over on page 19, Topic 4, Resources Available for Additional Mandates. Again, this is wording that we pulled from the letter to Secretary Ross, and we have inserted this here. I will give you a chance to look that over, and our proposed suggestion is to add that as the CCC position here.

*John Quinn:* That was already discussed at the February meeting, with the letter to Secretary Ross?

*Gregg Waugh:* Actually, this comes from a different letter that was approved, but it was reviewed and approved.

*John Quinn:* Any comment on that language? I will give you a minute to read it. Seeing none, without objection, we'll adopt, by consensus, inserting that into the letter. Gregg.

*Gregg Waugh:* Thank you, Mr. Chair. The next topic is on page 20, Topic 5, Increased Costs for Meeting Transparency Requirements. There is some wording that we could pull from our original letter. The wording that was approved for the original letter is over on page 5, and so what I can do is pull that wording and insert that here for you to look at tomorrow, so we don't have to jump around and look at it again.

As you will go through, you will see that not all the regional councils have regional perspectives, and so, if anybody has added wording with an example specific to your area, if you get that to me, we will insert that, and so I will pull the wording from page 5 and add it here for you to look at tomorrow.

*John Quinn:* Without objection, Gregg, we'll do that. Perfect.

*Gregg Waugh:* Topic 6 is on page 22. This is Climate Change and Regional Action Plans for Climate Science. We've got some regional perspectives. There is not a CCC position here. We can pull something for you to look at. If anybody has something, particular councils that have dealt with this more, and I'm looking to the Mid-Atlantic and New England, that might have some suggestions

1 that they want to put in there. If not, we can draft some language  
2 to insert there.

3  
4 *John Quinn:* Chris Moore.

5  
6 *Chris Moore:* Thanks, Mr. Chairman. Yes, Gregg, we will help you draft some  
7 language from the Mid-Atlantic perspective to add to that.

8  
9 *John Quinn:* All right. That sounds like a plan on that. Next one, Gregg.

10  
11 *Gregg Waugh:* The next one is Forage Fish. This is on page 24. We've got some  
12 regional perspectives, and we've got some suggested language for  
13 a CCC consensus position provided by the Pacific Council. I will  
14 give you a chance to look that over, and Chuck may want to  
15 elaborate a little bit.

16  
17 *John Quinn:* We'll give everybody a minute to look it over, and then Chuck  
18 maybe can explain it.

19  
20 *Chuck Tracy:* Thank you, Mr. Chairman. This language is just some language  
21 out of our forage fish initiative that we got approved a couple of  
22 years ago, and I just thought that it spoke to at least one aspect of  
23 forage fish issues, and I think there is others that probably should  
24 be included in that, including the issues associated with managed  
25 species that are forage fish, like herring and sardines and  
26 anchovies, and so this speaks strictly to unmanaged forage fish,  
27 and so I think it would be appropriate to add some additional  
28 language in there about that. I guess that's probably the main  
29 thing. We also have a creel ban, which I didn't mention, but those  
30 are topics that the CCC might want to discuss how to address.

31  
32 *John Quinn:* Anybody else on inserting or changing this language? Seeing  
33 none, without objection, we will adopt, by consensus, inserting this  
34 language. Chris Moore.

35  
36 *Chris Moore:* I am sorry, Mr. Chairman, but I was looking at the regional  
37 perspectives, and I am just wondering how we could have a  
38 consensus position that would differ from someone's perspective  
39 from another region. If you look at the Gulf of Mexico, for  
40 example, it says: At this time, we think forage fish harvest is a  
41 non-issue.

42  
43 Then how can we have a consensus position, given that  
44 perspective? I don't want to speak for the Gulf of Mexico.  
45 Certainly, from the Mid-Atlantic perspective, given our  
46 unmanaged forage amendment, the language here pretty much

1 agrees with what we've done, but I'm just curious.

2

3 *John Quinn:* We'll see if Gregg can answer that one.

4

5 *Gregg Waugh:* That's part of the purpose of surfacing it here, to get input from the  
6 other councils and see, and that's part of the difficulty, and I think  
7 that's why, on some of these issues the previous time around, we  
8 didn't have consensus positions, and I think Chris is right. If there  
9 are some that we can't come to consensus on, I don't think that's  
10 necessarily a bad thing. The regional perspectives would indicate  
11 why.

12

13 *John Quinn:* Michelle Duval.

14

15 *Michelle Duval:* Thank you, Mr. Chairman. Yes, I think the language that the  
16 Pacific Council has proposed is pretty good. I am wondering  
17 though if -- I think "prohibit" is a strong word, and while some  
18 councils may support that, or they have taken action to do so, or  
19 they have enough information to take action to prohibit directed  
20 fishing in federal waters on unmanaged forage species, I am  
21 wondering if the second sentence in this proposed language might  
22 be a little bit more flexible, to account for differing availability of  
23 information throughout the regions, as well as differing council  
24 perspectives.

25

26 It states that the CCC believes it is appropriate to proactively  
27 protect unmanaged, unfished forage fish of the EEZ, and sort of  
28 skip through that first sentence, because that seems to be a pretty  
29 regionally-specific council perspective, and I think, in some cases,  
30 you may not really have a sense of what type of activity is  
31 occurring.

32

33 I mean, we have catch information for a lot of species. For some  
34 that is so minimal or so low, it's hard to say whether or not there is  
35 any directed fishing or whether it's simply incidental harvest that  
36 ends up coming in, and so I guess I would be more comfortable,  
37 probably, starting with the second sentence and constructing a  
38 consensus position along those lines.

39

40 I mean, I think most of us do support proactive action to protect  
41 unmanaged or unfished forage species, but, again, I'm not trying to  
42 speak for all councils, but I'm just thinking that that language  
43 might be a little bit more flexible, as we move forward. Thank  
44 you.

45

46 *John Quinn:* Carrie Simmons.

1  
2 *Carrie Simmons:* Thank you, Mr. Chairman. Yes, I think that would make us more  
3 comfortable, if we could soften, definitely, that “prohibit”  
4 language, and I like a lot of the suggestions that you had, Michelle,  
5 because, right now, I don’t think we are doing that currently,  
6 although most of them are probably in state waters, but there might  
7 be some fisheries that are directed that are currently in federal  
8 waters, and so I think that we should soften that, please.  
9  
10 *John Quinn:* Just a question then. The point that Chris made the regional  
11 perspectives, saying it’s a non-issue, I agree with him that maybe  
12 we can’t reach a consensus, but, if that language is softened, you  
13 would be in a position to reach consensus? Okay. Very good.  
14 Gregg.  
15  
16 *Gregg Waugh:* So then, Mr. Chair, what I’m hearing is basically delete that first  
17 sentence and modify the start of that second sentence to read: The  
18 CCC believes that it is appropriate to proactively -- Then continue  
19 with the rest of it.  
20  
21 *John Quinn:* Bill.  
22  
23 *Bill Tweit:* Thanks, Mr. Chair. If you delete the first sentence, I am not sure  
24 what the third sentence then refers to, really, because the second  
25 sentence really talks about an approach. The first sentence  
26 describes an actual action, and the third sentence refers to that  
27 action.  
28  
29 *Gregg Waugh:* So delete that third sentence as well and just leave it with the  
30 statement that the CCC believes it’s appropriate to proactively  
31 protect? That would certainly weave in all of the regional  
32 positions.  
33  
34 *John Quinn:* Phil.  
35  
36 *Phil Anderson:* I would support leaving the third sentence, but just reword it and  
37 say that “this approach is not intended”, as opposed to “this  
38 action”, because we have an approach that is identified in the  
39 second sentence, in terms of how we’re going to proactively  
40 protect unmanaged, blah, blah, blah. I would rather keep the third  
41 sentence and just change the word “action”.  
42  
43 *John Quinn:* Bill.  
44  
45 *Bill Tweit:* That actually makes sense. I was raising the point because I was a  
46 little uncomfortable losing the third sentence, and so I think Phil’s

1 suggestion is a good on-the-fly editing.

2

3 *John Quinn:* Chuck Tracy.

4

5 *Chuck Tracy:* Thanks. If there's nothing more on that particular point, I guess  
6 the other point I talked about was, well, what about managed  
7 forage species, like herring? One possibility would be to change  
8 that sentence to proactively protect all forage fish, managed or  
9 unmanaged, or do we want to address that separately, or do we  
10 want to just focus on unmanaged stocks at this point? That's just a  
11 point for discussion and not a suggestion.

12

13 *John Quinn:* Before we get to that, would the changes that Phil proposed -- At  
14 least to that point, nobody has got objection to that language being  
15 the consensus statement? Okay. Now how about to Chuck's new  
16 point? Chris Moore.

17

18 *Chris Moore:* I am comfortable with unmanaged, but, once we get into the  
19 managed part of it, then I become uncomfortable, and so I think, if  
20 we can stick with the unmanaged in this section, it would be much  
21 more appropriate, from the Mid-Atlantic Council perspective.

22

23 *John Quinn:* Tom Nies.

24

25 *Tom Nies:* I think I agree with Chris, but I guess I'm struggling with -- Not  
26 having been as involved in unmanaged forage species as the Mid  
27 has been, I guess I am struggling with why we seem to think that  
28 unmanaged forage species shouldn't become managed forage  
29 species.

30

31 Is the idea here that we're stopping increased development or  
32 expansion of forage fisheries, because that's bad, or is it because  
33 we don't believe we can successfully manage those things that are  
34 unmanaged now? I think we've got to be -- I am not trying to  
35 confuse this, but I agree with Chris that I think you've got to be a  
36 little careful here about how we mix managed and unmanaged.

37

38 We have some, and it's certainly open to debate, but many of us  
39 would say that we have some very successfully-managed fisheries  
40 for forage species around the country. Our Atlantic herring fishery  
41 is one, for example, and, as I said, some people may debate that  
42 with me, but I think we can make that argument. I don't think we  
43 want to imply that we want to stop all fishing on managed forage  
44 species.

45

46 *John Quinn:* Bill.

1  
2 *Bill Tweit:* I don't think we are. I think we're being very specific to  
3 unmanaged species, forage species, and Chris brought up a good  
4 point to not mix the two, and I think, the way this language is  
5 written, it accomplishes that. It doesn't mix the two. This speaks  
6 to unmanaged forage species.  
7  
8 *John Quinn:* Chuck Tracy.  
9  
10 *Chuck Tracy:* I guess this gets to Tom's point. I think it's a little bit to the first  
11 sentence, which basically says that we prohibit fisheries until we  
12 have enough information to effectively manage them, and so that  
13 was the purpose of that first sentence, and not to end it after  
14 "prohibit new fisheries". It's prohibit or restrict them or do  
15 something, be careful, until we're sure we've got the scientific  
16 information to manage them properly, and so that was just the  
17 purpose of that first sentence.  
18  
19 *John Quinn:* Tom Nies.  
20  
21 *Tom Nies:* Maybe I am not following the editing process correctly, but I  
22 thought we deleted that first sentence, and so we've lost that point.  
23  
24 *John Quinn:* Gregg.  
25  
26 *Gregg Waugh:* I've got clear how we modify this to address unmanaged, and we  
27 will make these changes, and that will be in the version that you  
28 see tomorrow.  
29  
30 *John Quinn:* Sounds good. Next one up.  
31  
32 *Gregg Waugh:* Now to get to one that's not too controversial, Future Catch  
33 Share/IFQ Programs. We've got regional perspectives, and they're  
34 pretty strong, but there was some wording that we approved in our  
35 letter at the last meeting, and it is included in the front of here.  
36  
37 We pulled that wording. That first paragraph at the top of page 26  
38 is from that wording. This is wording addressing catch shares that  
39 the CCC has already approved, and it's pretty neutral. The second  
40 paragraph is new wording that is suggested, and so pay particular  
41 attention to that, if you're okay including that language as well.  
42  
43 *John Quinn:* So the yellow-highlighted is previously or that's the new  
44 language?  
45  
46 *Gregg Waugh:* The yellow is the new language.

1  
2 *John Quinn:* Okay. Anybody to the new, yellow language? It seems pretty  
3 neutral. Without objection, we will adopt it by consensus.  
4  
5 *Gregg Waugh:* Thank you, Mr. Chair. Moving on to Topic 9, which is NEPA, at  
6 the bottom of page 28, again, this is language we pulled from the  
7 CCC's wording that was approved for the prior letter. It is shown,  
8 if you want to look at it, on page 5 of this document. That is  
9 language you all have already approved, and we're just suggesting  
10 putting it in here as a consensus.  
11  
12 *John Quinn:* This is previously-discussed language. Any objection to inserting  
13 that in this? Seeing none, we will adopt it by consensus. Tom  
14 Nies.  
15  
16 *Tom Nies:* I guess I am struggling a little bit, because we had some  
17 discussions in February where I thought there were some people  
18 who indicated that they weren't sure that they still supported this  
19 NEPA language. I just want to make sure that we are all still  
20 behind it.  
21  
22 My recollection is that, when we talked about this briefly at the  
23 February meeting, there were some folks who felt that, for lack of  
24 a better analogy, this was a Pandora's Box that we did not want to  
25 open, and I'm just a little surprised. I am just trying to prompt  
26 some discussion to make sure that we all still really back this  
27 particular paragraph, based on those comments in February.  
28  
29 *John Quinn:* Anybody want to be heard? Gregg.  
30  
31 *Gregg Waugh:* Just to be clear, Tom is right, but this wording is wording that you  
32 approved to go into that draft letter, and so, should we get a  
33 request, Tom and the New England are ready to send that letter in,  
34 and so that's wording that you did approve, and I think it's a good  
35 point to make sure you're still okay with it.  
36  
37 *John Quinn:* Why don't we take a minute and read it and then, if I see no  
38 objection, we will adopt it. Chris Oliver.  
39  
40 *Chris Oliver:* I came in on the end of this discussion, but I think some of the  
41 concerns that were raised in February, from our perspective at  
42 least, we captured those in our North Pacific comments. I think the  
43 consensus position still holds true.  
44  
45 *John Quinn:* Anybody else on that? Seeing no objection, we will adopt that by  
46 consensus. Gregg.

1  
2 *Gregg Waugh:* Thank you, Mr. Chair. Topic 10 is Other Federal Statutes, and it  
3 begins on the bottom of page 30 and carries over. There is some  
4 suggested background wording here that is new that the West  
5 Pacific Council offered to draft, and so that background  
6 information is new. The consensus position is pulled from the  
7 wording that you previously approved. It's shown on page 6, if  
8 you want to see where it came from.  
9

10 *John Quinn:* Does somebody from the Western Pacific want to speak to the  
11 language? Kitty.

12  
13 *Kitty Simonds:* Sure. Obviously, for us, we've been the most hit by these outside -  
14 - Well, even other applicable law, and there is just so many  
15 examples that I have. One actually is MMPA. After the NMFS  
16 included the false killer whales on the Endangered Species List, by  
17 the way without talking to us, but that's okay, then the team  
18 developed a couple of actions, which they put into place, which  
19 they were going to put into place, and so we requested that the  
20 process, the Magnuson Act process, be used, because it was  
21 affecting our fishery, and that we should be involved in the  
22 decision on the actions that they were proposing.

23  
24 We requested this of the Regional Administrator, and he disagreed,  
25 and so did it through the MMPA way, and so what they did was  
26 they established this enormous closure if two interactions within  
27 the U.S. EEZ out there -- If two interactions happened, then there  
28 would be this big closure.

29  
30 The other thing they did was we had in place -- We have different  
31 closures around the main Hawaiian Islands, where longliners  
32 cannot fish within, except in the wintertime, for bigeye. We allow  
33 them to come in twenty-five miles. They removed that, and all of  
34 this, as I said, without discussion. I think that's wrong. I think that  
35 anything that impacts our fisheries should come through the  
36 Magnuson Act process.

37  
38 As I said, I have examples for all of the other applicable law, and  
39 then we just have a new applicable law to deal with. Maybe you  
40 all don't know, but we had an amendment that was approved, but  
41 the American Samoa government sued the U.S. government on it,  
42 and the reason that the judge sided with American Samoa -- What  
43 we were doing was allowing our longliners to fish up to twelve  
44 miles in the American Samoa zone. We had put this prohibition in  
45 place thirteen years ago so that the small boats would -- There  
46 would be an increase, inspiring them to develop their small fishery,

1 but it never happened.  
2

3 Over the course of several years, our American Samoa longline  
4 boats fished for albacore for the canneries, and the canneries in  
5 American Samoa depend on U.S.-caught fish for the military, the  
6 U.S. military, and for the U.S. school lunch programs, because  
7 they only accept U.S.-caught catch.  
8

9 We decided that this would not be harmful, and NMFS agreed, and  
10 then the judge thought -- Her decision was in favor of the American  
11 Samoa government, and her reason was that we didn't consider the  
12 Deeds of Cession as other applicable law. Here is another reason,  
13 and so we're going back in, and the feds have actually gone into --  
14 We had a deadline on May 9. The document for reconsideration  
15 has gone in for that, and then the American Samoa government has  
16 fourteen days to respond, but we just have many examples, and so  
17 we think, obviously, that everything should be done through  
18 Magnuson.  
19

20 *John Quinn:*

Thank you for that explanation. Anybody else on that? Phil  
21 Anderson.  
22

23 *Phil Anderson:*

Thank you. I am trying to understand how this would work, in  
24 particular relative to the Endangered Species Act, and so we have  
25 species that come under the purview of one of our FMPs, and one  
26 or more subset of those is listed under the Endangered Species Act,  
27 and National Marine Fisheries Service does a biological opinion to  
28 determine whether or not the action would result in jeopardy and  
29 then issues an incidental take permit with certain provisions around  
30 it, such that the federal action would not result in a jeopardy  
31 finding.  
32

33 We have had several. We have a number of situations where the  
34 Magnuson Act and our actions as a council intersects species that  
35 are listed either as threatened or endangered under the Endangered  
36 Species Act biological opinion and incidental take permit, and so  
37 I'm trying to figure out, in particular, when it says, in the second  
38 paragraph, about the fifth line down, "modifications of these  
39 fisheries should be debated and developed under the existing MSA  
40 process", and so, in my example, I am thinking that, well, we  
41 would have had a biological opinion, and, presuming that the  
42 federal action wouldn't result in jeopardy, there is an incidental  
43 take permit. Then the design, in terms of the fishery and how it's  
44 promulgated to ensure that the specifications of the incidental take  
45 permit are met, are done under the Magnuson Act.  
46

1 That's what we do now. Should I be concerned or reading  
2 something into this that we're also suggesting that the Magnuson  
3 Act and the National Marine Fisheries Service, in fulfilling their  
4 responsibilities under the Endangered Species Act, needs to do  
5 something or have its action under the umbrella of the Magnuson  
6 Act? I just want to make sure I'm clear on those these two  
7 intersect in the way this language is written.  
8

9 *John Quinn:* Anybody want to attempt to -- Gregg.

10  
11 *Gregg Waugh:* Well, to help stimulate some more discussion, my understanding of  
12 what this CCC wording implies, and, again, this was adopted at the  
13 last meeting, was that, should some findings come out under ESA,  
14 then this wording would indicate that the councils would want to  
15 debate and propose the actions that would achieve that level of  
16 reduction or prevent any interactions above some set level. That is  
17 how I interpret what is written here.  
18

19 *John Quinn:* Is that satisfactory, Phil?

20  
21 *Phil Anderson:* Yes, and, if that's the understanding, I am comfortable with that.  
22 Typically, the biological opinion, and if there's a follow-up with an  
23 incidental take permit, they don't specify the action. The  
24 biological opinion is done considering the action that's being  
25 contemplated, to ensure that there isn't a jeopardy finding. If there  
26 is clarity on that, that makes sense to me. I was just beginning to  
27 get nervous about how far we were suggesting the Magnuson Act  
28 intersected with the Endangered Species Act and National Marine  
29 Fisheries' obligations under that act.  
30

31 *John Quinn:* Tom Nies.

32  
33 *Tom Nies:* I realize that we agreed to this consensus language, but I think I've  
34 got to be right up front and point out that, at least in New England,  
35 relatively recently, we have chosen not to do this. Using the  
36 Antiquities Act, a National Marine Monument was established off  
37 the coast of New England. The agency came to us and said, do  
38 you want to implement the restrictions that were in the presidential  
39 declaration, and we said, no, thanks. You guys can do it, basically.  
40 The agency is working on that.  
41

42 Now, I think the difference here, maybe, is that, in this instance,  
43 we were being asked to implement regulations that had already  
44 been determined, as opposed to designing the appropriate way to  
45 manage out in a monument, and I don't know if this language gets  
46 at that, but, on a more routine basis, under the Marine Mammal

1 Protection Act, we have several large whale take reduction teams  
2 in New England that do, at times, adopt measures for the sink  
3 gillnet fishery, and maybe others, that don't go through the council  
4 process routinely. I am looking to Mike and John to make sure  
5 I've got that right. I am not even sure that we -- I know that we  
6 don't routinely send a representative to the take reduction team  
7 meetings.  
8

9 This language would seem to suggest that we don't think the  
10 councils should have the flexibility to make those sorts of regional  
11 decisions, and I am not sure that our council, as a whole, would  
12 want to agree to that.  
13

14 *John Quinn:*

Tom, is there any language change or taking out any of those  
15 sections that would address that?  
16

17 *Tom Nies:*

I will take a look at it, and maybe I can give something to Gregg  
18 that -- I am not sure that I will be able to come up with something,  
19 but I'll take a look at it and see if I can come up with some  
20 language that allows for regional differences, but that would seem  
21 to water-down our point very strongly.  
22

23 *Kitty Simonds:*

I will help you as well. Obviously, we were totally opposite on the  
24 Antiquities Act. We do want to do the regulations, because,  
25 whatever we can be in control of, I believe we should be in control  
26 of, but it shows how different all the regions are. We have  
27 different fisheries, we have different issues, and, for us, we have  
28 fewer fisheries than you do, but they're very, very important for all  
29 of us out in the Pacific, because the only U.S. tuna fisheries out  
30 there happen to be our two fisheries and the U.S. purse seine  
31 fishery, and so we work with thirty Pacific nations.  
32

This is why, for all of these things, marine mammals and ESA and  
33 whatever, whatever affects our fisheries, we need to be consulted,  
34 because the Act doesn't say that everything has to go through the  
35 MMPA process, and so, really, it is about flexibility, but, if we ask  
36 for that amendment or whatever they're going to be doing to come  
37 through the council, I think they should say yes, and, if you don't  
38 want to do it, that's fine.  
39

40  
41 If we can figure out some kind of language, but it really bothers me  
42 when the NMFS can go in and just remove things without  
43 consultation that we worked very hard on, to have these closures  
44 and whatever, and then to have this enormous closure. I am asking  
45 them now when we can remove that enormous closure. It's been  
46 three years, and we haven't had two interactions inside the 200

1 miles.

2

3 *John Quinn:* Why don't we leave this topic with Tom and Kitty and we will  
4 work with Gregg to maybe wordsmith that to satisfy everybody.  
5 Gregg.

6

7 *Gregg Waugh:* Mr. Chairman, if I could ask one question to get some more  
8 clarification for how we deal with this. We have a process that we  
9 worked out with NOS and NMFS that deals with the sanctuaries,  
10 and I think this will come up later this afternoon, and what it does  
11 is we have the first option to develop fishing regulations within a  
12 sanctuary.

13

14 I think that's very different from the example that Tom described,  
15 where you were basically given a letter of here's the regulations to  
16 be implemented, and do you want to go out and get your head  
17 kicked in doing this or not. To me, I think that's an important  
18 distinction. If the councils want to get the first opportunity to  
19 develop the appropriate regulations, that is one thing.

20

21 *John Quinn:* Kitty.

22

23 *Kitty Simonds:* Well, that is bogus for us, that whole option, because, for  
24 everything that has happened out there since the Clinton  
25 administration, whatever we have proposed, the response from  
26 NOS is, oh, but it doesn't fit into the intent of our mission and  
27 what we're doing.

28

29 It didn't matter what it was, and so maybe that works out fine for  
30 you, but not for us. When they see the prize somewhere, they're  
31 going to just do whatever they want to do, and that's what has  
32 happened in our part of the world, in terms of the blue legacy for  
33 presidents.

34

35 *John Quinn:* All set with that, Gregg? Is that enough -- Okay. Why don't we  
36 move on to the next one?

37

38 *Gregg Waugh:* Thank you, Mr. Chair. The next topics, 11 through 15, and then  
39 whether we add one dealing with the SSC and the flexibility, are  
40 new topics that surfaced as the workgroup was dealing with this.  
41 We wanted to call your attention to this. We have added some  
42 regional perspectives.

43

44 It seemed, to us, that there should be some agreement with the  
45 CCC to which items get added to this working paper and carried  
46 forward. You don't have to develop, and we're not looking to

1 develop, consensus positions now, but we would just like your  
2 approval to add these as items in this working paper, and then we  
3 will continue to develop some more of the missing regional  
4 perspectives and come back with draft consensus positions in the  
5 future.  
6

7 With that as an introduction, the first item, Topic 11, is  
8 Recreational Data, and we're going to have a session tomorrow  
9 talking about this, but, in terms of background, MRIP was not  
10 designed to track the recreational catch for monitoring recreational  
11 ACLs. In addition, the current MRIP survey is not providing  
12 useful estimates for many EEZ-caught species, and that certainly  
13 varies by region. Again, we've got some regional perspectives in  
14 here, and not many, and, again, we're just looking for your okay to  
15 add this as a topic.  
16

17 *John Quinn:*

Chuck Tracy.

18  
19 *Chuck Tracy:*

Thank you, Mr. Chairman. This topic is a little bit difficult for me.  
I guess, first of all, the regional perspective for the Pacific Council  
doesn't belong in this section. It belongs in a lower section, and it  
is duplicated down there, and so our perspective that we put forth  
is relative to stock assessment data and not recreational catch data,  
but my main issue with this is the background information is very  
brief, and, if you look at H.R. 200, for example, there is some more  
specific suggestions for creating state/federal partnerships to do  
this and do that.  
28

29 There is enough specificity there for us to find something to  
30 weigh-in on, and I know we're going to get more on this particular  
31 topic this week, but, with the background information here, it's  
32 really not -- I don't think it's quite adequate for us to be able to  
33 develop a regional perspective, let alone a consensus perspective,  
34 and I guess that I would maybe just duplicate that for the rest of  
35 these next few topics, that it's going to be tough to come up with a  
36 perspective that doesn't have a little more meat on it for the  
37 background, and, again, we did develop comments for some of  
38 these issues, relative to what's in H.R. 200.  
39

40 I think a lot of this letter came from comments on H.R. 1335 two  
41 or three years ago, and so there were more specific issues to be  
42 dealt with there. Some of those have carried forward and some of  
43 them have not, and there are some new ones, and so I guess it  
44 would be helpful, from my perspective, just to know a little bit  
45 more about what specifically we're expected to comment on.  
46

1 *John Quinn:* I don't want to speak for Gregg, but I think we were trying to  
2 approve this as a topic, and then that's the whole point. They're  
3 going to flesh out the background information and that, and so I  
4 think this is more another index of stuff that the working group can  
5 continue to work on, and is that correct, Gregg?  
6

7 *Gregg Waugh:* That's correct, Mr. Chairman. We don't want to spend time, at the  
8 workgroup level, working on a topic that you all don't want  
9 included in the working paper, and so, again, for the rest of these  
10 topics, we're just looking for your guidance to have that as a topic,  
11 and we will develop background and solicit further perspectives.  
12

13 *John Quinn:* Chris Moore.

14  
15 *Chris Moore:* I agree that the recreational data topic should be a topic, but, like  
16 Chuck, I am not comfortable with background language at all, and  
17 so yes for the topic and no for the background language or  
18 anything that really builds around that particular background as a  
19 consensus statement.  
20

21 *John Quinn:* Chuck.

22  
23 *Chuck Tracy:* Maybe just one suggestions for the workgroup to consider is to  
24 take a look at H.R. 200, since that's kind of what is in front of us,  
25 and look at the issues identified in that piece of legislation and use  
26 that as the background information to which the council would  
27 then develop its positions.  
28

29 *John Quinn:* With that in mind, any objection to adding recreational data as a  
30 topic for the workgroup to continue to work on? Seeing none, we  
31 will adopt, by consensus, Recreational Data as Topic Number 11.  
32 Gregg.  
33

34 *Gregg Waugh:* Thank you, Mr. Chair. Over on page 35, Topic 12, Commercial  
35 Data, again, it's just to approve adding the topic. There is a feeling  
36 that commercial data are not always available in a timely manner  
37 for monitoring commercial ACLs. Late reports continue to be a  
38 problem, and this is also an enforcement issue. Again, Chuck's  
39 comments are pertinent here. It needs to be developed a lot more,  
40 but we do have a couple of regional perspectives already.  
41

42 *John Quinn:* Does anybody want to whether we should include or not include  
43 commercial data as Topic Number 12? Tom Nies.  
44

45 *Tom Nies:* I think it should be included. I am just curious. One of the  
46 problems we're increasingly running into with the management of

1 our fisheries is interest in fine-scale spatial or temporal data on the  
2 fisheries, in order to better design management measures, typically  
3 closures or areas where somebody can't fish for some reason.  
4

5 We're increasingly running into problems with interpretations of  
6 the confidentiality provisions of the MSA and not being able to  
7 bring forward that information for the council or for the public to  
8 inform their decisions, and I am just curious if other councils are  
9 running into that, because, if they are, I think maybe that's  
10 something we want to consider highlighting in this commercial  
11 data section.  
12

13 To give you a specific example, we're having a fairly -- This is  
14 something that -- Never mind. Anyway, we're having a fairly  
15 heated debate about mid-water trawl fishing for herring off the  
16 coast of Cape Cod, and there was an interest from both sides of the  
17 issue in taking a look at seasonal or closures, and the council and  
18 the public both asked to see the data on a fine-scale, so they could  
19 perhaps start designing these closures.  
20

21 What happens when you start getting into month-long periods is  
22 we get these interpretations that you don't have enough data here  
23 and that you're protecting data-confidentiality provisions, and this  
24 is kind of hamstringing what the council is trying to do and what  
25 the public is trying to encourage us to do, and so I'm just curious if  
26 other people are seeing that.  
27

28 *John Quinn:*

Michelle Duval.

29  
30 *Michelle Duval:*

Thank you, Mr. Chairman. Yes, we have one pretty big example  
31 in the South Atlantic, and that would be our wreckfish fishery. It's  
32 an ITQ program. All the data are confidential, and so you can't go  
33 to the ACL tracking website that the Regional Office maintains  
34 and see what the landings are, because they're all confidential, and  
35 so we don't receive them.  
36

37 Then this was also an issue when it came time to actually establish  
38 an ACL for this fishery as well, and that's a long and painful and  
39 sordid story that is somewhat captured in this document that you  
40 guys have before you, but it's hamstrung our ability to conduct a  
41 stock assessment, and so industry actually paid for a -- We  
42 developed a process for a third-party assessment, and industry  
43 funded that assessment, and so not being able to have some access  
44 -- I mean, our SSC was not allowed to see this data either. It can  
45 really be an issue for some of those fisheries.  
46

1 *John Quinn:* Gregg Waugh.

2  
3 *Gregg Waugh:* Thank you, Mr. Chair. As far as catch by location, that's not really  
4 an issue thus far, because the grids now that our commercial data  
5 are recorded by are so huge that they're not really useful for our  
6 management purposes, for any area-based management, but we are  
7 looking to transition to electronic reporting, where it would get  
8 more specific, and so I think this is a topic that needs to be  
9 discussed.

10  
11 *John Quinn:* Anybody else to that? Without objection, we will include  
12 commercial data as Topic Number 12. Seeing no objection, we  
13 will adopt that by consensus. Gregg Waugh.

14  
15 *Gregg Waugh:* Thank you, Mr. Chair. Topic 13 is Expiration of EFPs After 12  
16 Months. There is some language in H.R. 2023 that addresses this  
17 and puts a restriction, a twelve-month deadline, on that. A number  
18 of councils have used the experimental fishing permit with success,  
19 some for many years.

20  
21 In the Southeast EFPs have come under increased scrutiny, and, as  
22 I said, H.R. 2023 proposes some significant changes, and so we  
23 think this should be a topic. We're going to need to develop  
24 positions on H.R. 2023 as well.

25  
26 *John Quinn:* Tom Nies.

27  
28 *Tom Nies:* I guess I am perhaps more concerned about some of the provisions  
29 in H.R. 2023, which I think will make it almost impossible to get  
30 an EFP put through. There is some language in there that suggests  
31 that every EFP proposal needs to go through some sort of peer  
32 review before it gets approved. There is no explanation of how  
33 that peer review would take place, and it goes on and on and on.

34  
35 I think that would just be a disaster, if something like that goes  
36 forward. We use EFPs extensively in our region, and I think  
37 somewhat successfully, and I just can't imagine if every single  
38 proposal has to go through a peer review before we can even  
39 consider authorizing it.

40  
41 *John Quinn:* Chris Oliver.

42  
43 *Chris Oliver:* To echo what Tom said, EFPs are an important part of our  
44 management process, and so a lot of EFPs helped leverage our  
45 incorporation of electronic monitoring. We have current EFPs for  
46 salmon and halibut excluders for deck-sorting of halibut, to reduce

1 mortality that we hope will transition into a regulatory allowance,  
2 and so they're very important, and I am very concerned about this  
3 language as well.  
4

5 I don't know what the impetus was for it or what it's aimed at, but  
6 it's not just the peer review, but the social and economic analysis  
7 as well as the twelve-month expiration that would stretch, I think,  
8 the ability of our EFP applicants, along with our Science Center  
9 and Region approval process, and so I share all of Tom's concerns  
10 and then some.  
11

12 *John Quinn:* Anybody else on that? So propose adding Topic 13, Expiration of  
13 EFPs After 12 Months, no objection? Tom Nies.  
14

15 *Tom Nies:* I don't support having them expire after twelve months, but I think  
16 this topic should be much broader than just that issue.  
17

18 *John Quinn:* Gregg Waugh.  
19

20 *Gregg Waugh:* So then we'll broaden it just to look at exempted fishing permits in  
21 general, and we will certainly pull the material that's in H.R. 2023  
22 as part of the background, and that shows the full range.  
23

24 *John Quinn:* Does that sound acceptable to everybody, to broaden it out so it's  
25 not narrow to the twelve months? Seeing no objection, we will  
26 adopt that by consensus. Next one.  
27

28 *Gregg Waugh:* Okay. Topic 14 is Data to be Used in Stock Assessments. Again,  
29 this comes out of H.R. 2023. States and fishermen have collected  
30 data and provided data for stock assessments. There is some  
31 dissatisfaction with how and if the data were used in a stock  
32 assessment. This has been a source of frustration to some of the  
33 fishermen and states in our area with respect to red snapper stock  
34 assessments. This H.R. 2023 has some proposed suggestions for  
35 how those data would be incorporated, explaining how they're  
36 addressed. If they're not excluded, explaining why, and so that's  
37 the topic.  
38

39 *John Quinn:* Anybody? Chuck Tracy.  
40

41 *Chuck Tracy:* Thank you, Mr. Chairman. I guess H.R. 200 also has some  
42 language in that regard, and so the regional perspective from the  
43 Pacific Council is targeting those provisions in H.R. 200, and so  
44 just have a look at that as well, please.  
45

46 *John Quinn:* Chris Moore.

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*Chris Moore:* Thank you, Mr. Chairman. Gregg, I was wondering if you could just quickly go over what the changes are again. I didn't quite catch what you were saying relative to the new language. You say here that it proposes some changes to address the issue, but can you just summarize those changes quickly?

*Gregg Waugh:* That are in H.R. 2023? They have to do with setting out a process for what data should be considered. For instance, if a state supplements the data collection, or if fishermen work to provide length data, that those data should be included in a stock assessment. If you're not including them, then there should be an explanation and a justification as to why they're not being included. There is some concern that that's going to tie up the assessment process and could slow the process down.

*John Quinn:* All set, Chris?

*Chris Moore:* I'm thinking about it, and, on the face of it, my reaction would be that sounds good, but I need to look at that language a little bit more and figure it out. Thank you, Mr. Chairman.

*John Quinn:* Tom Nies.

*Tom Nies:* I guess I think I share some of the concerns of the other regions. Is there anything in the bill that says that the data that's provided has to be collected consistent with the Data Quality Act or any of the other provisions that we have to follow, or does it give them a pass on that? I mean, I struggle to understand how the agency can just accept data that it has no control over how it's collected and use it in an assessment without going through a lot of work and effort to try and pin down how it was collected and whether it's adequate or not.

*Gregg Waugh:* I will have to go back and look at the specific wording, but I can do that and add some of that wording in here, so that, when you see it tomorrow, we've got that wording.

*John Quinn:* Michelle Duval.

*Michelle Duval:* Thank you, Mr. Chairman. I think, specifically to H.R. 2023, I think it's a bit of a mixed-bag, in terms of some things that might sound good and some things that might not sound so good. I mean, I think there's some language in there about producing a report for how alternative data sources would be incorporated and standards for such data, and so standards sound good, to me, but I

1 think we would just want to make sure that -- There's a good  
2 chunk of information in there, in H.R. 2023, and so I would  
3 encourage everybody to go ahead and take a look at that.  
4

5 *John Quinn:* Bill Tweit.

6  
7 *Bill Tweit:* Thanks, Mr. Chair. I know we don't want to start diving into all  
8 the aspects of this, but I think I want to just flag, at this point, that,  
9 at least as the North Pacific Council sorts of considers how and  
10 when to begin to incorporate local ecological knowledge, or  
11 traditional local knowledge or whatever label you want to put on it,  
12 we're going to find it really problematic if anything that comes out  
13 of this, either at the CCC level or others, is overly prescriptive.  
14

15 We feel we need -- As we sort of scope out how we would  
16 approach this, we're going to need some fairly broad latitude.  
17 Obviously some overarching guidelines, like thinking about data  
18 quality, et cetera, and compliance with that, but anything that  
19 either mandates the use or mandates how, at this point, without  
20 leaving the council some fairly broad latitude to develop that, is  
21 going to make an effort that still, for us, is probably a couple years  
22 out. It could unnecessarily complicate it.  
23

24 *John Quinn:* John Gourley.

25  
26 *John Gourley:* Thank you. This particular issue is rather important to us. If I'm  
27 not mistaken, I believe H.R. 2023 allows for the use of non-peer-  
28 reviewed data to be used for stock assessments. Is that true, if I  
29 remember correctly, but, when it comes down to BSIA, we need to  
30 be very particular about what data we use for our stock  
31 assessments.  
32

33 There is a fair amount of data out in the Western Pacific that  
34 should probably not be used. The quality is questionable, and we  
35 need to be able to have the flexibility to choose the data that we  
36 actually need for the stock assessments.  
37

38 As such, we have developed what we call a WPSAR process,  
39 where we actually developed a process that goes through our -- It  
40 guides our stock assessments, and each one of our stock  
41 assessments goes through this WPSAR process, and part of that  
42 process is looking at the quality of data that goes into making our  
43 stock assessments. I think it's a very important issue that we do  
44 need to look closely at and keep on the list, if we could.  
45

46 *John Quinn:* Very good. Anybody else as to keeping Data to be Used in Stock

1 Assessments or including it? No objection? Then we'll adopt that  
2 by consensus.

3  
4 *Gregg Waugh:* Thank you, Mr. Chair, and, just for reference purposes, we did  
5 include, as Attachment 6, H.R. 2023, a section-by-section analysis,  
6 that Dave Whaley put together, and so that's there for any that  
7 want to look at it.

8  
9 Topic 15, on page 37, is Deeming/Transmittal Process. We have  
10 had some concern expressed, and we've heard it here this morning  
11 too, that documents aren't being reviewed in a timely manner, and  
12 this is certainly something that varies by region, and so the  
13 suggestion was to add this, looking at this deeming and transmittal  
14 process. We have included the language from the MSA that lays  
15 out the timing requirements.

16  
17 *John Quinn:* Thank you, Gregg. Anybody as to including this or any comments  
18 on it? Tom Nies and then Chris Moore.

19  
20 *Tom Nies:* I guess I am looking for a little more elaboration on what the  
21 concern is. Is the concern -- I will stop there.

22  
23 *Gregg Waugh:* Some of the examples we've run into, and we work closely with  
24 the Region and NOAA GC to try to have our documents reviewed  
25 ahead of time, before we submit them, but we still run into  
26 situations where it's a workload issue on their end. We submit a  
27 document, and it doesn't officially start the review process for  
28 several weeks or longer, and we've got an issue where the  
29 proposed rules are issued and looked at, the amendment is  
30 approved, and then the final rule doesn't get issued for an extended  
31 period of time.

32  
33 Those are issues that we have run into, and I think we heard, in the  
34 West Pacific's round table this morning, some of their ACLs aren't  
35 getting implemented in a timely manner, and so those are the  
36 issues that have been raised.

37  
38 *John Quinn:* Chris Moore.

39  
40 *Chris Moore:* Thanks, Mr. Chairman. I am just wondering, Gregg, from the --  
41 When you guys were talking about this in the working group, were  
42 you saying that you're endorsing the current language that's here  
43 in front of us, in Section 304, or are you saying something else?  
44 My comments are similar to Tom's. I am just trying to figure it  
45 out.

46

1 *Gregg Waugh:* The workgroup hasn't discussed this in any great detail. Again,  
2 these last several topics are things that came up as we were  
3 finishing the document, and the idea was to bring it to you all and  
4 see if these are topics that are worthy of including, and the  
5 language from the Act is just there for informational purposes.  
6 There is nothing in here that is being brought to you on behalf of  
7 the workgroup. They haven't discussed it, and you will see that  
8 there are no regional perspectives at all.

9  
10 *John Quinn:* Tom Nies.

11  
12 *Tom Nies:* I am just trying to understand where the delay is. Is the delay that  
13 we're concerned about with the agency formally accepted a  
14 document as transmitted? I think, once they accept the document,  
15 doesn't it, at least for amendments and management plans, and  
16 maybe not for frameworks, but doesn't it start a statutory clock? Is  
17 what's going on here is the agency is sitting on it before they  
18 accept it formally? Is that what happened with your ACLs, or was  
19 there some other issue there?  
20

21 *Kitty Simonds:* Right. No, basically it was between the Science Center and the  
22 Region. They couldn't agree on how to deal with it, and so they  
23 took a whole year, and then, in December, I got a call from our  
24 regional attorneys to say that they were going to tell the Region  
25 that they were not going to accept a certain ACL for one of the  
26 species, because of such and such.

27  
28 Then I had to call everybody together and have a meeting, but they  
29 should have talked to us earlier. There was a whole year to discuss  
30 this, but, really, on our part, we probably should have said, hey,  
31 what's happening with that ACL and where are you guys, and so  
32 it's both, but, really, they should have talked to us. I guess, if  
33 people feel that it's like -- Why not deal with it or why deal with  
34 it? Then the ACL for 2016, that was published in 2017, and so,  
35 luckily, there was no overfishing going on.

36  
37 *John Quinn:* Chuck Tracy.

38  
39 *Chuck Tracy:* Thank you, Mr. Chairman. This came up in our council discussion  
40 in the context of actually the NEPA issue, and we had some issues  
41 -- Tom characterized it correctly. I mean, the issues that we have  
42 come across have been associated with a delay in NMFS  
43 requesting the transmittal to occur.

44  
45 Once the transmittal occurs and the regulations are deemed, then it  
46 starts the clock and everything goes, and so it's that time waiting

1 for that to occur, and so it came up as a discussion, and not a  
2 consensus by any means, but just a -- One thought was to put some  
3 time limit on the period between council final action and  
4 transmittal, and so that was one thought about how to expedite the  
5 regulatory review process.  
6

7 The other thought was that this would also sort of help stimulate  
8 some frontloading of the analysis and the document preparation  
9 prior to council final action, and so those are some issues that we  
10 have had in our council, and, to be fair, the Region is -- This isn't  
11 by their choice, necessarily. There has certainly been a lot of  
12 personnel turnover and other unanticipated workload impinging  
13 upon their ability to do what they would like to do, I think, for the  
14 council process, but, regardless, those are a couple of the issues  
15 that came up in our council's discussion about this topic.  
16

17 *John Quinn:* Gregg Waugh.

18  
19 *Gregg Waugh:* By way of example, our for-hire amendment was approved and  
20 sent to the Regional Office on March 3, and the review process  
21 hasn't officially begun yet, and it was an extensive review and  
22 editing process working ahead of that to get it submitted, and we  
23 recognize there are resource issues, and particularly this time of  
24 year, but that's an issue that surfaces, and has surfaced in the past.  
25

26 At the other end, we've got an Amendment 36 that deals with  
27 spawning special management zones, one of which addresses red  
28 grouper, which is a new species that has now been determined to  
29 be overfished. That went through the review process, but we're  
30 waiting on the final rule. The amendment has been approved. The  
31 final rule, I think, has been up in Headquarters, and, again, you've  
32 got a change in administration, and so there are some issues there,  
33 but that's been up there for a couple of months now.  
34

35 *John Quinn:* Carrie.

36  
37 *Carrie Simmons:* Thank you, Mr. Chairman. We can leave this in the document,  
38 but, from a Gulf perspective, I don't think we'll have a whole lot to  
39 say on this. I think, internally, we typically work things out, and  
40 we just redid our -- I was just asking Andy what the name of that  
41 document is for our internal agreement, where it says who is going  
42 to do what on each side, and we put it before our council and we  
43 agree on it, and so I don't think we would say too much here,  
44 regarding this issue.  
45

46 *John Quinn:* Tom Nies.

1  
2 *Tom Nies:* We are not always happy with how long it takes our documents to  
3 get reviewed, but I am trying to think -- If someone were to ask,  
4 I'm trying to think what sort of statutory fix I would suggest, and I  
5 don't know if I have an answer to that.

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Somebody mentioned that we should have a time between the final council meeting and when the document is transmitted, a fixed amount of time, but I don't know I would agree on what that fixed amount of time should be. I mean, we had an example recently, which most of you probably would consider an inordinate amount of time between our final vote and when we would have been ready to submit a document over, and so I would hesitate to support any kind of number like that.

16 *John Quinn:* Anybody else to including it in the document? Without objection, we will include Deeming/Transmittal Process, and the workgroup will continue to work on it. Next one, Gregg.

20 *Gregg Waugh:* That is the end of the topics that we had discussed before. Dave Whaley raised an issue that he is hearing questions about from the congressional staffers, whether the councils feel that the SSCs, in their setting of the ABC, whether that's an issue that is causing concern at the council level. We would just offer that here, as to whether or not you all want that added.

In our case, we have an ABC control rule that the council worked jointly with our SSC to develop that, and it has several criteria in there, and the council approved that ABC control rule and implemented it through an amendment.

Once we get an ABC from our Scientific and Statistical Committee, then that is binding. That sets the ceiling, but the council worked cooperatively with the SSC to design that ABC control rule.

37 *John Quinn:* Anybody to adding an additional topic, as described by Gregg? Bill.

40 *Bill Tweit:* Thanks, Mr. Chair. Given that it's a question that's being asked now, I am not sure how we can be silent on it. It's a question I kind of wish we weren't being asked, but, since it is being asked, I am not -- I think, if we were silent and did not address it, I think the way our silence could be interpreted -- There's a lot of ways our silence could be interpreted, and I don't think any of us are interested in that, and so, even though I think it will be a bit of a

1 difficult one for us to tackle, I'm not sure how we avoid it, since  
2 the question is now out there.

3

4 *John Quinn:* Anybody else? Tom Nies.

5

6 *Tom Nies:* I am trying to remember Dave's comments. The question is  
7 whether there should be some ability of the councils to deviate  
8 from the ABC recommended by the SSC? Is how the question was  
9 asked? Dave is shaking his head yes.

10

11 Does the question anticipate that there would be any bounds on  
12 how the council could deviate? I'm assuming we couldn't go over  
13 the OFL, but I guess that is an assumption. I guess it doesn't have  
14 to be the case, right?

15

16 *John Quinn:* Chris Moore.

17

18 *Chris Moore:* Gregg, I'm a little confused, because I thought we took care of or  
19 discussed this issue in Topic 3, where it says role of the SSC, and  
20 some of that is captured in there, right, or is this different than  
21 that? The issue that you're talking about, maybe we put it in this  
22 particular section.

23

24 *Gregg Waugh:* Yes, I had the same thought, whether we could add it here, but,  
25 given that it just surfaced this morning, I figured we would throw it  
26 out right at the end and then see where people wanted to discuss it,  
27 but I think you're right that it could be expanded on in Topic 3.

28

29 *John Quinn:* Anybody else? Then I would propose that we expand upon it --  
30 Not make a new section, but expand upon it in Topic 3. Any  
31 objection to that? Seeing none, we will adopt that by consensus.  
32 Gregg.

33

34 *Gregg Waugh:* Thank you, Mr. Chair. The rest of the document is Resources and  
35 Documents, and, again, this is material that the Mid-Atlantic put  
36 together. We will update this, and the material has been copied to  
37 the Regional Fishery Management Councils Website. We will  
38 update the links, so that this working paper will then take you to  
39 the correct place, and that is the items that we had to bring to you  
40 for the working paper.

41

42 We do have two outstanding recommendations. If there are no  
43 more questions on the working paper, we can move to those, and,  
44 as I said, I will make these changes and get out a revised document  
45 to the EDs to distribute to you all tomorrow. We will do that in  
46 track changes, like we did at the last meeting, so people can see

1 what changed.

2

3 *John Quinn:* Just a question, Gregg. How much time do you anticipate these  
4 last two recommendations would take?

5

6 *Gregg Waugh:* It shouldn't take too long, but --

7

8 *John Quinn:* All right. Why don't we push on, and then we can take a break  
9 and then get back? Why don't we continue to get through the  
10 Legislative Section in its entirety? Gregg.

11

12 *Gregg Waugh:* Thank you, Mr. Chair. John, if you could pull up that overview  
13 document again, please. On page 2 of that -- For everybody, this is  
14 that overview document that was included. We had three  
15 recommendations. We dealt with the first one, Item A there.

16

17 The second one is that the workgroup recommends that individual  
18 councils be responsible for providing their regional perspectives to  
19 the lead council in any year. Then that lead council is responsible  
20 for updating the working paper. We will have this on the Regional  
21 Fishery Management Council Website. All the materials will be  
22 there, and so then it will just rotate responsibility for keeping the  
23 document up-to-date. It would rotate to whichever council was in  
24 charge.

25

26 Then Item C is the workgroup recommends that the lead council,  
27 and I think this is how it has operated, but we just wanted to make  
28 it clear. The lead council prepares an initial response, when one is  
29 requested, and then that gets provided to the other councils for  
30 their review.

31

32 *John Quinn:* Would anybody care to speak to those two recommendations?  
33 Any questions regarding them? Chris Moore.

34

35 *Chris Moore:* Yes, I think they're fine. I don't see any problem with them.

36

37 *John Quinn:* Seeing nobody else, no objection, we will adopt those two  
38 recommendations by consensus. Gregg.

39

40 *Gregg Waugh:* That concludes what we were trying to achieve here today, Mr.  
41 Chair, and there have been numerous references to H.R. 200 and  
42 H.R. 2023. I don't know that it would be useful for us to try to  
43 start getting into those discussions. Dave Whaley has indicated  
44 that he's going to do a comparative table showing those, and we've  
45 got a document, based on his section-by-section analysis, that the  
46 Gulf put together for H.R. 200, and so those are some documents

1 that we can get out to the EDs and solicit some input for our next  
2 meeting.

3  
4 *John Quinn:* Tom Nies.

5  
6 *Tom Nies:* Is there any value in discussing some of the issues in those things  
7 this afternoon? Our next meeting won't be until February of next  
8 year, and so I'm, frankly, not all that familiar with either of those  
9 two bills, but we've got about an hour on our agenda here that we  
10 could, Mr. Chairman, if you and Gregg thought it was worthwhile,  
11 spend perhaps some time highlighting some issues and maybe  
12 getting some initial comments back, if you think that would be  
13 useful.

14  
15 *Gregg Waugh:* Yes, I think it would be. My suggestion would be, perhaps after  
16 the break, we come back and go through -- I think it would be  
17 more helpful to go through H.R. 2023, because that has some of  
18 the more -- I don't know if you would say controversial, but issues  
19 that we would need some guidance on, and we've got that section-  
20 by-section analysis that we can use and go through that, and I think  
21 that would be helpful.

22  
23 *John Quinn:* Why don't we take a fifteen-minute break and come back and get  
24 back into the final topics. We'll take a break.

25  
26 *(Recess)*

27  
28 *(The audio recording begins in the middle of Gregg Waugh speaking.)*

29  
30 *(The discussion begins while discussing H.R. 2023, Section 101.)*

31  
32 *Gregg Waugh:* -- take the conservation and socioeconomic benefits of the two  
33 sectors into future allocation decisions, and it also appears that the  
34 two councils are not required to take the findings or guidance of  
35 the study into account in such allocation reviews. Any comments  
36 on Section 101 and particularly the Gulf, if they want to weigh-in,  
37 since it affects us and them?

38  
39 *John Quinn:* Anybody want to weigh-in on this section? Kitty.

40  
41 *Kitty Simonds:* I just want to say that every time the National Academy of  
42 Sciences gets involved in studying, it takes years, and it takes  
43 millions of dollars, and then, when it comes time for the Service to  
44 work on things, it takes millions of dollars and years, and so I think  
45 it's not a good idea to have the National Academy of Sciences to  
46 review everything that somebody thinks that somebody needs to be

1 an arbiter or whatever, and I think that the National Marine  
2 Fisheries Service can do this job, like they could have done MRIP  
3 and turtles and all of those that took years and millions of dollars.  
4

5 *John Quinn:* Anybody else want to weigh-in on this section? Tom Nies.  
6

7 *Tom Nies:* It seems to me that this is something that we may want to consider  
8 commenting on, if asked, even though it's specific to the South  
9 Atlantic or Gulf of Mexico, just because I think we should -- Like  
10 Kitty said, we might want to weigh-in on the idea that we punt  
11 these decisions to the National Academy of Sciences, and so  
12 maybe this is something the CCC workgroup could look at.  
13

14 At first, I was looking at this and saying I'm staying out of it,  
15 because I'm not in the South Atlantic or the Gulf, but I think the  
16 reality is that this is a -- I don't want to say a line in the sand.  
17 That's too dramatic, but this is something that we would want to  
18 oppose, just on principle.  
19

20 *John Quinn:* Anybody else to that section? Seeing none, we will move on to the  
21 next.  
22

23 *Gregg Waugh:* Thank you, Mr. Chair. Scrolling down to Section 102, Alternative  
24 Fishery Management, the part of this addresses ACLs, repealing  
25 ACLs for Gulf red snapper. The rest of it would add a new item to  
26 council functions that allows the use of alternative targets in a  
27 recreational fishery and not just ACLs.  
28

29 This could help with unnecessary closures in the recreational  
30 fishery, due to issues that we've discussed already and we'll  
31 discuss tomorrow with MRIP data. I am sure there would be some  
32 commercial concern that the recreational sector will not have  
33 ACLs and the commercial would, and so that will be an issue that  
34 we'll have to deal with.  
35

36 *John Quinn:* Anybody want to be heard on this section? Seeing none, we'll  
37 move on.  
38

39 *Gregg Waugh:* Section 103 is Moratorium on Limited Access Privilege Programs  
40 for Mixed-Use Fisheries. This would put a moratorium on limited  
41 access privilege programs in the Gulf and South Atlantic.  
42 Obviously this would be a bone of contention, but it does reflect  
43 the current opinion of the majority of the fishermen in the South  
44 Atlantic Council area. If this were to go forward, we would want  
45 some more guidance on what "mixed-use" means. Does it mean  
46 any recreational participation, such that we could move forward

1 with fisheries that are all commercial?

2

3 *John Quinn:* Anybody want to weigh-in on this section? Leann.

4

5 *Leann Bosarge:* I just want to say that we haven't gone through this with our  
6 council yet, and so it's kind of -- I can, off-the-cuff give you some  
7 idea, maybe, of what we think, but I really can't speak on behalf of  
8 the entire council, but, just given the amendments that we have in  
9 process right now, we are looking at some types of programs, and  
10 so I don't know that we would be strongly in support of that at this  
11 point, but we will go through this document at some point with the  
12 council.

13

14 *Carrie Simmons:* Just generally, we think this would reduce flexibility for us, and we  
15 would really have to look at what stocks that this would potentially  
16 be applicable for.

17

18 *John Quinn:* Very good. Anybody else on that section? Seeing none, back to  
19 you, Gregg.

20

21 *Gregg Waugh:* Thank you, Mr. Chair. Section 104 is Rebuilding Overfished and  
22 Depleted Fisheries. It slightly rewrites the time period  
23 requirements. It would change "shall be as short as possible" to  
24 "shall be as short as practicable". That would give us some more  
25 flexibility. It maintains the ten-year rebuilding requirement. Any  
26 comments on Section 104?

27

28 *John Quinn:* Anybody on changing "possible" to "practicable"? Seeing none,  
29 Gregg.

30

31 *Gregg Waugh:* Section 105 is Modifications to the Annual Catch Limit  
32 Requirement. This section would significantly change how we use  
33 ACLs. If the fishing mortality rate was less than the F target, then  
34 there would be no ACLs. ACLs would be in place when  
35 rebuilding a stock. This would certainly not prevent the councils  
36 from still managing the commercial sector with a quota and the  
37 recreational sector with a combination of seasons and size and bag  
38 limits to approximate an F target.

39

40 There is a requirement in there that ACLs would be removed if  
41 stock assessments are not performed within the preceding five-year  
42 period. This would certainly ramp-up the requirement to produce  
43 stock assessments more frequently.

44

45 There is a requirement that there is no ACL if there is no effective  
46 method to monitor that annual catch limit, and this would actually

1 reflect where we are right now with our recreational red snapper  
2 fishery. Given the issues that we've talked about with MRIP, there  
3 is just no effective way to monitor the catches right now.  
4

5 *John Quinn:* Thank you. Does anybody want to share their thoughts on this  
6 Section 105? Leann.

7  
8 *Leann Bosarge:* Gregg, if there is -- I am not opposed to using an F. I guess my  
9 concern is this has kind of been brought up, and it's to just --  
10 We've come a long way with that fishery, in rebuilding that red  
11 snapper fishery, and so, if the issue is that we don't have a good  
12 handle on those recreational landings, but we're going to use a  
13 fishing mortality rate as our goalpost, then aren't we going to have  
14 to have a good handle on how many fish we're killing, aka  
15 landings?  
16

17 I guess that's where my concern is, and I just want to make sure  
18 that we don't change the measuring stick but we still have the same  
19 issues. I want to make sure that we solve the actual issues and not  
20 exacerbate a problem, if we change the measuring stick and then  
21 we end up going backwards on our rebuilding. I want to make sure  
22 that we fix the root of the problem, and so I'm not opposed to  
23 changing the measuring stick, but let's just make sure that we don't  
24 change it in such a way where there is accountability changes and  
25 we end up going backwards.  
26

27 *John Quinn:* Gregg.

28  
29 *Gregg Waugh:* I think part of the rationale here is that, instead of tracking catches  
30 on an annual basis, you would wait until you do a stock assessment  
31 and get an F rate out of the stock assessment to determine where  
32 you are with respect to your target.  
33

34 *John Quinn:* Bill Tweit.

35  
36 *Bill Tweit:* Thank you, Mr. Chair. The latter two of the four different  
37 alternatives have me really scratching my head, and so this is one  
38 where I think -- I would assume at least our council probably needs  
39 to take a hard look at this before really commenting, but I am --  
40 Maybe I am not reading this correctly, but I don't really understand  
41 how you know, with any confidence, whether the fishing mortality  
42 is below the target if you haven't had a stock assessment in the last  
43 five years.  
44

45 I am just left really struggling with that, nor how the Secretary  
46 would be able to determine that overfishing is not occurring when

1 you haven't had a stock assessment in that long, again, with any  
2 confidence. Then I think the last one has got some pretty profound  
3 implications as well that I certainly would want our council to  
4 discuss.

5  
6 *John Quinn:* Again, we're just trying to get some general input and discussion  
7 on it. Charlie Phillips.

8  
9 *Charlie Phillips:* Thank you, Mr. Chairman. If we couldn't figure out what F was  
10 until we got an assessment, at the rate we get assessments in the  
11 South Atlantic, we could really be in a bad place if we waited for a  
12 stock assessment, and so you could really get in a lot of trouble  
13 right here.

14  
15 *John Quinn:* Carrie.

16  
17 *Carrie Simmons:* Thank you, Mr. Chairman. As Ms. Bosarge said, we haven't had a  
18 chance really to delve into this as much as we probably should  
19 have, but we are preparing something for our council to review. I  
20 think something that would be helpful, that we could maybe sweet-  
21 talk Dave Whaley into doing for us, is taking some of this section  
22 here and comparing it to what is in H.R. 200, because there is some  
23 overlap, and I'm not sure exactly where the differences are, and so,  
24 if his eye could kind of focus in on some of those differences and  
25 maybe he could tell us where those are, that would probably help  
26 us, because some of them are very similar.

27  
28 *John Quinn:* Dave is nodding his head. Great. Thank you. Anybody else on  
29 that? Seeing none, next section, Gregg.

30  
31 *Gregg Waugh:* Thank you, Mr. Chair. Section 106 deals with Exempted Fishing  
32 Permits. It would require the Secretary of Commerce to follow a  
33 new procedure before approving or issuing any new exempted  
34 fishing permits.

35  
36 The new procedure would include a requirement for -- This is  
37 where you get the joint peer review of the proposed EFP by the  
38 appropriate regional fisheries science center and the appropriate  
39 state marine fisheries commission and a requirement that the  
40 Secretary certify that the regional fishery management council or  
41 federal agency with jurisdiction over the affected fishery has  
42 determined that -- Then there are several things.

43  
44 The fishing activity to be conducted would be consistent with any  
45 conservation and management objectives under the existing FMP  
46 or amendment, social and economic impacts expected to occur as a

1 result of the proposed EFP, the information collected and  
2 conducted under the proposed EFP will have a positive and direct  
3 impact on the conservation, assessment, and management of the  
4 fishery. The governor of each of the states of which any part of the  
5 state is within 100 nautical miles of the proposed activity under the  
6 proposed EFP has been consulted.  
7

8 This section would require that any EFP shall expire at the end of  
9 the twelve-month period beginning on the date the permit was  
10 issued and that any EFP that is renewed be consistent with the new  
11 requirements listed above.  
12

13 There is a note there that it's not clear if this will apply only to new  
14 EFPs or the existing EFPs will also expire in twelve months and  
15 whether they need to meet the new requirements in order to be  
16 renewed.  
17

18 *John Quinn:* Gregg, I know, in our previous discussion, we had some discussion  
19 around this twelve-month issue, and so, if there is any new  
20 information or new thoughts that people want to share on this  
21 section, or, if not, we will move along. Charlie Phillips.  
22

23 *Charlie Phillips:* Thank you. I can see this causing EFPs to get so tangled up that  
24 nobody would want to go there. I mean, you've got to talk to the  
25 governors of the other states, and it almost looks like they just  
26 don't want any more EFPs, just from a first glance, and I am not  
27 sure why, but it's going to tangle it up to where there just about  
28 won't be any, and we need them.  
29

30 *John Quinn:* Terry Stockwell.

31  
32 *Terry Stockwell:* Thank you, Mr. Chairman. I agree with Charlie. I think that the  
33 addition of the dual peer review and the involvement of the state  
34 governors would make what's already a fairly comprehensive and  
35 time-consuming process take forever. We work pretty well with  
36 GARFO and the local Science Center, and I don't think we need  
37 any more help.  
38

39 *John Quinn:* Herb Pollard.

40  
41 *Herb Pollard:* I would agree with Charlie and Terry. We have used the EFPs to  
42 develop new gears and test fisheries, and, in many cases, the EFP  
43 needs to go for more than one year in order to gather enough data  
44 to develop regulations. I don't see anything in this section that  
45 would help us or would improve our process. Thank you.  
46

1 *John Quinn:* Phil Anderson.

2

3 *Phil Anderson:* All set.

4

5 *John Quinn:* Very good. All right. Then we'll move on to the next section,  
6 Section 107.

7

8 *Gregg Waugh:* Section 201 deals with Cooperative Data Collection, and we did  
9 have some discussions about this. This provision would require  
10 the Secretary of Commerce, in consultation with the science and  
11 statistical committees of the council and the marine fisheries  
12 commissions, to develop and submit a report on facilitating greater  
13 incorporation of data, analysis, stock assessments, and surveys  
14 from state agencies and non-governmental sources.

15

16 We would need some clarification, in terms of marine fisheries  
17 commissions. Does that mean each state, whatever structure they  
18 have in place that is dealing with the marine regulations? This  
19 section would list the non-governmental sources that are to be used  
20 as sources of data, including fishermen, fishing communities,  
21 universities, and research institutions.

22

23 The report is required to identify types of data and analyses,  
24 especially concerning recreational fishing, that can be reliably used  
25 for the purpose of the Act, and include the setting of standards for  
26 the collection and use of that data and analysis in stock  
27 assessments and surveys and provide specific recommendations for  
28 collecting data and performing analyses.

29

30 Consider the extent to which it would be possible to establish a  
31 registry of persons who provide such information and consider the  
32 extent to which the acceptance and use of data and analysis  
33 identified in the report is practicable in fishery management  
34 decisions. There are some other requirements to take into account,  
35 requiring the Secretary to take into account and consideration, and,  
36 to the extent feasible, implement the recommendations of the  
37 National Academy of Science 2017 Report entitled "Review of the  
38 Marine Recreational Information Program".

39

40 *John Quinn:* Thank you very much. Any thoughts on this section that anyone  
41 wants to share with the group? Chris Oliver.

42

43 *Chris Oliver:* I have some questions about it. I'm not quite sure what they mean  
44 by "in consultation with the science and statistical committees of  
45 the councils", and is that like all eight of our SSCs or some subset  
46 or representation?

1  
2 That aside, there was a similar provision in H.R. 200, along these  
3 lines, that caused us quite a bit of concern. That, in essence,  
4 required the use of this information as best science available, and  
5 I'm sorry that I can't remember what we said about the provision  
6 in H.R. 200, but this approach is probably a more comfortable  
7 approach, frankly, at least studying it before you automatically  
8 require it, and so I would just make that comment, that this is  
9 actually probably a preferable approach, if you're going to  
10 approach it.

11  
12 *John Quinn:* Very good. Anybody else? Phil Anderson and then Bill.

13  
14 *Phil Anderson:* I can't find anything in this section that I like.

15  
16 *John Quinn:* That's a good comment. Bill.

17  
18 *Bill Twit:* It does appear to be sort of narrowly intended, but broadly crafted,  
19 and that is often pretty dangerous, and so I would certainly echo  
20 Phil's sentiment, but, in addition, at least from the North Pacific  
21 Council perspective, where this is -- As I mentioned earlier, in sort  
22 of comments on a similar point, I think where these sorts of  
23 processes may -- If new protocols or new provisions come into  
24 being, they're going to affect us most, as we think about how to  
25 incorporate traditional local knowledge that we get from native  
26 communities into our stock assessment processes, as we think  
27 about particularly adapting to climate change and what some of the  
28 longer time series may tell us.

29  
30 I also think that, at least in the Northwest, this doesn't -- Tribal  
31 governments are often key partners in collecting and providing  
32 information into a broad variety of our management processes, and  
33 I guess they qualify as a governmental source, but, the way this is  
34 crafted, it doesn't appear to consider any role of tribes at all, and I  
35 think that's a real oversight.

36  
37 *John Quinn:* Thank you. Anybody else on this? Seeing none, next section,  
38 Gregg.

39  
40 *Gregg Waugh:* Thank you, Mr. Chair. The final section is Section 202 that deals  
41 with Recreational Data Collection. This is all new wording, a new  
42 provision. It would require the Secretary of Commerce to establish  
43 partnerships with states to develop best practices for the  
44 implementation of state registry programs.

45  
46 It would require the Secretary, in cooperation with the states, to

1 develop guidance that details the best practices for administering  
2 state registry programs, providing that guidance to the states. It  
3 would require the Secretary to submit biennial reports to Congress  
4 that include estimated accuracy of the federal registry program and  
5 the existing state registry program, priorities for improving  
6 recreational fishing data collection, and an explanation of any use  
7 of information collected by state registry programs and by the  
8 Secretary, including a description of the consideration given to the  
9 information collected by the federal program.

10  
11 Another section requires the Secretary of Commerce to make  
12 grants to states to improve the implementation of state registry  
13 programs, require the Secretary to prioritize the grants based on the  
14 ability of the grant to improve the quality and accuracy of the  
15 programs.

16  
17 The section would require that a portion of the funds appropriated  
18 to MRIP be used for the grant program to the states and require the  
19 Secretary of Commerce, within ninety days of the enactment of  
20 this legislation, to enter into an agreement with the National  
21 Academy of Science to evaluate whether the design of MRIP, for  
22 the purposes of stock assessment and determination of stock  
23 management reference points, is compatible with the needs of in-  
24 season management of annual catch limits and whether in-season  
25 management of annual catch limits is appropriate for all  
26 recreational fisheries.

27  
28 In the end, the Secretary would be required, within six months of  
29 receiving the report from the National Academy of Science, to  
30 submit to Congress recommendations for changes that could be  
31 made to MRIP.

32  
33 *John Quinn:* Thank you very much. I know there's a lot in there, but does  
34 anybody want to share their thoughts on that? All right. Charlie  
35 Phillips.

36  
37 *Charlie Phillips:* I am trying to think as I go, and that's always dangerous. I am  
38 looking where they want to take money from MRIP and give it to  
39 the states, and, to me, it would make more sense to just keep that  
40 money in MRIP and make MRIP do what you need it to do, instead  
41 of trying to have multiple things trying to do the same thing. It  
42 seems counterproductive, to me, but maybe that's just me.

43  
44 *John Quinn:* Thank you very much. Michelle Duval.

45  
46 *Michelle Duval:* Thank you, Mr. Chairman. This seems to sort of just provide a

1 statutory mandate for some of what MRIP already does. I mean,  
2 my understanding is that MRIP has provided some pretty  
3 significant funds to the Gulf for the development of these state-  
4 based reporting programs. Maybe it might make me feel a little bit  
5 more comfortable if the language required MRIP to proportionally  
6 distribute those funds, like maybe hand some over to the South  
7 Atlantic, and so it's a little equity that I think I would like to see.  
8

9 I don't have any problem with distributing funds to the states if the  
10 states have ideas or projects that could be used to help improve the  
11 MRIP program as a whole. I just think that it needs to be equitably  
12 distributed.  
13

14 *John Quinn:* Thank you. Anybody else? Carrie.

15  
16 *Carrie Simmons:* Thank you, Mr. Chairman. I think, this one, we have some  
17 similarities to H.R. 200. I think it's Section 16, and so, if we could  
18 get something similar for this section and the ACL section, where  
19 we kind of flesh those out even further and say how these bills are  
20 different, a side-by-side, maybe, comparison of how they're the  
21 same or whatever the best way is to help us focus in on those  
22 differences or similarities, so that we could provide a better  
23 comment, that would really help us, I think, from a staff  
24 perspective.  
25

26 *John Quinn:* Okay. Fair point. All set, Gregg? Great. I think that was helpful,  
27 certainly, in the initial stages of this, but I appreciate your input on  
28 that bill. Now on to our final item of the day, National Monuments  
29 and Sanctuaries, and I will turn it over to Kitty.

1 **8. NATIONAL MONUMENTS AND SANCTUARIES**

2  
3 *Kitty Simonds:* Thank you, Mr. Chair. I am going to do a little bit of an overview  
4 and then, of course, we'll be asking the NMFS what the reviews  
5 involve and what is their role in reviewing these monuments.

6  
7 There are two Executive Orders. One was the review of the  
8 designations under the Antiquities Act and the other one was  
9 Implementing an America-First Offshore Energy Strategy. As you  
10 can see, the Secretary of Interior is charged to review the  
11 monument designations, in consultation with Commerce, Defense,  
12 Agriculture, Energy, Homeland Security, and other executive  
13 departments or agencies.

14  
15 The Secretary has forty-five days to provide an interim report on  
16 Bears Ears Monument or any other monument designation, and the  
17 Secretary of Interior has 120 days to provide the final report to the  
18 President and the report to include recommendations for  
19 presidential actions, legislative proposals, or other actions.

20  
21 In this review, the Secretary is to consider -- There are six major  
22 points, and the seventh is other factors, and so the first one is a  
23 requirement for the smallest area compatible with objects to be  
24 protected, and so, of course, my question is are fish objects?  
25 Whether lands were appropriately classified as historic landmarks  
26 and the effects of a designation on the available uses of the  
27 designated federal lands, et cetera; the effects of the designation on  
28 the use and enjoyment of non-federal lands; and then concerns of  
29 state, tribal, and local governments affected by the designation;  
30 and availability of federal resources to properly manage the areas;  
31 and then the other factors.

32  
33 As soon as we saw this, we immediately drafted a letter to the  
34 Secretary and provided an overview, our overview, of the National  
35 Monuments in the U.S. Pacific, and so the first job to do was to  
36 change miles to acres, as Ed mentioned earlier, and so our  
37 monuments actually totally 760,000,000 acres, and so I think we  
38 met the 100,000-acre threshold by a lot.

39  
40 The next one was whether these designated lands are appropriately  
41 classified under the historic landmark, and so we do have a few  
42 World War II wrecks out there, but many of those locations have  
43 not been identified. The justification to close U.S. waters to U.S.  
44 fishermen, with respect to scientific interest of those waters, for us  
45 was highly questionable, particularly with respect to highly  
46 migratory species.

1  
2 These monuments, these areas, have already been studied and  
3 protected by other regulations and through the Magnuson-Stevens  
4 Act and U.S. Wildlife Refuges. The proclamations actually have  
5 never been evaluated on how the resources of historic and  
6 scientific interest are contained within the smallest area compatible  
7 for their protections.  
8

9 The third is the effects of designation on the available uses of  
10 designated lands. Well, it closed commercial fishing for us in 51  
11 percent of the U.S. Exclusive Economic Zone in the Pacific  
12 Islands, and the targeted species are highly migratory. Fishermen  
13 need to be able to access these fish, and obviously they travel for  
14 thousands of miles, and so we need to be able to go in and out of  
15 our zone, so that we can make use of the resources.  
16

17 Then we also described the economic impact to us, and closing the  
18 remote islands to not just our fishing, but also the U.S. purse seine  
19 fishery, and I think I quickly mentioned that earlier was that it was  
20 one of the factors for one of the canneries to close. Then the Rose  
21 Atoll Monument put off limits to valuable fishing grounds, and one  
22 of the things they did when they did that monument -- The council  
23 already had regulations in all of these areas, zero to fifty miles.  
24 The Northwestern Hawaiian Islands were closed to longline fishing  
25 in 1990 or 1991, and the same thing for Rose Atoll.  
26

27 What essentially happened was the Presidents just overlaid the  
28 monuments over our fishing regulations, and I just want to point  
29 out that where our council is coming from is not to get rid of  
30 monuments, but it's to remove monument fishing prohibitions.  
31 That is where we are coming from, because we are the fishing  
32 people, and whether or not the administration gets rids of  
33 monument is fine, and whatever, but we need to work immediately  
34 on removing the fishing prohibitions and get our fishermen back in  
35 U.S. waters. It's like totally uncalled for.  
36

37 So then the next Executive Order, which is offshore energy  
38 strategy, requires the Secretary of Commerce to refrain from  
39 designating or expanding any National Marine Sanctuary unless  
40 the sanctuary proposal includes an Interior assessment of energy  
41 and mineral resources.  
42

43 Well, I can tell you that there are a lot of mineral resources around  
44 Hawaii, on the Marianas, and the Secretary of Commerce has 180  
45 days to review all National Marine Sanctuaries and all Marine  
46 National Monuments designated or expanded within the last ten

1 years.

2

3 *John Quinn:* If it could just -- That is not coinciding with the --

4

5 *Kitty Simonds:* Okay. Now we're to the next one. Our issues, and I have  
6 mentioned it before, about closing the zone, 51 percent, and,  
7 around the Hawaii Archipelago, the closure is 61 percent of our  
8 U.S. EEZ, and so if you can imagine closing the entire  
9 Northwestern Hawaiian Islands, and our longliners have to fish  
10 outside, competing with China, Japan, Korea, all of the other  
11 countries, and, by the way, when we look at enforcement reports,  
12 those countries are fishing right outside of our zone, to the north.

13

14 As we said, this is not consistent with the Antiquities Act of the  
15 smallest area compatible, and then there was the American Samoa  
16 Sanctuary expansion, which they said a closure to subsistence  
17 fishing was necessary so that the sanctuary could do some research  
18 in that zone.

19

20 Well, I can tell you, to this day, there is no research plan, and no  
21 research has been done, and so, for our territories and our state, all  
22 of the promises have been unfulfilled. Pew promised the Marianas  
23 millions of dollars and all sorts of things, and nothing has  
24 happened, and so it's bad.

25

26 Then there is the Humpback Whale Sanctuary, and the humpbacks  
27 have been considered recovered, and so they have been delisted  
28 from the ESA, and so some of the questions we have is -- It's a  
29 single species sanctuary, and so should that sanctuary continue to  
30 be there? They did attempt to, a couple of years ago, include  
31 turtles and birds and all of those kinds of things, but we all  
32 opposed that, because that would have been a third federal agency  
33 trying to manage the same thing. We have the National Marine  
34 Fisheries Service, the Fish and Wildlife Service, the State of  
35 Hawaii, and then we use the term "federal overreach" a lot, and  
36 this is federal overreach.

37

38 Nearly all of the regional councils have sanctuaries designated in  
39 their jurisdiction, and nearly all sanctuaries have undergone  
40 expansions in recent years. Two of the fishery management  
41 councils have marine monuments, and so our recommendation to  
42 the administration is that, in this review by the two secretaries, that  
43 you include the fishery councils in the review.

44

45 What I am asking the body to agree to is for us to send a letter to  
46 the administrations and to invite us and how that's done, one from

1 the east and one from the west, but, after all, we are a quasi-federal  
2 agency. We are not the public, even though we're considered the  
3 public in many instances over the years, and so obviously we're  
4 the ones who can give the best information about the monuments  
5 and the sanctuaries and what is needed and what is not needed.  
6

7 Again, for us, we already have regulations that protect, in the  
8 Northwestern Hawaiian Islands, the corals. They are not beyond  
9 fifty miles. The yellow tang and all these reasons and pictures of  
10 animals that need to be protected, there will be no longline fishing  
11 from zero to fifty miles, and so we feel that it's just simply remove  
12 the monument fishing prohibitions and we'll be fine and so will the  
13 critters in the whole zone.  
14

15 As I said, we've had Magnuson Act regulations for all of our  
16 territories and the State of Hawaii, and they are still in place. Over  
17 the years, since the designations, I have been asked by the Region  
18 for the council to vote to remove these regulations, but I am the  
19 ever-hopeful person, and so I refuse to do that, to bring it up for  
20 discussion, and so that is why they are still there, and that's it.  
21

22 *John Quinn:* Thank you very much. Do you have a proposed letter?  
23

24 *Kitty Simonds:* No, but we'll take care of that.  
25

26 *John Quinn:* Okay. Why don't I open it up for discussion on whether we should  
27 consider signing a CCC letter or drafting a letter to include us in  
28 the review of the monuments. Any discussion on that? Tom Nies.  
29

30 *Tom Nies:* One thing that I didn't put in the binder, because I missed it, was  
31 that, on May 11, a few days ago, I think on Friday, there was a  
32 Federal Register notice published by the Secretary of Interior  
33 asking for public comment on the monuments. Basically, the  
34 Federal Register notice is following up on the Department of  
35 Interior's news release, and I would just point out that, in relatively  
36 short order, we got a news release today that I think there have  
37 been 15,000 comments opposing any changes to the monuments.  
38

39 We wrote letters to President Obama and President Trump,  
40 pointing out our record with fisheries management, and it seems  
41 like this would be at least that, and perhaps what Kitty is  
42 suggesting would be appropriate way to form a letter on the  
43 monuments and get that in.  
44

45 *Kitty Simonds:* I see no objection, Mr. Chairman.  
46

1 *John Quinn:* I am waiting. We're trying to make discussion here. Michelle  
2 Duval.  
3  
4 *Michelle Duval:* Thank you, Mr. Chairman. Kitty, just because this slide isn't up  
5 there, and so the request is just to include the councils in the  
6 review, that the councils be included in the review?  
7  
8 *Kitty Simonds:* Yes.  
9  
10 *Michelle Duval:* Okay.  
11  
12 *John Quinn:* Terry Stockwell.  
13  
14 *Terry Stockwell:* Thank you, Mr. Chairman, and thank you, Kitty. I certainly  
15 appreciate the position the Western Pacific is in. I think it's  
16 probably appropriate for the councils to be involved in the review,  
17 but I am just struggling with what does that mean, in terms of what  
18 would be expected of us, our collective staffs, and what  
19 meaningful input could we have into effecting a change without  
20 just raising false expectations and making a bad situation worse.  
21  
22 *Kitty Simonds:* Sure. You're always thinking up all of those kinds of things, and  
23 they all sound negative, but, anyway, I think, after we hear from  
24 Sam about the review, because we have asked him to tell us how  
25 far they are in the process for review, but I am thinking, obviously,  
26 that we should at least have representation, one from the east and  
27 one from the west. That's how the State Department gets us  
28 involved in things, so everybody isn't attending or participating,  
29 something like that, but let's hear from Sam about how he thinks  
30 the review is going and what is happening there.  
31  
32 *John Quinn:* The floor is yours.  
33  
34 *Terry Stockwell:* To that point, Kitty, I was thinking about you on my trip to D.C. a  
35 year ago, when we went to the Oceans Conference.  
36  
37 *Kitty Simonds:* That's right. We were the only fish people at the Ocean  
38 Conference, and it was really kind of interesting, all the people we  
39 saw there and their displays or whatever, and so, in listening, the  
40 most interesting thing was all of the companies that came out with  
41 the amount of money that were pledging, \$500 million and \$250  
42 million, and this was the Monterey Bay Aquarium, but all of that  
43 money is to go to the foreign countries. None of that money is to  
44 be spent in the U.S., and I think that they should be supporting  
45 ocean objectives for the United States as well, and so that was the  
46 most astonishing thing.

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*John Quinn:* Let's hear from Sam.

*Sam Rauch:* Thank you, Mr. Chair. I am not going to take a position on whether you should send a letter or not. I did want to comment on the Federal Register notice that went out. This is the Department of Interior's process. They have, as Kitty mentioned, an accelerated timeframe, quicker than the Secretary of Commerce.

They are accepting comments -- Unless you want to talk about Bears Ears, but, on all other monuments, for sixty days from I guess May 12<sup>th</sup>, and so sixty days. If you're going to participate in that process, it's sixty days. The Secretary of Interior did, at least in the press release, and I haven't gone back and looked at the actual Federal Register notice, but the press release indicates that the Marine Monuments will be reviewed as part of this -- The Marine Monuments clearly qualify, because of the spatial dimensions alone.

They will be reviewed in this process. The Interior Department does say that the Commerce Department will lead the review of the Marine National Monuments, in consultation with Interior, but, to assist in that process, they will take comments on the Marine Monuments and forward them to us, and so I would encourage, if the council does want to participate, to participate within that sixty-day timeframe. I do not believe that the Interior Department, or the White House, would be amenable to extensions to accommodate meeting schedules of the councils, and so that is that.

In terms of the broader issue, we are working with Interior and the Department of Commerce to determine how exactly that review will be conducted. What we are doing on our end right now is gathering the types of information, economic information and other kinds of characterization information, about the monuments themselves.

It is not clear yet just exactly how Interior and Commerce are going to carry out the decision-making under that or how the recommendations will be formulated. Right now, all we are doing is working on the information, the common set of information, that might be relevant to those determinations.

*John Quinn:* I would just raise a point. Sam brings up a good issue of would we have to run this by our respective councils to sign on to a letter like that, and I would just roll that out as an issue that may come up in

1 this. Ed.  
2  
3 *Ed Ebisui:* A question for Sam, please. With respect to information gathering,  
4 are you implying that it's like a truncated NEPA analysis? What  
5 kind of information are you gathering and considering?  
6  
7 *Sam Rauch:* For instance, the Western Pacific Council did an economic report  
8 on the expansion of the Papahānaumokuākea Monument, and that  
9 is the kind of information that we are gathering together and will  
10 provide up the chain. We are not creating new information. We  
11 are not doing economic studies, and we're not doing an NEPA-like  
12 analysis. We're just gathering the available information that we  
13 have on the scope of it, what is in the monuments, what uses were  
14 there before and are either there now or not.  
15  
16 I will also say, which we didn't talk about, that we are working  
17 with the Sanctuary Program, because, at least for the Commerce  
18 portion, as Kitty mentioned, the sanctuaries that were created in the  
19 last ten years are also being reviewed, and looking at the uses that  
20 are allowed in the sanctuaries, and so we are doing that together  
21 with them, but, at the moment, all we're doing is sort of gathering  
22 the available information.  
23  
24 *John Quinn:* Ed.  
25  
26 *Ed Ebisui:* Just a follow-up. Are you folks also gathering information on  
27 potential preservation and conservation benefits of the no-fishing  
28 prohibition?  
29  
30 *Sam Rauch:* If you have any of that, we will take that too. There is sixty days  
31 for comments to provide all of that information, and so we're  
32 gathering what we have, but, if you have others that you want to  
33 make sure that we look at, get it to us in that sixty-day period.  
34  
35 *John Quinn:* John Gourley.  
36  
37 *John Gourley:* According to the EO, it seems like you have six subject matters  
38 that you're going to be doing your evaluation on, and so, therefore,  
39 if you start collecting information that's not part of those six, how  
40 is that going to weigh into the final determination? Also, how are  
41 you going to look at a petition signed by 10,000 fourth-graders  
42 from Kansas supporting the monuments?  
43  
44 *Kitty Simonds:* As one?  
45  
46 *Sam Rauch:* I didn't get that petition, and so I don't know.

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*Kitty Simonds:* It's probably coming.

*Sam Rauch:* The decision of what to do about these issues is not something that the Fisheries Service will make a determination on. We are gathering the kind of information that will help the decision-makers here. With the monuments, it is either the President or Congress. There is some question as to whether the President, at this point, this President, can change what a former President did.

There is a 1938 legal opinion that suggests that the President cannot, that this President cannot undo what a prior President has done. Congress could clearly do that, and so, in terms of what to do about any of this information, that is a decision that will be left to the President or Congress.

The Fisheries Service's role is just to gather whatever information we have on these topics that might be useful for a decision-maker, and I don't know how they will choose to respond to however many requests from Kansas fourth-graders that you said.

*John Quinn:* Kitty.

*Kitty Simonds:* Well, I think, if that petition doesn't address the considerations, I think it should be dumped. I think they all should follow exactly what the EO says, and that is exactly what we did, and we sent our letter to Zinke on April 26, with an overview addressing all of the considerations and other factors.

Other factors, for us, was -- Well, you will recall, maybe, but the Pew -- They have been behind most of our monument designations. They developed a scientific document and used that, and we have refuted every bit of that document, with the help of the National Marine Fisheries Service science people, looking at the science, and so, for us, that was an other factor, and we included that in our submission to the Secretary.

We thought we should do it right away. We did it before the Federal Register notices, to Ross and to Zinke, and so, if anybody - - As Sam said, if anybody is going to be writing, we've got sixty days to do this, and so we're also going to be submitting it through the regulations.gov way as well, but we thought that we would get this out right away. I have shared them with you. You all have a pile of things from me right in front of you, Executive Directors.

*Sam Rauch:* You did mention there are different criteria in each of the two

1 Executive Orders. There is a set of seven in the Interior one. The  
2 last one includes such other factors as the Secretary deems  
3 appropriate, and so basically the Secretary, and this was Interior,  
4 can consider, in addition to these, anything else that the Secretary  
5 of Interior chooses to consider, if Zinke thinks it's appropriate.  
6

7 The other three are in the America-First Energy Order, and so it's a  
8 slightly different formulation of criteria that we're looking at in the  
9 sanctuary and the Marine Monument process, but I envision, as the  
10 press release did indicate, that related reviews, and we'll try and be  
11 as efficient as possible in looking at how that -- Clearly Marine  
12 Monuments are going to get reviewed under both sets of criteria.  
13 The sanctuary is only under the second one.  
14

15 *John Quinn:* I will call on Leann now, for a little change of pace.  
16

17 *Leann Bosarge:* I think Sam just addressed my question. I was wondering if  
18 sanctuaries would fall under the Interior review or not, but it  
19 sounds like it won't, but, otherwise, as far as the Gulf is concerned,  
20 we would more than happy to sign that letter and send that off.  
21 That is exactly what we have requested of the sanctuaries  
22 themselves as they were doing their expansion. We asked them to  
23 please consult with us and include us in the process. Let us be on  
24 their advisory panel as a non-voting member, just so that we would  
25 be there and give that input as they were going through every step  
26 of that process, and so I don't see where we would have any  
27 problem signing that letter.  
28

29 *John Quinn:* Mike Louisi.  
30

31 *Mike Louisi:* Thank you, Mr. Chairman. Speaking for the Mid-Atlantic, I don't  
32 foresee there being any problem with us signing the letter, but I  
33 would like to see the letter and read the letter, and I would like to  
34 be sure -- Not everybody thinks -- Terry is not the only one that  
35 thinks like he does, and so I don't want to get myself into a  
36 position where I have committed the Mid-Atlantic Council to some  
37 review process for monuments for which we don't have, and so,  
38 while I get where you're coming from, and I think it's an important  
39 thing to be committed to, I need to see the letter. Then, as long as  
40 we're not committing ourselves to something, and if this is allowed  
41 for, as a result of this letter-writing campaign, then I obviously  
42 realize the Western Pacific will want to be included, with your  
43 monuments out there, and so thank you.  
44

45 *John Quinn:* Kitty, a question. Could that letter be drafted for review by  
46 Thursday?

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*Kitty Simonds:* Yes, no problem. Remember the last meeting we had and how many letters we took care of right there?

*John Quinn:* I just want to get everything on the record.

*Kitty Simonds:* Okay. May I continue? Sam mentioned the sanctuaries, that review, and so that review will include acreage affected and budgetary impacts on managing the areas, adequacy of prior federal, state, and tribal consultations, opportunity costs associated with potential energy and mineral exploration. Those are the three things that are a part of that offshore energy strategy EO.

Then my last thing about the sanctuaries is they actually tried to kick us off their advisory committee, and so we opposed it, and then they just left it alone, but they did try to get us off any advisory committee, the council. However, they didn't go through with it.

*John Quinn:* Michelle Duval.

*Michelle Duval:* Thank you, Mr. Chairman. I mean, I don't have a problem with signing a letter, I think, on behalf of the South Atlantic. Similar to Terry and Mike, I think we just look at the letter ahead of time, as per has been the case with any of the other letters that we've signed on behalf of the CCC, and I'm fine with that.

I will note that, in terms of the sanctuaries, there is the Monitor National Marine Sanctuary within the South Atlantic's jurisdiction. It's actually in North Carolina, but they do have a Sanctuary Advisory Council, and that sanctuary is really -- It's about maritime heritage and not necessarily about protecting biology, and I can't remember if I have noted to this group before that we have had the sanctuary staff come and give a presentation to the council, and I believe that might have been in December of last year, regarding the proposed sanctuary expansion. They are working on that right now, is my understanding, although I'm not quite sure how that sanctuary expansion might have gotten tied up in the change of administration.

Regardless, I sit on the Sanctuary Advisory Committee, as a North Carolina state government representative, and we do have a member of the council who sits on there sort of as a council representative. She is not designated as a council representative, but we made a very strong pitch to have someone from our council sit on that Sanctuary Advisory Committee, just to speak to some of

1 the potential impacts that could be incurred by our fishing industry,  
2 based on if there were to be any regulations proposed that could  
3 impact things like that, and certainly the fishing communities in  
4 that area are very leery of any additional regulations that could  
5 impact their fishing activities, and so thank you.  
6

7 *John Quinn:* Miguel.

8  
9 *Miguel Rolon:* We are ready to support the letter, and we have some experience.  
10 We have a little monument, but it causes a lot of problems, and I  
11 have been kicked out of many meetings with that monument and  
12 the sanctuaries before, because they invite me as a part of the  
13 observer group, and we were not allowed to even participate in the  
14 discussion or vote in anything.  
15

16 I personally believe that, to move any of those monuments, will be  
17 very, very difficult, but at least, to your point, if they allow us to  
18 let's say help in the management of the fishery there, it's  
19 something that -- Ban that prohibition, because what we have is a  
20 prohibition, or, at least in our area, it's a prohibition of the  
21 sanctuaries and the management of fishing and activity, and the  
22 fishermen and the local authorities are always complaining that we  
23 don't know what is happening in there, and we don't know  
24 whether the fish are healthy or not there and what is happening.  
25

26 The management of the fishery that we do might be able to bring  
27 that back to the open and be able to provide some management  
28 regime for those areas that are closed to any scrutiny by the public  
29 that is interested in fisheries.  
30

31 *John Quinn:* Thank you. Why don't I propose that -- It appears that there is no  
32 objection, at least voiced, to signing this letter, after being seen,  
33 and so maybe you could get it out to us as soon as possible. We've  
34 got these fifteen-minute blocks set aside, over the course of the  
35 next two days, and we could review the letter, and that's probably  
36 the best way to proceed, unless there is any objection. Chuck  
37 Tracy.  
38

39 *Chuck Tracy:* Thanks. No objection to that process. I guess I would say that,  
40 after we take a look at the letter, if we decide that we need to take  
41 it back to our council, we do have a council meeting in June, and  
42 we've got this CCC business as an action item, and so we could  
43 take it back to our council and still meet the sixty-day deadline. If  
44 that's acceptable, we might decide to go that way.  
45

46 *John Quinn:* Okay. That concludes the business for the day, and I'm going to

1 turn it over to Tom Nies just for some announcements about the  
2 rest of the evening.

3  
4 *Tom Nies:* I am looking at Joan here, because I'm going to need a little help.  
5 The first thing I wanted to do is throw a slide on the screen just to  
6 highlight very quickly the follow-ups from today, to make sure that  
7 I got all of them down right, rather than wait until the end of the  
8 meeting and find out what I missed.

9  
10 A couple of things from this morning that I think the agency  
11 agreed to try and figure out for us was the letter that Mike was  
12 talking about, a letter between the Department of Commerce and  
13 GSA on tax-exempt status. Adam also said that he would track  
14 down an opinion on inherent governmental functions for us.  
15 Gregg was going to update the Legislative Workgroup paper. Do  
16 you intend to bring that back to us at this meeting?

17  
18 *Gregg Waugh:* Yes, we will have that hopefully for tomorrow afternoon. If not  
19 tomorrow afternoon, the following.

20  
21 *Tom Nies:* The other one is that Kitty is working on a letter for the monument  
22 issue that we just talked about. Those are the only four follow-ups  
23 that I recall from today that we need to address.

24  
25 *John Quinn:* Anybody have anything to add to that list? Seeing none.

26  
27 *Tom Nies:* Okay. Moving along, tonight, we have a social event. The boat  
28 leaves at six o'clock. Hopefully all of you signed up and paid, as  
29 appropriate, and you should have a ticket if you did. If you didn't,  
30 you're out of luck.

31  
32 We have buses that are going to the location and from. The bus  
33 leaves at 5:30. It's roughly eight-tenths of a mile up Harbor Loop  
34 Road. It's not hard to find, and so it's probably about a fifteen-  
35 minute walk, if any of you prefer to walk, rather than take the bus,  
36 but we do have the bus, and so we would like to use it, because we  
37 paid for it.

38  
39 The only other thing I would mention is I had a few people  
40 approach me that were interested in watching a vessel offload, if  
41 possible. There is a boat that's coming in tomorrow with 50,000  
42 pounds, primarily of haddock. A good time to go watch the  
43 offload would be at noon, which means you miss lunch, and I think  
44 it's right across the street, basically. It's at Fishermen's Wharf. I  
45 am not sure that I know the location right, but, anyway, I think it's  
46 very close.

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However, the pier is relatively limited. We can only handle about twenty people, and so I've got a couple of people that have already told me about it, and so they're at the top of the list, but see me afterwards and I will keep track of how many folks we have. I think that's it.

*John Quinn:*

Very good. We stand adjourned.

*(Recess)*

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## 9. NOAA GC OVERVIEW OF RECENT LEGAL ACTIONS

1  
2  
3 *John Quinn:*

I think everybody who went on the boat cruise last night had a great time. Again, thank you to the staff for organizing that, and, whoever ordered up the weather, and I think it was another department in NOAA that ordered it up, but thanks to them as well. That was Sam's contribution to last night, was the weather. We're going to start this morning with the NOAA GC Overview of Recent Legal Actions and then follow it up with the Conflict of Interest Policy Guidance, and so I'm going to turn it over to Adam Issenberg.

11  
12  
13 *Adam Issenberg:*

Thank you. It's been, I think, four years since we've done one of these litigation updates. I was beginning to feel a little unloved, but I just mention that by way of saying that there were a lot of cases to cover over the last four years, and so I've tried to whittle it down here. You probably won't see every case. You definitely will not see every case that has come out in the last four years. I've tried to focus on some bigger-picture issues.

20  
21 In particular, if you're hoping to see the case that deals with a --  
22 There are a lot of cases that deal with kind of very local issues,  
23 specific statutes or specific MSA provisions related to a specific  
24 region or a specific fishery, and I generally am not going to talk  
25 about those, just in the interest of time and a manageable group of  
26 cases. With that, I will get started.

27  
28 I've tried to organize the cases around some themes, and the first  
29 case that I'm going to talk about deals with when you can  
30 challenge a fishery management action. That case is the *Anglers  
31 Conservation Network v. Pritzker*.

32  
33 This is one of a series of cases with the same name and a group of  
34 cases called Anglers, and also called Flaherty, that deal with  
35 questions related to forage fish, particularly river herring and shad,  
36 in both the New England and Mid-Atlantic Councils. This case  
37 was a challenge to the Mid-Atlantic Council's decision to defer  
38 development of Amendment 15 to the Mackerel, Squid, and  
39 Butterfish FMP.

40  
41 The amendment was begun in 2012, and it was a vehicle for  
42 considering whether to add river herring and shad as managed  
43 stocks in the fishery. The council voted, ten to nine, against  
44 proceeding with Amendment 15, effectively tabling the action and  
45 instead set up a working group to study the question and report  
46 back for further consideration after three years.

1  
2 The plaintiffs in the case challenged the action, saying that the  
3 council decision was a final action that was subject to review, and  
4 the final action here, of course, was not to take action. The  
5 plaintiffs argued that they could sue for a failure to act, because the  
6 Magnuson Act requires conservation and management, requires  
7 that stocks that are in need of conservation and management be  
8 included in an FMP.  
9

10 They also argued that the Regional Administrator's vote against  
11 proceeding with the amendment was a federal action, and the court  
12 held that that decision was not a final agency action and not  
13 reviewable, and so, here, this seemed like a fairly logical decision.  
14 The court did not give much consideration to the question. It noted  
15 that NMFS is the federal agency and that the council here hadn't  
16 forwarded an action to NMFS for its review.  
17

18 The next case is -- I have put it under the Aquaculture Heading, but  
19 at least part of the case is related to this point. I think, as folks  
20 know, in late 2008 or early 2009, and I don't recall exactly when it  
21 was, the Gulf Council adopted an Aquaculture Fishery  
22 Management Plan, and the Gulf Restoration Network immediately  
23 challenged that plan, before regulations were implemented.  
24

25 In this case, we were a step beyond where we were in the last case.  
26 The council had taken action and had submitted the plan for  
27 approval, but regulations had neither been proposed nor  
28 implemented, and the plaintiffs challenged it at that point. Here  
29 again, the court dismissed, saying that there was no final agency  
30 action and that the FMP does not constitute final agency action  
31 without promulgation of the corresponding regulations. Neither  
32 approval of the FMP nor failure to act on it marks the end of the  
33 decision-making process, nor does the FMP itself establish any  
34 rights or obligations or create any binding legal consequences.  
35 That elaborates on the prior case.  
36

37 Just sort of an update where we are with this issue, now it's seven  
38 years later, and the final rule has been issued implementing the  
39 plan. We have a new lawsuit challenging the plan. That was filed  
40 on -- It says there the rule was published in January of 2016, and  
41 that should actually be January of 2017.  
42

43 Litigation was filed soon after that, and we have been working on  
44 the administrative record, and a briefing is expected to occur  
45 shortly, and so I will hopefully have something to report on that  
46 the next time we do this, and I should say that feel free to ask any

1 questions as we go along. There are a lot of cases here. If you've  
2 got a question or a comment, we can just discuss those as we go  
3 along, rather than waiting until the end.  
4

5 This is another case dealing with aquaculture. In this case, the  
6 Western Pacific Council issued a Coral Reef Ecosystem Fishing  
7 Permit for the purpose of testing an aquaculture system that  
8 involved towing a pod behind a sailing vessel and growing fish in  
9 that pod.  
10

11 This was not an FMP amendment, nor was it a regulation, but it  
12 was a permit, and the plaintiffs challenged the fundamental  
13 question of whether aquaculture is fishing under the Act. Because  
14 the permit was a one-year permit and the litigation proceeded after  
15 the permit had expired, there was some question of whether the  
16 case was moot at that point.  
17

18 The court ultimately held that the interpretation that the Magnuson  
19 Act is fishing is reasonable, that the MSA defines fishing to  
20 include the catching, taking, or harvesting of fish, and they looked  
21 to the dictionary definition of harvesting, which refers to the act or  
22 process of gathering a crop, and they noted that, essentially, what  
23 the project involves here is the growing and harvesting of a crop of  
24 almaco jack fish to sell for human consumption.  
25

26 The court dismissed a NEPA challenge on the basis that it was  
27 moot, and so the case went up to the 9<sup>th</sup> Circuit, and the 9<sup>th</sup> Circuit,  
28 in a very short, unpublished decision, which means that it's not an  
29 authoritative decision and it can't be cited as precedent, affirmed  
30 the Magnuson Act point and concluded that the NEPA claim was  
31 ripe for consideration, and they sent it back to the district court for  
32 further review.  
33

34 We have a subsequent case, Kahea II, that challenged the -- It  
35 focused on the NEPA issue, and particularly the failure to prepare  
36 an environmental impact statement. There were a lot of claims in  
37 that case.  
38

39 I think the two most interesting were the two I have identified on  
40 this slide, and particularly whether NMFS had adequately  
41 considered whether issuance of the permit would establish a  
42 precedent for future aquaculture permits, and the court concluded  
43 that there was adequate consideration and that that did not require  
44 an EIS, because of the limited duration and scope of the permitted  
45 project. The specific nature of the project, it would be unlikely to  
46 itself establish a significant precedent that would not require

1 further analysis in a subsequent aquaculture action.

2  
3 Then the other was whether the matter was highly controversial,  
4 and the court found that there was not really any substantial  
5 dispute on the points that the plaintiffs had identified, particularly  
6 impacts on commercial and charter fishing and on native Hawaiian  
7 medical practices.

8  
9 *John Quinn:* Why don't we stop right there to see if there's any questions on the  
10 first three sets of cases. Chuck Tracy.

11  
12 *Chuck Tracy:* Thanks, Adam. The court held that an EIS was not required, but  
13 presumably there was some NEPA coverage for the --

14  
15 *Adam Issenberg:* Yes, I'm sorry. There was an EA. There was an environmental  
16 assessment, and these issues and several others that the plaintiffs  
17 had raised were discussed in the EA.

18  
19 *John Quinn:* Any other questions on those first three sets of cases? Seeing  
20 none, Adam.

21  
22 *Adam Issenberg:* Thank you. I am going to go on to observers and monitoring. We  
23 have a number of cases here involving observers and monitoring.  
24 The first couple are local cases, appropriately. The first is a recent  
25 1<sup>st</sup> Circuit decision dealing with a challenge to Amendment 16,  
26 which required that sector participants pay for the costs of at-sea  
27 monitors.

28  
29 This is not observers under the Standardized Bycatch Reporting  
30 Methodology, but rather at-sea monitors to monitor harvest under  
31 the requirements of the amendment itself. In this case, Goethel,  
32 regulations had been implemented in 2012 which established a  
33 requirement for industry funding. Despite that requirement, NMFS  
34 continued to fund at-sea monitors for a period of time, and,  
35 beginning in March, and then again in May of 2015, the agency  
36 indicated, through proposed and final rules for sector operations,  
37 that industry funding would soon be required to begin, particularly  
38 at the end of the 2015 fishing year.

39  
40 In November of 2015, there was an email announcement indicating  
41 that federal funds would not be available after December 31, and  
42 so the 2012 -- There was the 2012 regulation requiring the industry  
43 funding, and then these were these subsequent notices that  
44 essentially said we've been paying for these, but money is running  
45 out, and, beginning at a certain time, the industry is going to have  
46 to start paying. That December 31 date did stretch out a bit

1 further, but, shortly after that, industry was required to begin  
2 paying for at-sea monitors.  
3

4 The plaintiffs in this case raised a number of claims under the  
5 Administrative Procedure Act, NEPA, the Regulatory Flexibility  
6 Act, and the Magnuson Act, arguing those statutes, particularly the  
7 MSA, did not authorize industry funding, and then the complaint  
8 included a number of more creative claims, constitutional claims,  
9 that the industry funding requirement was an improper tax, that it  
10 was an unreasonable search and seizure, that it amounted to the  
11 quartering of soldiers, which is prohibited under the Constitution.  
12

13 The district court dismissed for statute of limitations, a dismiss  
14 because the statute of limitations had passed, saying that the rule in  
15 2012 had established this requirement, and the subsequent notices  
16 that industry funding would soon begin didn't reopen that  
17 requirement. It didn't provide another opportunity to challenge  
18 that requirement.  
19

20 The district court did, however, go on to address the other claims,  
21 and they dismissed them all. They noted that the MSA clearly --  
22 Although it didn't explicitly authorize industry funding, it was  
23 implicit in the Act's authorization to require observers and that  
24 regulations generally carry a cost, and it's generally the regulated  
25 community that is responsible for those costs.  
26

27 The plaintiffs appealed. It went up to the court of appeals, and I've  
28 got that -- I don't know why it says that it affirms -- That  
29 September 10, 2012, that is wrong by about five years. That  
30 decision came out last summer, and the court addressed only the  
31 statute of limitations questions. It said that the 2012 rule  
32 established the industry funding obligation and the more recent  
33 actions did not reopen it.  
34

35 It didn't address any of those other statutory or constitutional  
36 claims, although it did, somewhat unusually, suggest that, because  
37 of the hardship on the industry that the plaintiffs had discussed in  
38 that case, that Congress should consider looking at the issue, and,  
39 in fact, one of the judges dissented from that unusual statement,  
40 saying that courts don't typically do that and that wasn't  
41 appropriate in that case.  
42

43 The next set of cases, I am just going to mention these quickly,  
44 because we don't actually have a new decision here, but, since  
45 we're in New England, I thought that I should mention this series  
46 of cases challenging the Standardized Bycatch Reporting

1 Methodology.

2  
3 Originally, it was a challenge to the groundfish plan, and then,  
4 ultimately, it extended more broadly to other plans in both GARFO  
5 and -- For the New England Council and the Mid-Atlantic Council.  
6 The plaintiffs, beginning in 2001, challenged the lack of a  
7 standardized bycatch reporting methodology in Amendment 9.  
8 Amendment 13 attempted to address that, and the court again  
9 found the SBRM insufficient.

10  
11 In 2010 and 2011, the D.C. Circuit considered the SBRM, and they  
12 largely found it valid, except they expressed concern about a  
13 discretionary provision that gave some authority in terms of how to  
14 allocate observers if funds ran short, and, as a consequence, they  
15 remanded the action, and then, more recently, the councils  
16 developed, and NMFS implemented, an omnibus amendment that  
17 addressed the funding mechanism, and that case is now in  
18 litigation and pending, and so, next time we have one of these  
19 litigation updates, I may have more information on that.

20  
21 *John Quinn:*

Any questions on those? Do we have one more?

22  
23 *Adam Issenberg:*

I've got a couple of other observer cases, and so we could do all of  
24 those and then address those. This one, the *Boat Company v.*  
25 *Pritzker*, was a challenge to the North Pacific Council's  
26 Amendment 76, which restructured the observer program. It  
27 established full and partial-coverage categories.

28  
29 Full-coverage vessels operate on a pay-as-you-go system, in which  
30 they essentially pay for coverage for 100 percent observer  
31 coverage. Partial-coverage vessels pay a 1.25 percent fee, and they  
32 operate under an annual deployment plan, in which vessels can be  
33 selected for observer carriage requirements.

34  
35 The plaintiffs in this case raised both NEPA and Magnuson Act  
36 claims. The issue with NEPA was that NMFS had not  
37 supplemented the EA, the environmental assessment, after it was  
38 discovered that daily observer costs had doubled, and so the EA  
39 had assumed coverage of 30 percent in the fishery.

40  
41 After costs doubled, that same level of fees would instead result in  
42 13 percent coverage. NMFS prepared a supplemental information  
43 report, concluding that there would be no new environmental  
44 impacts, but the court was concerned that, at some point, coverage  
45 rates would drop too low to generate quality data, and they said the  
46 EA is silent as to when this might occur. They concluded that the

1 new observer cost information was significant new information  
2 that required further NEPA analysis.  
3

4 Under the MSA, plaintiffs raised kind of a similar argument,  
5 arguing that the rule provided too much discretion in deciding how  
6 to allocate observers within the partial coverage category, and the  
7 court deferred to the annual planning process, based on a  
8 scientifically-sound sampling design, and, finally, the plaintiffs  
9 raised Oceana-like issues, in which they argued that the rule didn't  
10 establish a process to prioritize observer assignments in years with  
11 funding shortfalls.  
12

13 The court essentially went back to its NEPA analysis and said that  
14 this was really an issue about reliability of the data and didn't  
15 really rule on that portion of the MSA argument. It just sort of said  
16 that NMFS and the council will have to confront that issue on  
17 remand of the NEPA piece.  
18

19 Then we have one more observer or monitoring case. This case,  
20 *Etheridge Seafood Company v. Pritzker*, was a challenge to  
21 Amendment 7 for the Atlantic Highly Migratory Species Plan, and  
22 that's a secretarial plan, which established an individual bluefin  
23 quota for bluefin tuna bycatch on pelagic longline vessels that do  
24 not target bluefin tuna, and it imposed electronic monitoring  
25 requirements.  
26

27 This case actually addressed a number of issues, but none of those  
28 really merit much discussion. The electronic monitoring  
29 requirement required installation of cameras to observe both the  
30 haul onto the deck and any potential discard activity at the  
31 waterline, and those requirements were in addition to existing  
32 requirements for VMS, logbooks, electronic catch reporting, and  
33 observer placements.  
34

35 The plaintiffs challenged the electronic monitoring requirement  
36 under National Standards 7, 9, and 10. The case is pretty brief on  
37 this discussion. There is really very little elucidation about these  
38 issues. The plaintiffs had argued, under National Standard 7, that,  
39 because of all of these other requirements, the electronic  
40 monitoring was unnecessary and duplicative, and the court  
41 dismissed that claim in about a sentence, saying that regulations  
42 have costs, and that these costs were reasonable and that the  
43 agency had adequately explained the benefits and need for  
44 electronic monitoring.  
45

46 The court, very summarily, dismissed the National Standard 9 and

1 10 arguments, saying basically that the plaintiffs had not really  
2 offered any details about their concerns in that regard. I mention  
3 this case mainly because electronic monitoring is such an issue of  
4 interest at this point, and this is really the first case we have that  
5 has addressed it, and so I think it's at least worthy of your  
6 awareness. Those are all the observer and monitoring cases, if  
7 there are questions.  
8

9 *John Quinn:* Great. Ed.

10  
11 *Ed Ebisui:* Thank you, Mr. Chair. Adam, I am going to switch hats here. The  
12 first case, Goethel, it seems, to me, to be a little bit curious that the  
13 district court dismisses for statute of limitations and then goes on  
14 to look at the merits and rejects on the merits. What happened?  
15

16 *Adam Issenberg:* You know, you're absolutely right. I mean, generally, if a court  
17 dismisses the case on statute of limitations or other jurisdictional  
18 grounds, it shouldn't address the merits. The court didn't really  
19 explain why it did that. It spent six pages on the jurisdictional  
20 issues, and then it went on and spent another fifteen or twenty on  
21 the merits claims, and the court of appeals could have been a bit  
22 more direct about pointing out that that was not necessarily  
23 appropriate, but it didn't. It just addressed strictly the statute of  
24 limitations issue.  
25

26 *John Quinn:* Any other questions on the observers? Gregg Waugh.

27  
28 *Gregg Waugh:* Thank you, Mr. Chairman. Adam, the case on the New England  
29 groundfish SBRM, that's still pending. What would be your  
30 advice to councils? We're about to start looking in more detail at  
31 how we address our bycatch monitoring. Should we wait until we  
32 see the outcome of that lawsuit?  
33

34 *Adam Issenberg:* No, I don't think you should wait for that, and one thing that I  
35 should have mentioned, when I discussed this case in particular, is  
36 the agency did recently issue a rule on Standardized Bycatch  
37 Reporting Methodology that provides some guidance, and one of  
38 the purposes of that rule was really to provide some guidance on  
39 interpreting and responding to these cases in particular, because  
40 these were, I think, a concentrated set of cases that really  
41 established a suite of requirements and principles related to  
42 SBRMs.  
43

44 There are a number of cases also that that rule responds to, and so I  
45 think that rule provides guidance. Certainly Mike and Monica and  
46 the folks down in GC Southeast can help out with that, and we're

1 happy to talk about that, but I certainly would not wait to address  
2 and ensure that you have an adequate SBRM in all of your FMPs  
3 for the outcome of that case, and who knows? The way it goes, we  
4 may have a fifth case.

5  
6 *John Quinn:* Tom Nies.

7  
8 *Tom Nies:* If I might, Mr. Chairman, I would like to address perhaps a little  
9 bit of context here. Without really getting into the legal issues, just  
10 tell you what the impact of this has been, from my opinion, and  
11 other people may disagree.

12  
13 To be clear, we had a bycatch monitoring system in place before  
14 Amendment 9. It was not clearly documented how that worked. It  
15 was in different pieces. We had dealer reporting and vessel  
16 reporting, and we had observer coverage, but it was in different  
17 pieces, and it wasn't in one place.

18  
19 The result of the Amendment 13 lawsuit was we put it all in one  
20 place, and our bycatch monitoring program was very specific. It  
21 included some elements that the new rule does not require you to  
22 put in the SBRM. For example, our SBRM includes how we take  
23 the data and turn it into bycatch estimates, and it explains all of  
24 that, which I'm pretty sure the new rule does not require that to be  
25 in, but it allows that to be in an SBRM, if I remember correctly.

26  
27 That was the first attempt, but that attempt didn't really say what  
28 happened when funding was short, except that we had a process  
29 established where -- We never had enough funding, at the time, to  
30 meet all of the SBRM requirements for all of our fisheries in the  
31 region, and it's not just New England. It's the Mid-Atlantic as  
32 well.

33  
34 That has a process that said that, if funding was short, the Science  
35 Center would come to the councils and suggest how to distribute  
36 the coverage, and the councils would provide input and then the  
37 agency would determine how the coverage would be distributed to  
38 cover the fisheries, and so we had some flexibility.

39  
40 For example, if you had a fishery that you felt was important and  
41 you wanted to monitor, you could make sure that was covered,  
42 even though funding wasn't available to do everything. That was  
43 challenged pretty much in the third case, the second Oceana case.

44  
45 What came out of that case was that we now have a system which  
46 really has almost no flexibility for the council, and I would almost

1 say no flexibility for the council, to influence how the observer  
2 coverage is assigned. It's completely formulaic. We did create a -  
3 - I won't go through it. There is all these filters and a prioritization  
4 process and everything that we established, but, once that's  
5 established, pretty much the Center just runs it and assigns the  
6 observers.

7  
8 Now, this has been a bit of a problem for us, in many instances,  
9 because the underlying criteria is based on the coefficient of  
10 variation of the observed estimates of discards, and we recalculate  
11 this stuff just about every year, I think every year, and you get  
12 swings.

13  
14 We have one fishery that people are very interested in what's  
15 going on, and the only way some people think you can get accurate  
16 estimates is from observer coverage, and it's a relatively small  
17 fishery, number of trips-wise, and so, one year, the numbers come  
18 out and you get 400 days of coverage. The next year, the numbers  
19 come out and you get twenty days of coverage, and it ping-pongs  
20 back and forth like that.

21  
22 I guess I am not sure what the answer is, but I just think that's one  
23 thing to be aware of, is to think about some of the implications of  
24 how you set up this prioritization process, because, at present, it's  
25 extremely formulaic. I'm not really sure -- The other case is still  
26 pending, and so who knows what's going to come out of that case,  
27 but that's where we're at right now.

28  
29 It's been a little frustrating, because neither the agency nor the  
30 council has the ability to shift observer funding to cover an  
31 emerging issue, at least it's difficult to do that. I won't say it's  
32 impossible. If you find additional pots of money, it works, but it's  
33 difficult to do it.

34  
35 *John Quinn:* Any other questions for Adam? Seeing none.

36  
37 *Adam Issenberg:* Okay. I am going to go on to some cases that, generally, I have  
38 grouped them under National Standard 1. A number of these cases  
39 raise -- I probably should have just called them National Standards,  
40 but they raise a number of different issues.

41  
42 The first slide identifies a couple of cases that raise issues related  
43 to what stocks belong in the fishery. You notice, I'm sure, that the  
44 first case is Anglers Conservation Network, and that was the very  
45 first case that I talked about, was another case called Anglers  
46 Conservation Network, and I do want to go back to those first

1 couple of slides talking about kind of when you can challenge a  
2 council action, because this case is related to that point.

3  
4 In this case, the plaintiffs challenged Amendment 14 to the  
5 Mackerel, Squid, Butterfish FMP. Recall that that first case  
6 challenged Amendment 15, where the council voted not to proceed  
7 with adding certain stocks, the river herring stocks, to the fishery.  
8 In this case, once again, the council did not add those stocks to the  
9 fishery.

10  
11 The council did a number of other things unrelated to that, but the  
12 plaintiffs challenged the amendment on the grounds that the  
13 amendment did not meet the requirements of the Act, because it  
14 did not include four stocks in the fishery that were in need of  
15 conservation and management.

16  
17 In this case, the court did consider those claims, and the step here,  
18 where we go beyond -- In the original Anglers Conservation case  
19 that I talked about, the council had not taken any action at all. In  
20 the Gulf aquaculture case, the council had acted, but there were no  
21 regulations.

22  
23 In this case, the agency approved the amendment and then  
24 implemented the amendment through regulations, and it was the  
25 implementation of the amendment that gave the plaintiffs their  
26 hook to go back and say that the amendment and the regulations  
27 did not comply with the Magnuson Act, because they didn't  
28 include stocks that were required to be in the fishery.

29  
30 The decision is somewhat schizophrenic, because, under the  
31 Magnuson Act, the court said that you're not obligated to add  
32 stocks to an FMP simply because conservation and management  
33 would be beneficial, but then, under NEPA, they went to on to say  
34 that there was no alternative that considered adding the stocks, and,  
35 even on the NEPA claim, the decision was, frankly, very  
36 confusing, but that was the outcome of that case.

37  
38 Then the UCIDA case also raises a question of stocks in the  
39 fishery, and this one went to the question of -- Chris mentioned  
40 this in his overview of the North Pacific Council issues yesterday,  
41 and I think he labeled this a bigger issue, or a major issue, and the  
42 issue here was that, in Amendment 12, the council excluded certain  
43 areas that were managed by the state from federal management,  
44 even though the record indicated that those stocks were in need of  
45 conservation and management.

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1 The court found that, any time you have a stock in need of  
2 conservation and management, then it must be included in the  
3 FMP, and we've got concerns about this decision. We did not  
4 appeal the decision. I think the decision is not quite as broad as the  
5 holding suggests, because there are a lot of very kind of case-  
6 specific factors in this case that we would not necessarily say  
7 require, for example, adding stocks to the fishery in other contexts.  
8

9 The new National Standard Guidelines, the National Standard 1  
10 Guideline that came out recently, came out very shortly after the  
11 UCIDA case, and there is some brief discussion of UCIDA in  
12 there, and so I would just say -- I am not going to talk about this in  
13 further detail. If you've got questions about stocks in the fishery, I  
14 think it's just important to talk with your regional GC office and  
15 make sure that we're thinking through these issues.  
16

17 *John Quinn:* Why don't we finish the National Standards, and then we can take  
18 them as a group.  
19

20 *Adam Issenberg:* Okay. The next case is one of two cases called *Guindon v.*  
21 *Pritzker*. This was a challenge to a regulatory amendment  
22 establishing red snapper quotas, and, in the interest of time, I think  
23 I'm only going to talk about the National Standard 1 issue.  
24

25 The commercial fishery operates under an IFQ, and, at least since  
26 operating that IFQ, has not gone over its quota by any significant  
27 measure, while the recreational fishery has a history of routinely  
28 going over its quota, and the SSC recommended a 20 percent  
29 buffer to account for management uncertainty, as a consequence of  
30 those historic overages, which the council did not adopt.  
31

32 According to the record, the council instead relied on what it saw  
33 as a de facto buffer, resulting from a separate decision under which  
34 it went with the constant catch scenario over the course of several  
35 years, and thought that that was adequate to avoid overfishing.  
36 The court concluded that the ACL was inadequate, in the face of  
37 repeated overages, and it quoted Einstein, saying that the definition  
38 of folly is doing the same thing over and over again and expecting  
39 a different result.  
40

41 Essentially, it described this, under National Standard 4, as being a  
42 de facto reallocation, because, by holding the commercial sector to  
43 its quota and allowing the recreational sector to go over, you are  
44 really giving more fish to the recreational sector.  
45

46 Again, we had a lot of concerns with this decision. We didn't

1 think that the court really understood the record and didn't  
2 recognize that in fact this was the result of new information on  
3 recreational harvest, but we didn't appeal, and so that's that case.  
4

5 The next case is *Flaherty v. Pritzker*. This was a case challenging  
6 the use of a constant catch ABC control rule in the 2013 to 2015  
7 specifications for Atlantic herring. In this case, the plaintiffs had  
8 challenged a constant catch ABC control rule, which maintained a  
9 constant 114-metric-ton ABC over the three specification years.  
10

11 Notably, the fishing mortality increases as the biomass decreases,  
12 and, in the terminal year, ABC is equal to the OFL. The National  
13 Standard Guidelines recommends, generally, that F should decline  
14 as biomass declines, but the council explained that the stock is not  
15 overfished and overfishing is expected to occur, and there is still a  
16 buffer down to the ACL, and the court, in this case, was well  
17 satisfied that the record supported the constant control rule, noting  
18 that it was not prohibited and that the record clearly explained how  
19 it would prevent overfishing.  
20

21 I also just want to mention here the NEPA issue. The plaintiffs  
22 had identified two alternative ABC control rules that they thought  
23 should be considered, and, under both the Magnuson Act claims  
24 and the NEPA claims, the court found that NMFS had fully  
25 discussed and considered those control rules.  
26

27 The NEPA alternatives were considered, but not carried forward,  
28 as not being supported by sufficient information, but I think,  
29 because of the thorough discussion of how NMFS had treated the  
30 plaintiffs' proposals, the court upheld those, and I think that that  
31 really highlights the importance of giving full and thorough  
32 treatment to alternatives that are raised by plaintiffs, or potential  
33 plaintiffs, I should say. Those are the NS 1 cases.  
34

35 *John Quinn:*

We will stop there for questions, and we're going to start with Bill  
36 Tweit.  
37

38 *Bill Tweit:*

39 Thanks, Mr. Chair. My question is about the first slide and sort of  
40 the when stocks are in the fishery or not. As I look at the rulings  
41 for those two, they appear, to me, to be contradictory. I did hear  
42 you say that, relative to that, that there were some technical things  
43 that may have influenced it, but, on the face of it, those appear to  
44 be two contradictory rulings, one from the D.C. District Court  
45 saying that councils and the agency aren't obligated to add stocks  
46 simply because conservation and management impacts would be  
positive, but then we've got the Ninth Circuit saying that councils

1 are required to prepare an FMP for each fishery that requires  
2 conservation and management. Do you view those as  
3 contradictory as well?  
4

5 *Adam Issenberg:* I think there is definitely a tension between those cases, and there  
6 are actually a couple of other cases. As I mentioned, there is the  
7 series of Anglers Conservation cases and the Flaherty cases, and a  
8 number of those deal with this question of stocks in the fishery.  
9

10 I think there is some tension between UCIDA and some of those  
11 other cases. I think we would argue, I would argue, that UCIDA  
12 was -- There was an element of state versus federal management  
13 there that is not involved in the other cases, or at least not  
14 highlighted in the discussion in the other cases, and I think that that  
15 may be one difference between the cases.  
16

17 The National Standard 1 rule addresses a number of factors that the  
18 agency believes that should be considered in determining whether  
19 stocks belong in the fishery, and I think that would be how we  
20 would respond to UCIDA, in most instances. I think, in this  
21 particular case, we're somewhat bound by the decision of the  
22 Ninth Circuit, but I think, in other contexts, we will not necessarily  
23 reach the same conclusion as we would in UCIDA.  
24

25 *John Quinn:* A follow-up, Bill?

26  
27 *Bill Tweit:* Thanks, Mr. Chair, although, actually, I will defer my follow-up to  
28 Phil. I think he has a follow-up as well, and then I may follow  
29 Phil.  
30

31 *John Quinn:* Phil Anderson.

32  
33 *Phil Anderson:* Thank you. Adam, I am curious what your thoughts are about  
34 whether National Marine Fisheries Service and the councils have  
35 any discretion relative to the requirement of developing FMPs for  
36 fisheries that require conservation and management, and my  
37 example is we have a pink shrimp fishery off the West Coast,  
38 promulgated both in Washington, Oregon, and California, all under  
39 state regulation. The entire fishery occurs in federal waters, yet we  
40 don't have an FMP for that fishery.  
41

42 Dungeness crab is another example, where probably 30 to 40  
43 percent of it is in state waters, but there is a significant portion of it  
44 that's in federal waters as well, and, again, in that case, it's under  
45 state management.  
46

1 *Adam Issenberg:* As a general matter, I do think that the councils have discretion in  
2 terms of whether to include stocks in the fishery. I think that  
3 discretion is laid out, and the considerations that should guide the  
4 exercise of that discretion are discussed in the recent National  
5 Standard I rule.  
6

7 As to that particular case, I don't know the facts, and so I'm not  
8 really going to comment on that. I think certainly GC Northwest  
9 can help with those questions, and we are happy to talk with them  
10 as well. My office has been quite involved in kind of developing  
11 the guidance and responding to how to harmonize these cases.  
12

13 *Phil Anderson:* The council has received a letter from a thirty party, advocating  
14 primarily based on UCIDA decision, that the council is required to  
15 develop an FMP for Dungeness crab, and so we'll be working with  
16 our GC folks in the Northwest to try to decide how to respond to  
17 that. Thanks.  
18

19 *Adam Issenberg:* Great. Thank you.  
20

21 *John Quinn:* Bill.  
22

23 *Bill Tweit:* Thanks, Mr. Chair. Given that there is some tension, as you said,  
24 between these two and some others, and given that UCIDA clearly  
25 weakens councils' abilities to delegate to states, I guess I still don't  
26 understand the decision by NOAA GC not to appeal this ruling,  
27 and I was wondering if you could help with that, because it seems  
28 to me that it -- The situation we now have is the kinds of questions  
29 that Phil just raised are going to come up at us more frequently.  
30

31 We have a potential threat to this very constructive partnership that  
32 we have going between states, NMFS, and the councils, in terms of  
33 most efficiently using our resources to manage the full suite of  
34 fisheries, and Alaska has a couple of very similar situations, where  
35 we probably have optimized how we use our resources between the  
36 council, the agency, and the states, in terms of managing the full  
37 suite of fisheries.  
38

39 UCIDA clearly poses a threat to that sort of optimization, and then,  
40 secondly, it creates this area of confusion about when is a stock in  
41 or out of a fishery, and for, those two reasons, it seems to me that it  
42 would have been useful to challenge that ruling on appeal, and I  
43 don't understand why the agency didn't.  
44

45 *Adam Issenberg:* All I can say to that point is that we recognize the concerns.  
46 Appeal from the Ninth Circuit to the Supreme Court or seeing

1 reconsideration in the Ninth Circuit, those are both ultimately  
2 decisions of the Department of Justice. We consult with the  
3 Department of Justice when we make those decisions. DOJ sets a  
4 pretty high bar for taking cases up at that point, and, given the  
5 ability of the council to go back and address, at least in this case,  
6 the decision was made not to pursue appeal. I recognize the need  
7 to continue struggling with this issue, and we will be working with  
8 the folks up in the Juno GC office to try and limit the impacts of  
9 the UCIDA decision.

10  
11 *John Quinn:*

Bill.

12  
13 *Bill Tweit:*

Not really a question at this point, but just a comment. I may not  
14 have the full story, but I know that folks in the Washington State  
15 AG's Office are very concerned about this case. At least as I  
16 understand it though, they were never asked by either DOJ or  
17 NOAA GC if there was any interest in an appeal.

18  
19 They were contacted by the State of Alaska about that, and one of  
20 the reasons that we ended up, in my understanding, and I may have  
21 this a little off, but my understanding is that one of the reasons that  
22 we decided not to was because it didn't appear that either DOJ or  
23 NOAA GC would have, and I think there would have been  
24 considerable interest, at our state level, in joining in on an appeal if  
25 the federal government -- There was concern, and, Alaska,  
26 unfortunately, was put in the position of having to step in at the  
27 very last minute to handle it, because it wasn't clear for quite a  
28 while that DOJ wasn't going to.

29  
30 When a formal request finally came to us from the State of Alaska,  
31 it was pretty late in the game, too. We had only a very short period  
32 of time to make a decision, and so it feels as if, essentially, through  
33 this whole process, even though this is a ruling that could well  
34 have a very significant impact on my state, and clearly has a  
35 significant impact on the State of Alaska, but the federal decision-  
36 making process on this did not really include the affected states, or  
37 allow us to really express our interests well, and I think that's  
38 unfortunate, and I understand that wasn't your call, but I thought it  
39 was an important point to make to you.

40  
41 *Adam Issenberg:*

Okay, and we can pass that along to DOJ.

42  
43 *John Quinn:*

Any other questions on this line of cases? Seeing none, Adam.

44  
45 *Adam Issenberg:*

Okay. Time is running short, and I certainly don't want to take  
46 away from the recusal discussion. Let me just run through. I think

1 I can get through this pretty quickly. I've got one case under the  
2 Allocation Heading, and this is a challenge to Amendment 28 for  
3 the Gulf Reef Fish FMP, which reallocated red snapper between  
4 the commercial and recreational sectors.

5  
6 Historically, that allocation had been 51 percent commercial and  
7 49 percent recreational. As I mentioned previously, in a separate  
8 case called *Guindon v. Pritzker*, the Amendment 28 reallocated 2.5  
9 percent from the commercial to the recreational, and so the split  
10 was kind of almost flipped, and this was based on new data. I  
11 actually misspoke earlier. This was the case that involved the new  
12 landings data that recalibrated the historic recreational landings,  
13 and this reallocation was intended to reflect that recalibration.

14  
15 Again, as I mentioned, this is another situation where -- This is the  
16 same situation, where the commercial sector operates under an IFQ  
17 and the recreational sector has seen a history of significant  
18 overages. The court basically concluded that this was inequitable  
19 under National Standard 4, because it required the commercial  
20 sector to -- It placed the commercial sector at a permanent  
21 disadvantage, because they operated under an IFQ. They didn't  
22 overharvest, while the recreational sector did, and it was  
23 essentially rewarding the recreational sector for what the court saw  
24 as bad behavior.

25  
26 Again, this is another one where the record was very complex here.  
27 We think the court didn't really understand either the recalibration  
28 or the amendment, but another one where a decision was made not  
29 to appeal.

30  
31 *Andy Strelcheck:*

32 If I could just add, I think this was an important one for all of the  
33 councils that are wrestling with MRIP changes, and I think you're  
34 right, Adam, that the court did not understand the argument that we  
35 were trying to make, and it wasn't simply that the recreational  
36 sector had exceeded its quota. That 2.5 percent shift in allocation  
37 was actually the increase in the yield levels when the new landings  
38 are considered relative to what the yield levels would have been if  
39 no changes to the recreational landings were made

40 We weren't reallocating simply based on recreational versus  
41 commercial landings and how much those recreational landings  
42 increased. It was simply the changes in the yields that we would  
43 expect once those landings are recalibrated, but, during the court  
44 hearing, my understanding is we did not make a good argument, or  
45 did not explain this well, and it was a complex record, and, as a  
46 result, we lost the case.

1  
2 *Adam Issenberg:*

3 Thanks for that clarification, Andy. I have got three cases on catch  
4 shares, and I think I can do these in just a couple of minutes. All  
5 three of these involve challenges to the Pacific Trawl  
6 Rationalization Program.

7 If you recall, in 2011, there was a rule implementing the Pacific  
8 Trawl Rationalization Program. This was a very complex LAPP  
9 program. We had a couple of cases that we talked about last time  
10 regarding kind of the big-picture aspects of this program, and now  
11 what we've got are three cases really kind of getting into the  
12 details of the program, challenging some of the specifics of the  
13 program.

14  
15 This one involved the whiting IFQ allocation, and, in the interest  
16 of time, I will just say that the basic issue here was whether the  
17 amendment took into account present participation, because the  
18 amendment was adopted in 2010, and the control date was 2003  
19 for some purposes and 2004 for others, but we have the old  
20 Alliance for IFQ cases that says that a three-year-old control date  
21 kind of pushes the limits of what is reasonable. Here we are seven  
22 years later, and the plaintiffs argued that the agency had not taken  
23 into account present participation.

24  
25 We lost the issue, in 2011 in the district court, because of a very  
26 kind of cursory record on how present participation had been  
27 considered. The case was remanded. The agency took it back,  
28 gave it new consideration, considered a number of new  
29 alternatives, and ultimately stuck with the original 2003 and 2004  
30 control dates and offered a much more detailed explanation, which  
31 the court accepted, and so, really, I think the take-home message  
32 there is, again, just make sure that you give careful consideration  
33 and a thorough explanation for these controversial points.

34  
35 The next two, I am not going to talk about the next two at any  
36 length. If folks have questions, we can talk about it. Both of these  
37 involve -- One involves the cost recovery program for the Pacific  
38 Trawl Rationalization Program, and the other involves  
39 accumulation limits for the program. We're really getting into  
40 kind of the technical details of the program.

41  
42 This second case is still being briefed. We had argued that it  
43 should be dismissed on statute of limitations grounds. The first  
44 case, the court ultimately kind of upheld the major parts of the cost  
45 recovery program, but they found some flaws with some of the  
46 specifics of how the agency was calculating costs to be recovered

1 and whether they were directly related to the program and whether  
2 there was adequate record-keeping to ensure transparency, and so  
3 we've recently resolved that case.  
4

5 I would just note that I believe that there is also a case pending  
6 involving a cost recovery issue in the North Pacific, but that case is  
7 pretty early in its development, and so I don't really have any  
8 information about that. Any questions on the catch share cases?  
9

10 *John Quinn:* Seeing none.  
11

12 *Adam Issenberg:* Okay. The last two cases I want to mention, these are both  
13 pending cases, and I just wanted to highlight them as kind of  
14 potentially coming attractions. Neither of them directly involve  
15 kind of fisheries management under FMPs. One, we talked  
16 yesterday about monuments, and the first case is a challenge to the  
17 Northeast Canyons and Seamounts Monument. This case was filed  
18 in March, and it was actually just stayed, by agreement of the  
19 parties, as a result of the review that we discussed yesterday, and  
20 so we'll see what comes of this.  
21

22 The other case is *Alfa International Seafood v. Ross*. This is a  
23 challenge to the seafood import marketing program that basically  
24 establishes a traceability program as a consequence of the IUU task  
25 force. The plaintiffs are challenging both the authority to conduct  
26 such a program as well as whether an adequate regulatory  
27 flexibility analysis was conducted, and then they're also  
28 challenging it on the basis that it was signed by Sam Rauch, who is  
29 a low-level bureaucrat, according to the complaint, and I just want  
30 to say here, for the record, that we all know that Sam is at least a  
31 mid-level bureaucrat.  
32

33 *Sam Rauch:* I am trying to get the court to find that I am inferior. Then it was  
34 all okay, if I'm just inferior.  
35

36 *Adam Issenberg:* With that, that's all I have. If there any further questions, I would  
37 be happy to address them.  
38

39 *John Quinn:* Mr. Stockwell.  
40

41 *Terry Stockwell:* Thank you, Mr. Chairman, and thank you, Adam. Interestingly to  
42 me, you did not mention the Carlos Rafael case, which is of great  
43 interest to all of us here in the Northeast, and with significant and  
44 potential impacts to our developing Groundfish Monitoring Plan.  
45

46 *Adam Issenberg:* You know, I didn't mention that, because enforcement matters are

1 handled by a different part of GC, and so I haven't been involved  
2 in either the criminal proceedings or the civil proceedings, to any  
3 great extent. I know, recently, there have been some discussions  
4 about forfeiture of the vessels and what means for the community.  
5 That is certainly a big issue, but I do recognize that that is an  
6 important case, and it's something that we could certainly talk  
7 about at another point, if you're interested.  
8

9 *John Quinn:* Any other questions? Chris Oliver.

10  
11 *Chris Oliver:* I should probably know this, but proclamation on the Marine  
12 National Monument designation, why is that against Secretary  
13 Ross?  
14

15 *Adam Issenberg:* You know, that's a good question, and so it's actually against both  
16 Secretary Ross and Secretary Zinke. As you point out, it's the  
17 result of a Presidential Proclamation, and, at this point, there is  
18 neither the Department of Interior nor the Department of  
19 Commerce that have issued any regulations taking any action, and  
20 so we did file a motion to dismiss, arguing a number of things,  
21 among them that these were not proper defendants.  
22

23 Due to some technical issues, the plaintiffs amended the complaint,  
24 just to add some minor allegations, which meant that that motion to  
25 dismiss was moot, and we were preparing a new motion to dismiss  
26 when the recent Executive Orders came out, and so we haven't  
27 refiled the motion to dismiss. I expect, if the litigation proceeds,  
28 we will, and that will be an issue that will be raised.  
29

30 *John Quinn:* Chris.

31  
32 *Chris Oliver:* I just wanted to say, if it's any comfort to Sam, I was once referred  
33 to as a mail clerk by a court, and so --  
34

35 *John Quinn:* Tom Nies.

36  
37 *Tom Nies:* Thank you, Adam. There was one case that I don't think you  
38 addressed that I was kind of interested in, and it was one of the  
39 Mid-Atlantic cases. I only know it as *Oceana v. Pritzker*, related  
40 to -- It was tied into the river herring and shad stocks in the fishery  
41 and all that kind of stuff.  
42

43 There was a provision in it that I thought was interesting, where  
44 the court ruled that, if bycatch of non-target stocks is considered in  
45 drafting ACLs for target stocks, then such consideration may  
46 suffice if the FMP does not result in the non-target stocks

1 becoming subject to overfishing.  
2

3 It said the new provisions in the MSA requires only the  
4 establishment of ACLs and AMs, such that overfishing does not  
5 occur, and that was what this was related to. Now, the reason that  
6 I'm interested is that it seems like it might have some applicability  
7 to how we manage non-target species that are primarily caught as  
8 bycatch.  
9

10 Right now, we have some of those in our fishery that are subject to  
11 ACLs and AMs, and this court suggests that, if we had another  
12 way to approach it to prevent overfishing, we might not need  
13 ACLs and AMs for those fisheries, for those particular stocks, but  
14 you didn't address it, and I don't believe it's really addressed in the  
15 new Guidelines, and so I'm just curious what your thoughts are on  
16 that.  
17

18 *Adam Issenberg:* I did look at that case, and there were a number of cases that --  
19 That case raised a whole bunch of issues, and that's one of them,  
20 and you're right. I will confess that I haven't read it in a while in  
21 any detail. Just in the interest of trying to keep this to a reasonable  
22 suite of cases, I omitted that, because I had thought that most of the  
23 issues that were raised in that case were addressed in the new  
24 National Standard Guidelines. Perhaps that one isn't, and there  
25 were a few other cases that I also omitted because they were  
26 addressed in the National Standard Guidelines.  
27

28 I can't really speak to the question in particular. I think we would  
29 be happy to talk about that, and Caroline may have some thoughts  
30 on that, because she was very involved in the National Standard  
31 Guidelines, and so I don't know if she has something to add, or  
32 you might talk with her during a break.  
33

34 *John Quinn:* Kitty.

35  
36 *Kitty Simonds:* Not to prolong this discussion, but I was hoping that you would  
37 discuss our case out there in the Pacific, the American Samoa  
38 government against the National Marine Fisheries Service, about  
39 an amendment that was agreed to by the Service and then  
40 challenged by the Government of American Samoa.  
41

42 *Adam Issenberg:* You may not have been here when I started. I kind of gave the  
43 caveat that, because it's been -- I had four years of cases to cover,  
44 and I was not covering -- I was going to avoid covering the cases  
45 that were kind of very region-specific, and I would be happy to  
46 talk about that, but that really is, because of the Deeds of Cession

1 issue and all of that, it's --

2

3 *Kitty Simonds:* Right. That's why it's very interesting. We know have to go in --  
4 Well, depending on what happens to the filing of reconsideration  
5 and the response by the American Samoa government, we are  
6 going to have to address the Deeds of Cession as other applicable  
7 law.

8

9 *Adam Issenberg:* Yes, and we're all -- That case took a couple of surprising turns,  
10 but, again, it is very region-specific, and so I just excluded it, in the  
11 interest of time.

12

13 *Kitty Simonds:* It is an interesting case.

14

15 *John Quinn:* Any other questions? Seeing none, thank you very much for that  
16 portion of your presentation, and now we will transition to the  
17 Conflict of Interest Policy Guidance.

18

1 **10. CONFLICT OF INTEREST POLICY GUIDANCE**

2  
3 *Adam Issenberg:* Frankly, for this one, I don't have a presentation. I don't really  
4 have much prepared. We had talked about the recusal issue in  
5 February, in Crystal City, and I think, at that point, I had given  
6 kind of a quick overview of where things stood.

7  
8 We had recently provided the two new documents. We have the  
9 policy directive and the procedures, and I think, at that point, what  
10 we had indicated was that we were going to give the councils an  
11 opportunity to review those documents and discuss them at council  
12 meetings, if they chose, and that we would open it up for  
13 discussion at this meeting, and that we would proceed to finalize  
14 the guidance soon after this meeting.

15  
16 I recall that at least one council, and maybe a couple, didn't have  
17 meetings where they could discuss the procedures until after this  
18 meeting, and so we had agreed that, of course, we would wait for  
19 those opportunities to occur and finalize them after those councils  
20 have had an opportunity to discuss and provide comments.

21  
22 With that, I am just going to open the floor to discussion, and  
23 we're happy to take feedback on the particular documents or other  
24 issues, and, of course, we welcome, ultimately, any written  
25 comments from either the CCC or any of the councils on the  
26 recusal issues.

27  
28 *John Quinn:* Any discussion or comments, as Adam just laid it out? Bill Tweit.

29  
30 *Bill Tweit:* Thank you, Mr. Chair. We have reviewed, as a council, the draft  
31 that was presented in February, with some frustration, but also  
32 some understanding that we had been kind of around that block a  
33 couple of times and some of the ongoing concerns we've had  
34 simply were never going to be resolved to our satisfaction, and we  
35 were sort of thinking about how to accept that reality.

36  
37 Then came our April meeting and the recusals for our April  
38 meeting, and I think, at least as one council member, I got a sense  
39 of what looks to me like a very large flaw in the current guidance.

40  
41 We had a recusal at the April meeting regarding a final vote on our  
42 five-year review of essential fish habitat for the Bering Sea, and I  
43 know I'm not the only council member who completely fails to see  
44 any causal connection between a vote to adopt EFH and anything  
45 that could affect the financial interest of companies in the Bering  
46 Sea, other than some -- We all recognize that, in preserving habitat,

1 we preserve the productivity of fisheries, but, I mean, that's such a  
2 general good that it's very hard for me, as one council member,  
3 and, again, I think I speak for a majority of the council at this  
4 point, to see any connection between that.

5  
6 I think, as I look at the guidance that you were offering then, it's  
7 missing a critical first step, which, when I go back to the Act, the  
8 Act itself talks about if there is a close causal link between the  
9 council decision and an expected and substantially  
10 disproportionate benefit to the financial interest -- That first step of  
11 is there even a linkage appears to have been neglected in the  
12 guidance, and, at least as best we can reconstruct, and I don't think  
13 I got a satisfactory answer at the council table about this, but in  
14 applying the standards, as they currently exist for each final action  
15 at this council meeting, nobody asked the basic question of does  
16 this even matter? Is there even possibly a conflict of interest in  
17 this issue?

18  
19 Instead, it was just, okay, here is the final action coming up and  
20 who has got more than 10 percent ownership in any of the fisheries  
21 in the Bering Sea, and, boom, they are recused.

22  
23 How can there be any connection, much less a close causal link,  
24 between a final vote to adopt a five-year review of EFH and the  
25 financial interests of any one sector in the Bering Sea? I just am at  
26 a loss to understand that, and it makes the entire recusal process --  
27 It really, really impinges the credibility of the entire recusal  
28 process. Our stakeholders were just left shaking their heads.  
29 Nobody understands it at this point. Sorry. That was a side  
30 editorial on top of my question, but I guess it was a second  
31 question.

32  
33 *Adam Issenberg:*

34 Thanks for that. I can't comment on the specifics of the recusal  
35 determination. We, at Headquarters, don't get involved with the  
36 specific determinations, because the NOAA General Counsel is  
37 responsible for appeals, and we support that work on appeal, and  
38 so it's sort of like I'm practicing for my Supreme Court  
39 confirmation hearing. I can't comment on matters that might come  
40 before me.

41 When the individual regional attorneys make the recusal  
42 determinations, they make those on their own. They do talk to  
43 each other, but they generally don't talk to us in Headquarters,  
44 because they sort of have to make those independently, so we can  
45 look at them later independently.

1 I am generally aware that there was this recusal determination. I  
2 can't really speak to whether there is a link and what the link might  
3 be. That is certainly something, now that it's been made, and I  
4 believe that the time for appeal has passed, it's something we could  
5 look at.  
6

7 I do take your broader point about the question of the need to  
8 demonstrate that causal link. If the guidance doesn't ensure that  
9 that's addressed and doesn't provide kind of appropriate bounds  
10 for what those types of links might be, that is something we should  
11 take a look at and address, and we can go back and work with our  
12 working group to work on that.  
13

14 As far as the specific question goes, I want to make sure that we  
15 are fully past the time for appeal, and I assume we are, and then I  
16 can go back and take a look at that decision, and we can talk to  
17 Lauren and the folks in GC AK about what they were thinking and  
18 think about whether we should be looking at those issues the same  
19 way or differently in the future.  
20

21 *John Quinn:*

Chris Oliver.

22  
23 *Chris Oliver:*

I guess I would have a question about the appeal process. I had  
24 hoped that this council member would have appealed that  
25 determination, because it's so completely at odds with the  
26 language of the Act, as well as the regulations. It's just a complete  
27 disconnect.  
28

29 Unfortunately, he did not, but had he done so, are you saying it just  
30 would have gone back to the same Office of GC to repeat the same  
31 determination, or does it go up the chain at all to be reviewed,  
32 because -- I will just stop there.  
33

34 *Adam Issenberg:*

No, it does not go back to GC AK to make the decision on appeal.  
35 Under the statute, the appeal is -- The responsibility for appeal is  
36 assigned to the Secretary. The Secretary has delegated that  
37 responsibility to the NOAA General Counsel, and so the person  
38 who is in the political position, which is currently vacant, as the  
39 NOAA General Counsel.  
40

41 For example, when we had appeals in the two cases, two or three,  
42 involving -- I don't remember his last name, but I know his first  
43 name is Simon, but we had the appeals. Lauren made the initial  
44 determination, the initial recusal decision, as the responsible  
45 official. When he appealed, that goes to GC Headquarters. GC  
46 Headquarters is responsible for making the determination on

1 appeal.

2  
3 Of course, the NOAA General Counsel doesn't necessarily write  
4 that decision herself, and so she has support from other individuals  
5 to help her do that. My office is involved in providing that  
6 support, which is why we kind of keep this arms-length from the  
7 specific recusal determinations as they are being made, council-  
8 meeting-by-council-meeting.

9  
10 *John Quinn:* Bill.

11  
12 *Bill Tweit:* Thanks, Mr. Chair, and thanks, Adam. I appreciate your patience  
13 on this. I think I heard, in your answer then, that there was a high  
14 likelihood that GC would go back and take another look at the  
15 draft guidance relative to first just this check of whether or not  
16 there is even a need for any final action to determine whether there  
17 is recusals or not, whether there is a close causal link. Assuming  
18 you do that, I am assuming then that there will be another chance  
19 then for the councils to review that before that's finalized, and is  
20 that right?

21  
22 *Adam Issenberg:* Yes, and so what I will say is there is more than a high likelihood.  
23 We will definitely go back and take a look at the guidance and  
24 consider whether that should be added. I am not going to pre-  
25 judge that conclusion. What I will say is that we'll give it serious  
26 consideration. If we revise the guidance to address that, then we  
27 will certainly provide another opportunity to review it.

28  
29 *Bill Tweit:* Thanks. That would be much appreciated. It would also be -- It  
30 would help at least our council, our council family and  
31 stakeholders, a lot as well to have a written description of, in this  
32 case, why EFH, a vote on EFH, would be subject to -- I understand  
33 that you will have to check and make sure that all the appeal  
34 periods have passed and all of that, but this really has -- I can't  
35 emphasize enough that that particular one, the jaws dropping  
36 around the room, and it really eroded the sense of credibility that  
37 our stakeholders place in the recusal, which had already been on  
38 the rocks, to some extent, particularly at our council, but that ruling  
39 really did, and I think GC really owes it to both the council and the  
40 stakeholders to explain what kind of connection there could have  
41 been, and so I really would appreciate some kind of written  
42 answer, some sort of written presentation, on that.

43  
44 *Adam Issenberg:* I know GC AK typically provides a written recusal determination.  
45 I don't know whether they did that in this case, or the extent to  
46 which it addressed this issue, but I will follow up with them and

1 discuss it with them and with GC Headquarters whether we could  
2 give some additional explanation on this point.

3

4 *John Quinn:* Bill.

5

6 *Bill Tweit:* It certainly is -- They do provide a written determination, and we  
7 do appreciate that, and it comes out a couple of weeks ahead of  
8 time now, and I think, as a result of the questions that have been  
9 raised all along, there definitely have been some improvements to  
10 the process, and that's one of them, but the written determination  
11 starts with the second question of are there individuals that could  
12 have a conflict, and it doesn't address at all the very first question  
13 of should we even be looking for conflict of interest with this  
14 decision, and that was our frustration with it, is it didn't touch that,  
15 and so it does lack the answer to that first question.

16

17 *Adam Issenberg:* Okay. I understand, and I will follow up.

18

19 *John Quinn:* Any other questions or input? Chris Moore.

20

21 *Chris Moore:* Adam, I don't have any specific comments on the guidance  
22 document, but we had an issue at our February council meeting,  
23 and so I think you know that -- I don't know if Kevin has talked to  
24 you about this or not, but we manage black sea bass.

25

26 At the February council meeting, we were deliberating on the  
27 black sea bass ACL for the commercial fishery. The way that it's  
28 managed is each state gets a commercial quota. One of the states  
29 involved is Maryland, and one of the members that sits on our  
30 council, a council member, is a black sea bass pot fisherman that  
31 gets the majority of that ITQ in Maryland.

32

33 I told him to recuse himself from the vote on the ACL for the  
34 coast, because of that interest that he has in Maryland, and so,  
35 subsequently, someone said, well, you know, he doesn't meet that  
36 10 percent threshold for the coast, and so he really didn't need to  
37 recuse himself, but, as a stakeholder in Maryland, as a quota holder  
38 in Maryland, he certainly meets it from that sector or from that  
39 state perspective, and so what should we have done in that  
40 situation?

41

42 *Adam Issenberg:* Again, I can't speak to the specifics of that. I think that that is  
43 really -- I assume that -- Did Kevin provide advice on that?

44

45 *Chris Moore:* Kevin said he would get back to me, and so maybe you could have  
46 a discussion with Kevin.

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*Adam Issenberg:* Yes, and we can follow up with him.

*Chris Moore:* Just for the future. I mean, we'll be doing it again next year, and so it would be good to know.

*Adam Issenberg:* Again, I think we wouldn't necessarily kind of discuss the details of a specific recusal with him, because we work on the appeals, but one thing I will say, just to hopefully provide some comfort, is that the attorneys who work on this, they talk to each other all the time.

When they are considering recusals, whether it's Lauren or whether it's Kevin or Mitch McDonald or the folks up in Seattle, they share emails with each other and kind of weigh-in on have you thought about this or are you looking at that, and so it's not people kind of making these determinations on their own without kind of getting the benefit of that institutional knowledge and institutional process.

*John Quinn:* Anybody else? Leann Bosarge.

*Leann Bosarge:* My question is a little different. We have an exempted fishing permit request that came before our council, before the Gulf, but then it's been pulled back, and they're going to include some different membership, because they got a little flack for not having a broader membership in it, and so I guess it's possible, when it comes back, there may be a council member that could have some sort of ownership in that fishery that would be sitting on the council that maybe one of his boats may be in the EFP.

What are the rules there, as far as recusal and participation? I mean, the council, at least in the Gulf, we will eventually take a vote on whether we want to see that EFP proceed. Now, we don't have a final decision, obviously. That final decision comes from NMFS, but can that council member go ahead and participate in our discussions, but not vote, or how will that work? I have seen it handled differently in different places, and I want to make sure that we handle it right when it comes before us.

*Adam Issenberg:* There are actually two different provisions in the regulations that deal with conflict of interest. There is the 235 regulation, which is the regulation that talks about financial disclosures and recusals. Then, separately, there is another regulation, and it's 225, and so it's like two sections before that, and I can't give you the whole string of numbers, but it's 225.

1 That regulation actually reflects the general conflict of interest  
2 statute that applies to all of the federal employees here, and,  
3 basically, it says that you can't participate in a matter in which you  
4 have a direct financial interest, and so I think -- If I understand it  
5 correctly, and you should talk to Mara or Mike or someone down  
6 there, but I think that regulation probably applies.

7  
8 If the question is that a council member has a direct financial  
9 interest in an EFP, then that's sort of like saying that I, as a federal  
10 employee, couldn't take part in a decision that would affect,  
11 directly, stock that I hold or something like that, and so I think this  
12 is probably a question under the 225 regulation, but I would talk to  
13 the folks in St. Pete about that.

14  
15 *John Quinn:* Tom Nies.

16  
17 *Tom Nies:* Adam, I would like to follow up on Leann's question. It's this  
18 question of direct financial interest related to the 225 regulation  
19 that you're talking about. We have an extensive research set-aside  
20 program. There is various reviews for the research set-aside  
21 program that involve, for different reasons -- There is technical  
22 reviews, and there is also management/policy reviews, and we try  
23 and get knowledgeable people involved in those management  
24 reviews.

25  
26 Of course, the people that compete for the RSAs quite often come  
27 from some university or research institution. The direct financial  
28 interest has been interpreted to say that, if there is someone who is  
29 a completely different branch of that university, they can't  
30 participate in the review. Now, it's difficult for me to see how  
31 there is really a direct financial interest there. I mean, how long  
32 does that link go?

33  
34 *Adan Issenberg:* That's sort of like answering how far is infinity. What I will say  
35 about the 225 regulation is that, as I mentioned, it essentially  
36 reflects the federal criminal conflict of interest statute. One thing  
37 that I should have mentioned in response to Leann's question is it,  
38 unlike the recusal regulation, which says you can participate in  
39 discussions and you can say how you would vote, but you just  
40 can't vote, the 225 regulation actually is a complete bar on  
41 participation.

42  
43 Because it reflects the federal conflict of interest statute, it -- There  
44 is extensive interpretation of that statute by the Office of  
45 Government Ethics that addresses all sorts of questions like the  
46 questions you ask, and so, typically, when we're looking at a

1 question on the 225 regulations, we talk to the ethics people at the  
2 Department of Commerce General Counsel's office, and we look  
3 at the guidance that OGE has provided on the federal statute,  
4 because it's essentially the same provision. I don't know the  
5 answer to your specific question, but that's something that we  
6 could talk to DOC GC on.

7  
8 *John Quinn:* Anybody else? Bill.

9  
10 *Bill Tweit:* Thank you, Mr. Chair. Adam, I'm going to beg your indulgence  
11 here for a moment, because I'm going to return to the issue that  
12 we've raised a couple of times now over the last couple of CCC  
13 meetings, and I am raising it again because, as a council, we still  
14 don't understand this issue.

15  
16 It's now, particularly after both the April council meeting and now  
17 that we've seen the first couple of recusal decisions already for our  
18 upcoming June meeting, it's clear to us that this particular council  
19 member is probably going to be unable to vote on any final action  
20 for the Bering Sea, anything regarding the Bering Sea, from now  
21 on, unless he resigns from his position working for his employer  
22 and becomes a consultant, for instance, for his employer.

23  
24 To my knowledge, he's not going to do that, largely because his  
25 sense of responsibility precludes him from doing that, but he could  
26 continue to vote and represent those interests by essentially hiding  
27 his affiliation, and that would be perfectly legal, and that continues  
28 to trouble a lot of the council. That's one aspect of the ongoing  
29 concern.

30  
31 The other aspect that's equally troubling is that his employee is a  
32 corporation that was created by Congress. He works for one of the  
33 community development quota corporations, and they were created  
34 with the specific intent of creating ownership in the Bering Sea  
35 fisheries among the western Alaska communities. His particular  
36 employer has been very successful at doing that, but still within the  
37 boundaries that Congress laid down for that program.

38  
39 The State of Alaska appoints him to that position, and they appoint  
40 him to that position because they believe that those CDQ  
41 corporations have now become a major stakeholder, an important  
42 stakeholder, that should be represented on the council with a vote,  
43 and yet, because they've been successful at achieving the  
44 objectives that Congress established for that program in the  
45 Magnuson Act under these recusal guidelines, he's not going to be  
46 able to vote.

1  
2 It's a situation that just seems untenable to us as a council, and I  
3 understand that we've stated that before, and we've put it in letters  
4 and we've stated it here, and I understand that that hasn't affected  
5 the guidance that NOAA GC provides on recusals, but what I don't  
6 understand is that there has been no explanation of why this makes  
7 sense and that the successful implementation of a program that  
8 Congress established results in the council member representing  
9 that program left without a vote.

10  
11 I don't expect you to answer that today, but I did want you and the  
12 CCC to be aware that this is still an ongoing source of not just  
13 frustration, but fundamental disagreement. You can and should  
14 though be thinking long and hard about the fact that he could be  
15 representing his corporation simply by becoming a consultant, and  
16 what that would result in is a much less transparent and open  
17 system of decision-making in the Bering Sea. Thank you.

18  
19 *Adam Issenberg:* Thanks. We have heard those concerns, and I do understand them  
20 and appreciate them. Thank you.

21  
22 *John Quinn:* With that, I think we've had a healthy discussion on this. Thank  
23 you very much, Adam. It's now 10:10, and we will take a fifteen-  
24 minute break, returning at 10:25, to take up our next section.  
25 Thank you.

26  
27 *(Recess)*

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1 **11. SCIENCE UPDATE**

2  
3 *Cisco Werner:* I will be presenting this together with Rick Methot, and I also  
4 wanted to acknowledge Patrick Lynch, who helped prepare this. I  
5 will be covering two topics, or we will be covering two topics.  
6 The first one is the next generation stock assessment enterprise,  
7 and the other topic will be getting into best scientific information  
8 available.

9  
10 Just to jump into this one, we've spent a couple of years  
11 developing the Stock Assessment Improvement Plan. I talked  
12 about this briefly at the February meeting, and I believe you all  
13 now have access to the Draft SAIP, Stock Assessment  
14 Improvement Plan, which we have requested comments and your  
15 review.

16  
17 I just thought I would go over some of the highlights here. We  
18 will be attending some of the council meetings. I will be at the  
19 North Pacific Council meeting in June, and Patrick will be at I  
20 think the Pacific Fishery Management Council meeting, and there  
21 will be a couple other meetings as well, where we will be able to  
22 walk through this SAIP with the councils and answer some  
23 questions.

24  
25 What I will talk about today is a little bit about what is the SAIP, a  
26 little recap, or an overview, of what the SAIP has been so far, and  
27 perhaps a vision for where we're going next, the next generation  
28 SAIP, and then, finally, the request for review that you're all  
29 familiar with.

30  
31 The SAIP, it really is a -- It takes into account a broad suite of  
32 strategic guidance and programs in formulating the stock  
33 assessments, and you know the figure here just illustrates that we  
34 have a large number of programs that feed into our science effort,  
35 if you will, whether it's the ecosystem-based approaches or the  
36 National Climate Science Strategy or the science program reviews  
37 that we just had, and all of these are programs that we all consider,  
38 and, together with integrated ecosystem assessments, the recent  
39 ecosystem-based management policies and such, they're ones that  
40 feed into, ultimately, the stock assessment process and, ultimately,  
41 the fisheries ecosystem management plans and policies.

42  
43 The point of this figure really is that there is a whole host of  
44 programs and efforts that feed into what the stock assessment  
45 enterprise is.  
46

1 The original SAIP, Mace et al. 2001, is one where it provides  
2 strategic guidance, or it has provided strategic guidance for the  
3 past sixteen years or so, fifteen years or so, and, initially, it strived  
4 for achieving Tier 2 assessments, and it concluded with ten  
5 recommendations. It included budget and staff increases, training  
6 partnership, increased awareness, and transparency and credibility.

7  
8 From the results of the 2001 SAIP, or the outcomes of that, if we  
9 look at what has happened since then, the blue line and the green  
10 bars here are costs as well as the number of assessments, and so the  
11 funding increases are in green, and it shows that we have reached  
12 levels of about \$60 or \$65 million, in terms of funding. A lot of it  
13 is connected to the growth of the annual expanded annual stock  
14 assessments, the EASA, and, as you can see in the blue lines, there  
15 is also an increase in the number of assessments, to about 190 or  
16 so, over the past four or five years.

17  
18 The improvements in fishery management have resulted from this  
19 effort, I think you're all familiar with. There's a 30 percent  
20 reduction in the number of stocks experiencing overfishing, a 25  
21 percent reduction in overfished stocks, et cetera, and it's, overall, a  
22 very important document that has helped us justify the funding and  
23 the investments that we have made in the process.

24  
25 If you look perhaps at the blue line, the numbers of assessments  
26 have leveled off, but that's because we've also figured out how  
27 many assessments do we need to have, and perhaps cycling  
28 through the assessments that don't need to be done every year, and  
29 so trying to be more efficient as well, in terms of how we're  
30 conducting our assessments.

31  
32 The next slide shows the assessment program overview. It's a  
33 little bit busy, in the sense that it shows all the areas and all the  
34 Science Centers and Regional Office and council groups that are  
35 engaged in the assessment program, but it also, on the right-hand  
36 side, and this is part of the document that you will see or you're  
37 reviewing, it also provides essentially the impact that the  
38 assessment has on a number of the other organizations and  
39 agencies that depend on the assessments that we provide, and so  
40 this map and the complementary information is a summary of the  
41 breadth of the assessment programs and how they support a variety  
42 of management organizations, and so this is, again, just to see the  
43 broader sense impact of the assessment enterprise.

44  
45 Again, in the document, and this is a document that is intended to a  
46 broader audience, and so we also describe, in the SAIP, some basic

---

1 introduction to stock assessment science and the capabilities and  
2 limitations of the assessments and the steps in the assessment, and  
3 so we know that the assessment starts with data collection, and we  
4 try to estimate abundance, the biological data, the catch data, and  
5 we also include other information, which includes socioeconomic,  
6 ecosystem, and other data that then ultimately is used in the stock  
7 assessment models to provide the assessments, which are then  
8 reviewed, and advice is provided then to management, where we  
9 set the stock status harvest policy and catch limits. Again, this is a  
10 part of the document that is sort of a review part of the document,  
11 but, again, it's one where we describe what's going on currently  
12 and also how we're stepping forward.

13  
14 The document also describes and provides an overview of the  
15 regional stock assessment and peer review processes, and so, for  
16 each region, we describe the SEDAR or the SARC or the STAR or  
17 the WPSAR, et cetera, the review process that takes place in the  
18 peer review, as part of the peer review process, that addresses that  
19 point about the credibility and transparency of the assessments.

20  
21 The next generation then, so after providing this review and  
22 backdrop to what the assessment enterprise is, we get into the next  
23 generation stock assessments, which are more holistic and  
24 ecosystem-linked. They take into account innovations, both in  
25 modeling and new technologies, and it also begins to look what I  
26 talked about a little earlier, is how to be a little bit more timely,  
27 effective, and efficient in terms of how we do the assessments.

28  
29 The next generation, in terms of the holistic and ecosystem-linked,  
30 it explores explicitly the potential linkages between ecosystem and  
31 socioeconomic drivers and fish and fisheries, and so, within  
32 ecosystem drivers, you look at physical or biological processes of  
33 climate, habitat, and food web components. Under socioeconomic,  
34 we also then begin to look at the effects of human behavior and  
35 human organization, which would include anything from  
36 incentives to market dynamics and so on.

37  
38 Ultimately, we look both at the effects on whether it's the fish  
39 themselves, at the level of the organism, reproduction, growth,  
40 natural mortality and so on, or at the fishery, in terms of  
41 catchability and selectivity and other quantities like that, and this,  
42 again, is something that we would then fold into this next  
43 generation of assessments that, again, is described in the document.

44  
45 In terms of, again, the next generation approaches that consider  
46 innovative science and recommendations resulting from that, we

1 have a -- There is a national working group looking at the data  
2 collection and processing of this data and identifying data gaps.  
3 We have been working with the new ships and the new capabilities  
4 on the ships, in terms of how we do the surveys and how we  
5 calibrate them, to estimate not just absolute abundance, but  
6 perhaps allow for some flexibility in terms of recognizing shifting  
7 distributions and doing some adaptive surveys, as we see them.  
8

9 The new electronic and advanced tech instruments are being  
10 incorporated into our ships, and these are the new EK80 and the  
11 continued support and use of the ME70, and a whole host of  
12 advanced technologies that also include optics and not just  
13 acoustics in how we collect the data and how we make sense of it.  
14

15 Also mentioned here is perhaps a look forward into the  
16 environmental DNA component, which is a very promising  
17 technique or approach that allows us not just to look at perhaps  
18 presence and absence of organisms but also, hopefully eventually,  
19 we'll be able to even get some indices of abundance, using these  
20 molecular approaches that, again, are complementary to, again, the  
21 techniques and the methods that are available on our ships right  
22 now.  
23

24 Expanding partnerships with industry is something that is natural  
25 on this. Examples include aerial surveys, and examples include  
26 using industry vessels to conduct some of the surveys and  
27 partnering, in terms of getting additional and more comprehensive  
28 data. Then, ultimately, we also want to improve the data  
29 management and make it as quickly accessible and as high quality  
30 and automated as we can.  
31

32 Continuing on the next generation, in terms of not just the  
33 technologies themselves and the methods, the observational  
34 approaches, but there is also advances in assessment modeling.  
35 These are advanced techniques and modeling capabilities that  
36 include anything from new state-space and auto-correlation models  
37 to enhanced models, where we are more inclusive of spatially-  
38 explicit components of the populations that we're looking at, as  
39 more explicit inclusion of environmental drivers. All of this will  
40 hopefully address some of the uncertainty that we have, through  
41 the explicit inclusion and removing some of the uncertainty that  
42 perhaps would arise from the need of parameterizing some of those  
43 processes that now we can include.  
44

45 Also, there is the issue of how do we have our own staff and the  
46 professional development of our staff, in terms of new

---

1 architectures and more broadly discussing, across the community,  
2 the new approaches and then, ultimately, resulting in better  
3 assessments, and so it's not just external input into the models, but  
4 it's also how the models themselves and the people that are  
5 generating the models are able to move to this new generation  
6 approach in stock assessments.

7  
8 In terms of the timely and efficient and effective, again, in  
9 February, I talked briefly about the prioritization, and this, in some  
10 ways, is related to this, where we talk about how do we classify the  
11 current assessments that we do, either based on data inputs or other  
12 metrics, and how we use a revised prioritization to set target levels  
13 and to look at these target levels to guide strategies and  
14 investments that we make in the assessments.

15  
16 Continuing on that, in terms of the assessments themselves, we talk  
17 about perhaps being a little bit more -- Being systematic how we  
18 look at research versus operational assessments. Operational  
19 assessments are those that have been previously reviewed, and,  
20 therefore, because they are previous reviewed and perhaps more  
21 robust, they can be streamlined, in preparation, and one can  
22 conduct and document the review with focused terms of reference.

23  
24 The research assessments are still needed to be conducted, as  
25 assessments are improved, and recommendations are considered in  
26 perhaps the development of the next level of an assessment  
27 approach, and so that is a little bit more time consuming. It  
28 requires more documentation and additional review than the  
29 operational ones.

30  
31 In terms of then the next generation then, what we're aiming for --  
32 We refer to this in the document as the 4Ts of Assessment  
33 Demands, and it's throughput, timeliness, thoroughness, and  
34 transparency.

35  
36 In throughput, for example, you would say, well, we expect to  
37 have a high number of assessments, and that would be something  
38 that we all would like to do, but the reality is that, of course, there  
39 is many more stocks under our purview than we can assess in any  
40 given year, the capacity that we have to do that, and so one  
41 solution is to objectively prioritize and determine the stocks most  
42 needing assessment and perhaps leave others to, as I said, either  
43 the operational or more sort of routine update assessments.

44  
45 Timeliness, of course, we want to do it as fast as we can and  
46 provide the information as quickly as we can, but the reality is that

---

1 different approaches -- The assembling data modeling varies  
2 substantially, and so the assessment improvement plan tries to  
3 address some of those differences and perhaps try to streamline or  
4 make suggestions in terms of how we can perhaps bring some  
5 standardization to these approaches.  
6

7 The thoroughness, the expectation is, of course, that they should be  
8 as comprehensive as possible, with fully-independent peer reviews.  
9 The reality is that, currently, the data availability and the  
10 assessment capacity make it challenging to do this in as thorough  
11 way and as timely and quickly as the previous two points say, and  
12 so this is, again, something that we asked for comments on and that  
13 we make some solutions, offer some solutions, in terms of  
14 prioritizing how we determine the stock assessments in terms of  
15 the comprehensiveness of their approach.  
16

17 Then transparency, we, of course, want these to be fully  
18 documented and public and available for the public to understand.  
19 The reality is that the assessments can be complicated, and they  
20 can produce varying results, and so we need various ways of  
21 communicating it, and so, again, the solution is to try to find a  
22 standardized and perhaps tiered reporting template that  
23 summarizes the various levels of data, and so we still want to be  
24 transparent, and, again, we offer some ideas, in terms of how we  
25 achieve that transparency.  
26

27 The final slide is the request for review that you have received. I  
28 believe I sent out an email maybe about a month ago, I'm  
29 guessing, and I sent it to all of the councils, with a proposed  
30 deadline of mid-June. I have already heard back that it might slip a  
31 little bit, in some cases, but not too much.  
32

33 Everybody has been able to suggest that mid-June is a reasonable  
34 target, and then hopefully we will take these comments and have a  
35 final review and incorporation of comments and a release  
36 sometime in September of 2017. I would like to thank you for the  
37 comments that I received, or that we received last February, as  
38 well as comments between then and now, and I would just like to  
39 turn it over to Rick, if there's something that I overlooked or went  
40 too quickly on before.  
41

42 *John Quinn:* Sure. Do you want to take questions or let Rick say a few things  
43 and then we'll open it up to questions for both?  
44

45 *Rick Methot:* I will be brief. I would just recap a little bit of a linkage between  
46 the original SAIP and where we're at today. That original SAIP

1 was cast in terms of three tiers of excellence, the first tier being to  
2 make the best of what you have, the second tier being to get pretty  
3 good assessments for what we called the core stocks at the time,  
4 and the third tier being to push towards really comprehensive  
5 assessments that link to ecosystems in as comprehensive of an  
6 evaluation as we can.

7  
8 What we have today, in being able to accomplish these, all the  
9 work that's gone on over the last few years to get at least data-  
10 limited assessments for a large number of stocks, that essentially is  
11 Tier 1. You reflect back to 2005, when we created the Fish Stock  
12 Sustainability Index, that index of 230 stocks at the time. I think  
13 we have 199 in it now. That essentially was the definition of what  
14 are the core stocks, and we've made a big effort, in order to get  
15 pretty good assessments for those core stocks, as we show in this  
16 slide right here.

17  
18 Now having the efforts over the last couple of decades to slowly  
19 improve our capabilities to increase our linkages to habitat, to  
20 ecosystem, to climate, and now, with the new SAIP, we make a  
21 major emphasis on this expanded linking up with the EBFM  
22 approaches and looking at EBFM from a stock assessment  
23 perspective, as well as EBFM looks to provide technical guidance,  
24 looking towards stock assessments, and we can look at it in the  
25 other direction, from the assessments towards EBFM. This is the  
26 kind of partnership that we envision moving forward.

27  
28 As we look at the timely and efficient aspects of the SAIP, that  
29 essentially is taking that old Tier 2, which does pretty good for  
30 core stocks, and make it as efficient as possible, to keep making  
31 that something that we can deliver very quickly to give us the time  
32 and energy to take that more expanded look at a larger number of  
33 stocks, that more of an ecosystem link for the stocks that really are  
34 needing it, the stocks that are seeing changes happening that we  
35 can't explain within the narrower confines of a typical stock  
36 assessment, to take that expanded look in order to better  
37 understand it. We have a strong linkage from the old SAIP to  
38 where we are at today, but we have completely refreshed the look  
39 and vision that we have. Thanks.

40  
41 *John Quinn:* Thank you very much, Rick and Cisco. I will open it up for  
42 discussion or questions. Chris Moore.

43  
44 *Chris Moore:* Thank you, Mr. Chairman, and thank you, Cisco and Rick. I have  
45 a general question about the stock assessment prioritization plan  
46 that we've talked about in the past. I am still a little confused

---

1 about the impact that it might have on the way we do things in the  
2 Northeast, and so we've talked about this before.

3  
4 We have the NRCC that works very well for us, and certainly we  
5 wouldn't want to be involved in anything that would screw that up,  
6 to be very direct, and the question is, in fact, does all of this new  
7 stuff that you're involved with have any impact on NRCC?  
8

9 As a follow-up question, I'm also wondering about budget. As  
10 you talk about improving stock assessments around the country,  
11 are you thinking about moving money? Is there any money  
12 involved in how that's going to happen or what?  
13

14 *Cisco Werner:* I will take the second question first. The answer, like we talked  
15 last February, was that there is not an intent of shifting resources.  
16 This is something that we envision happening regionally and to  
17 help the regional review or prioritization that happens at the  
18 various locations, and so that's the answer to the second question,  
19 and I will let Rick answer the first question, which had to do with  
20 keeping the processes.  
21

22 *Rick Methot:* With prioritization, we certainly -- I have embedded within the  
23 SAIP the concept of prioritization as a way to continue to work  
24 towards making the most efficient use of the resources that we  
25 have. We recognize that every region has some aspect of a  
26 prioritization in place.  
27

28 As we have said and as we have talked about prioritization within  
29 each of the regions, that has not been enough for us to articulate  
30 how it is that we collectively have the best use of resources across  
31 the country. So, in order to best do that, we have brought forward  
32 the prioritization process that, frankly, is modeled after much of  
33 what was happening already in the Northeast, and so we see that  
34 using as a framework to articulate how you're making your  
35 decisions is something that is not going to cause any significant  
36 change in the decisions that you make, but, by being able to  
37 characterize them in the context of the factors that we've laid out  
38 there, we're in a better position to support the continued gap  
39 analysis that every region has to get more resources in the future.  
40

41 *John Quinn:* Anybody else? Tom Nies.

42  
43 *Tom Nies:* Thank you. I would like to follow up on Chris's question. I guess  
44 I'm a little confused by your response that this doesn't envision  
45 budget issues or anything, because, when I look at some of the  
46 lines in the prioritization process, I read things like using an

1 objective process to establish the list of stocks in need of  
2 assessment and the frequency at which those assessments should  
3 be conducted would provide important guidance for NOAA  
4 Fisheries to determine how best to allocate federal resources to  
5 address regional needs. Thus, maintaining a transparent and  
6 predictable prioritization process is crucial for maximizing the  
7 usefulness of overall assessment capacity to meet national  
8 mandates. Those sentences suggest, to me, that you do intend to  
9 use a prioritization process to potentially shift resources between  
10 regions.

11  
12 *Cisco Werner:* What we have envisioned is to, at the first stage, use it within each  
13 region, and, frankly, within each FMP, in order to be clearly able  
14 to demonstrate that we are being as efficient and as effective as we  
15 can be within that region within that FMP.

16  
17 In doing so, we will be identifying gaps everywhere, and, by  
18 having those gaps, we then are in a better position to articulate  
19 them, collectively, across the country. We can then show where  
20 and what are the magnitudes of the needs that we have and to use  
21 that to argue for the resources that we need in order to close all of  
22 those gaps. So we've been very clear and articulate that we do not  
23 see this as something that we would use to reallocate, but we do  
24 see that the gap analysis will help us argue for finding the  
25 resources to close the gaps that we will identify.

26  
27 *John Quinn:* Any other questions? Gregg Waugh.

28  
29 *Gregg Waugh:* Thank you, Mr. Chair. What we have identified in the Southeast  
30 as our bottleneck, and I mentioned this to you already, is it's  
31 processing data. It's not assessment scientists, and Slide 11 started  
32 to talk about that, but there doesn't seem to be any detail. Is that  
33 getting some attention? That's critical to us getting above our, on  
34 average, two assessments per year.

35  
36 *Rick Methot:* We have addressed it a couple of times over the last ten years or  
37 so, but the gaps still exist, I agree. Most recently, it came up rather  
38 strongly, in the first year of our science program reviews. It came  
39 up in the Southeast, for sure, but other regions as well, that the  
40 processing of information, the inefficiencies of pulling together the  
41 great diversity of fishery-dependent data, in order to come up with  
42 the total numbers that we needed to do stock assessments and do  
43 quota monitoring, that was a challenge.

44  
45 We were able, I think the year after that program review, to take  
46 some of the increase we had in the expand annual stock assessment

1 budget line that year and specifically allocate it to helping to close  
2 that gap. It wasn't enough to close all the gap, but we did have the  
3 program review and identify the issue, and we used that as a  
4 rationale to take some of the available resources and put it at that  
5 question. We will continue to look for ways and times where we  
6 can do that, where those resources become available, but we do  
7 recognize the need.  
8

9 *Cisco Werner:* I will just echo what Rick said. Since that time, since that review,  
10 which happened about 2012, we have been able to hire staff to be  
11 able to help us with that throughput of the data, and most of us are  
12 within the target of making that data -- Processing the data and  
13 posting the data within a year of the data collection, and so we feel  
14 that we've made significant strides on that, and it's a valid point.  
15

16 *John Quinn:* Anybody else? John Gourley.

17  
18 *John Gourley:* Please excuse my newbie question, but in the prioritization of your  
19 species that need stock assessments, who makes the final  
20 determination, NMFS or the council?  
21

22 *Rick Methot:* We use the prioritization process to organize the information. The  
23 decisions about what stocks will get assessed within each region,  
24 that final set is developed differently in different regions, and, in  
25 some cases, there is a full committee that involves both the  
26 Centers, the Regions, the councils, and the commissions that gets  
27 together. The NRCC that Chris was referring to earlier, they come  
28 up with that final set, and we are looking to provide the  
29 prioritization to provide them objective information as they make  
30 that final decision.  
31

32 There are needs for assessments that come from different  
33 perspectives. There are needs for assessments across essentially all  
34 the species that are affected by fishing in a region, in order to do  
35 status determinations, and there also are needs for updated  
36 assessments for essentially the most heavily fished stocks, to keep  
37 the quotas updated to prevent overfishing and to obtain optimum  
38 yield.  
39

40 Those are rather different demands on the analysis of which stocks  
41 get assessed, and so we're looking to have the prioritization  
42 process to be able to bring both of those needs to the table. Then  
43 look at that information and make good decisions about which  
44 ones, but exactly how the final decisions get made about which  
45 stocks should get assessed, most of the assessments are done in-  
46 house by the agency, and so we will need to make final decisions

1                                   there, but we rely very strongly on what comes out of the processes  
2                                   that are done jointly with the councils.

3  
4    *John Gourley:*            So it's more or less consensus.

5  
6    *Cisco Werner:*           Yes, in a way, and, if you look at the structure that is proposed in  
7                                   the prioritization process, there is like ten or twelve factors that are  
8                                   considered by groups that include the Regional Offices, the  
9                                   councils, the Science Centers, et cetera, state agencies, that then  
10                                  are then weighted, again, as reflecting regional needs and regional  
11                                  concerns. Whatever decision is made is the result of a very broad  
12                                  discussion that is inclusive of a large number of groups.

13  
14   *John Quinn:*             Leann Bosarge.

15  
16   *Leann Bosarge:*          Thank you, sir. On Slide 11, where you addressed the innovative  
17                                  science recommendations, and one of your bullet is to expand  
18                                  industry partnerships, and mine is not a question, but more just an  
19                                  informational comment, to put it on your radar screen.

20  
21                                  In the Gulf, one of the things that we have started talking about,  
22                                  and we're at the very infancy of this discussion, but we would like  
23                                  to try and elevate the anecdotal information that we get from our  
24                                  fishermen, because we understand that science doesn't operate in a  
25                                  vacuum, and so one thing that we are looking at is to develop  
26                                  essentially what would be kind of a data portal that is specific for  
27                                  stock assessment information, where fishermen would be able to  
28                                  enter the information that they feel is relevant for the scientists to  
29                                  look at and evaluate during that process.

30  
31                                  Obviously it would be a qualitative data stream, and there would  
32                                  have to be some sort of education for the public, almost like a  
33                                  certification, some sort of computer-based training module or  
34                                  something that you would go through on the frontend that would  
35                                  not only give you a brief education on the stock assessment  
36                                  process, but also for your expectations for how your input, as part  
37                                  of the public, would be used in the process, to let you understand  
38                                  that we're not going to use your numbers, if you are giving us  
39                                  discard numbers or whatever the case may be, but more as  
40                                  something that the scientists will read through your comments.

41  
42                                  It will have to be very specific. You will need to give what type of  
43                                  gear you're using, what depth of water, where you're fishing  
44                                  spatially, but we're hoping to garner -- Because we hear comments  
45                                  that we feel could be helpful, but, a lot of times, they are given to  
46                                  us, and sometimes they never translate through to the scientists. If

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1 you're giving information on maybe some changes in the historical  
2 range that you're seeing, and we're talking about fishermen that  
3 have been out there for forty years doing this, and so they do have  
4 information that's valuable.  
5

6 That's an effort that we're making, and we hope that eventually  
7 that we can bring it to fruition and that maybe it can be helpful.  
8 Maybe not in that assessment, but maybe in a SEAMAP survey or  
9 something like this, something that would trigger a light to come  
10 on and say, well, hey, let's try that. Let's look at that and see what  
11 we get, and so that's just a comment.  
12

13 *Cisco Werner:* Thank you for the comment, and I will just speak for one example  
14 on the West Coast. When we were doing our sardine surveys, we  
15 actually modified the survey in response to where the fishing  
16 industry is saying that they were observing the sardines, and so,  
17 rather than sticking to a protocol that we had stuck to for a long  
18 time, after about two years of that conversation that you're saying,  
19 we actually said, okay, well, let's try something different this year,  
20 and it helped a lot in our assessment, and so all these comments  
21 and input are very valuable, shifting distributions, et cetera. While  
22 they may not be quantitative at one point, they still can be  
23 qualitatively important, in terms of how we do things, and so it's a  
24 very valuable partnership.  
25

26 *John Quinn:* Any other questions or comments? Seeing none, I want to thank  
27 Cisco and Rick for their presentation, and we'll move on to our  
28 next section, the SCS-6 Update.  
29

30 *Chuck Tracy:* Thank you, Mr. Chair. I'm going to be nice to you guys. I think  
31 there is a typo on the agenda. It's not going to be thirty minutes.  
32 It's going to be thirty seconds. I don't really have a lot to report,  
33 other than --  
34

35 *John Quinn:* I apologize. We didn't finish that section. Sorry about that.  
36 We're going to --  
37

38 *Cisco Werner:* I think there's a BSIA presentation, too. Sorry. Is that correct?  
39

40 *John Quinn:* Yes, and we'll do the presentation.  
41

42 *Cisco Werner:* Thank you. Again, Rick and I will be presenting a summary of  
43 what's in your folders on the Best Scientific Information Available  
44 Draft Document. Again, this is something that I want to  
45 acknowledge Patrick Lynch, also having worked on the  
46 preparation of this document.

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The idea here is that the general framework that we're going to talk about describes a process by which BSIA is considered in relevant management actions that culminate in a final BSIA determination. There are differences, in terms of how each Region, Science Center, or council group follows this framework, and we feel that there is a need for more clarity in terms of how and when these determinations, the BSIA determinations, are made and how they're documented.

In talking to Rick, I think, Rick, you said that this is something that was started probably in about 2011, and hopefully we're at a point where we can perhaps come to some conclusion, in terms of the BSIA needs and such, and so we'll talk about the objectives and some of the challenges that we see, some proposed general steps, and then request comments from you.

As I said, the objective of the document is to describe the BSIA certification, the process for certification for the stock assessments, that, as we know, support the fishing recommendations, the OFL, the ABCs, the stock status determination, and then, ultimately, the harvest specification. We also then want to identify, within this document, the relative roles and facilitate the coordination with the SSCs.

On the challenges, the challenges include the coordination of the peer review, the status determination, and the fishing limit specification. There is a timing issue there that we all realize that we need to perhaps define and document. Because of that, there is always a little bit of uncertainty, in terms of how we determine the stock status or when, in terms of the process of the BSIA, and then when in the process the BSIA is decided. Also, discussed in this thing is the SSC's role in contributing to the BSIA determination and how then that BSIA determination is documented.

I am going to go through this flow chart, in terms of what the steps are in the assessment and also where the BSIA determination comes in, and so, initially, you have a draft stock assessment that is prepared by the Center. This draft stock assessment goes through a peer review, which we talked about earlier. That could be a WPSAR or a STAR panel or a stock assessment workshop. That peer review is then -- It leads to a final assessment, where, in some cases, the Science Centers may certify that final assessment as BSIA.

The next step is where the Science Center then documents that the

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1 assessment is complete, that it constitutes BSIA, and that it could  
2 be ready for a management decision. Then that would be on the  
3 left side, and there is a BSIA certification there, but also there is  
4 then communication with the SSCs of the council, and so the  
5 council deliberates and, in turn, may also inform the BSIA  
6 determination that NMFS has, resulting from the council's  
7 consideration and discussion. I hope this is making sense here.  
8

9 The next step is when the SSC, in its deliberations, makes the  
10 recommendations for OFL and ABC and itself then perhaps looks  
11 at the assessment and provides additional consideration towards a  
12 BSIA determination that the SSC considers.  
13

14 *Rick Methot:*

I might reflect a little bit upon how the timing of the status  
15 determination by NMFS and the timing of the SSC making  
16 deliberations, how that interacts and how the relative flow and the  
17 amount of time allocated for it within the council process creates  
18 much of the challenge that we're dealing with here.  
19

20 NMFS may, and typically does, in many cases, wait for the SSC  
21 deliberation before making their status determination and before  
22 coming to a conclusion that, yes, the science is done and we now  
23 can move forward with making our final decisions and  
24 recommendations.  
25

26 On the other hand, the SSC, and certainly the council, may well,  
27 and typically does, want to see the agency's status determination  
28 before they make their recommendations on implementing the  
29 current harvest policy, and so we have things going in both  
30 directions at this time, and the amount of time that is allocated  
31 varies tremendously across systems.  
32

33 I mean, you have very compressed processes for salmon on the  
34 West Coast and for North Pacific groundfish. Things are  
35 happening very, very quickly. In other cases, there may be many  
36 months from the time a peer review is concluded to when it gets  
37 taken up by the SSC to when it then gets delivered to the council,  
38 and so these differences in the timing are part of what we're  
39 dealing with here today.  
40

41 *Cisco Werner:*

Do you want to finish this slide?  
42

43 *Rick Methot:*

Just finishing up that thought, we see that one conclusion that  
44 needs to be based upon BSIA is when the agency makes a status  
45 determination that then is communicated to the broader  
46 community, to the agency, and to the council.

1  
2 Another place in which a decision is made by an SSC to come  
3 forward with an ABC recommendation, we expect that they are  
4 doing it under the expectation that what they are doing is based  
5 upon BSIA as well, and so they, effectively, are making a BSIA  
6 determination from the perspective of the council process and what  
7 the SSC is delivering to them.  
8

9 Then all of this is building a case, essentially, for when we get to  
10 the final stage, when the agency gets the full package for  
11 certification, that the package is consistent with all the National  
12 Standards, and that is the final case in which we would be asserting  
13 that the whole package is based upon consistency with the National  
14 Standards, including National Standard 2 and including BSIA.  
15

16 That happens smoothly at that final stage if it has already happened  
17 smoothly leading up to that. So we are trying to clarify how it is  
18 that we actually move through this kind of a process within each  
19 region, because we get to the end in every case, and it goes off the  
20 rails occasionally, and not very often, but it occasionally does go  
21 off the rails, and we're trying to clarify just how the flow happens  
22 within each region.  
23

24 *Cisco Werner:* That's described in the document, in terms of how -- We are  
25 asking the different Science Center/Regional Office/council  
26 groupings to see how it is that they do it, how it is that BSIA is  
27 achieved, so that, again, we can try to work towards some  
28 standardization of this approach, and so the final version of the  
29 document, we hope to have it out in the next month or two and  
30 distributed for council review, and we would request that the  
31 council discuss and review the document, and hopefully be able to  
32 provide comments in three to four months after that. That is the  
33 gist of the BSIA discussion that we wanted to present.  
34

35 *John Quinn:* Thank you very much, Cisco and Rick. Any questions or  
36 comments? Michelle Duval.  
37

38 *Michelle Duval:* Thank you, Mr. Chairman. On the slide that had the flow chart in  
39 it, the asterisk at the bottom says that the Science Centers may  
40 certify final assessments as BSIA, and it looks like that step -- It  
41 may or may not occur, and it may occur prior to SSC deliberation  
42 and an official status determination. I guess I almost feel like that  
43 adds a little bit of confusion, and so now does the Science Center  
44 convey a memo to the Regional Office?  
45

46 In reading through the document that accompanies this

1 presentation, I see that there is some language in there with regards  
2 to how and when the Science Center may communicate to the  
3 Regional Office that an assessment is complete and it represents  
4 BSIA, and so does that occur with every assessment? In other  
5 words, is there a memo that goes from the Science Center to the  
6 Regional Office with every assessment at some point prior to the  
7 final determination that this is BSIA?  
8

9 It seems like there is multiple levels of BSIA determinations, and I  
10 think that's -- While I understand that the statute dictates that the  
11 agency makes that final BSIA determination, I think it's a little  
12 confusing for the public, when they hear the SSC say this is BSIA  
13 for making ABC recommendations, and there is a few more steps  
14 in that process before we get the final stamp of approval, and so  
15 when the Science Center -- My specific question is does every  
16 Science Center send a memo to the Regional Office confirming  
17 that an assessment is complete and that, in their opinion, this  
18 represents BSIA, and does that typically occur before the SSC  
19 takes it up?  
20

21 *Rick Methot:*

22 Not typically, but it does occur in some circumstances. Whenever  
23 the agency puts out the door a research document, essentially, we  
24 are asserting that it's, at least in draft form, consistent with the  
25 Information Quality Act, and so we are -- We're not going to put  
26 anything out the door without some degree of comfort that we are  
27 putting good science, good products, out the door.

28 In some cases, in some regions, we try to get the review process,  
29 that original NS-2 compliant review process, strong enough so  
30 that, when we finish that, we are essentially done with the science.  
31 Now, it still can happen that the SSC may find something later that  
32 they feel as though needs to be done differently.  
33

34 In the document, you see that there is opportunity for that to  
35 happen, for them to document that they indeed have found  
36 something that needs to be done differently this round, that it's not  
37 just our future research recommendation. That can happen, but, to  
38 the extent we can, we really are on the solidest ground if we have  
39 the review process come to the conclusion on the technical aspect  
40 of the science.  
41

42 The SSCs are engaged in that review process, and so, if we can get  
43 it essentially done there, then everything else flows really  
44 smoothly, but it's where we end up with a lot of ambiguity at that  
45 stage, and the agency is looking at it from the perspective of, well,  
46 what's the status? We have a couple of scenarios here, and one

---

1 stays that it's overfished, and the other one says it's not.  
2 Meanwhile, the SSC is looking at it on, well, where do we set the  
3 quotas and how do we look at these two scenarios.  
4

5 If we still have ambiguity about which scenario is most strongly  
6 supported by the science, then we have potential for different  
7 recommendations developing and needing to find ways to resolve  
8 it subsequently. We're trying to come stronger conclusions about  
9 this is where the science is at today as early as we can in the  
10 process. In some cases, we wish to get that document, with a  
11 memo, there at that stage, but not in all cases.  
12

13 *Cisco Werner:*

If I could just add to what Rick said, or reinforce what Rick said,  
14 that second bubble of the regional peer review does include  
15 members of the SSC. Not the full SSC, but members of the SSC  
16 are represented there, and so it is a -- It's not just an internal  
17 Science Center discussion. Through that review process, there is  
18 that additional input as well, which then, like Rick said, when it  
19 goes back to the SSC, to the full SSC, additional information may  
20 come in, but there is check at that first stage, or that first review,  
21 already.  
22

23 *John Quinn:*

Chuck Tracy.

24  
25 *Chuck Tracy:*

Thank you, Mr. Chairman. Thanks, Rick and Cisco. I guess, kind  
26 of following up on that discussion, it seems, as I look at this slide,  
27 that there is -- When things don't go the way they're supposed to,  
28 and hopefully that is rare, the -- I guess one concern, from the  
29 council perspective, is that, if something changes after the council  
30 has completed its process, in terms of what is determined to be  
31 BSIA, the council, I think, has a responsibility to consider that  
32 information and perhaps make a different set of recommendations,  
33 if there is a different set of information which they should be  
34 basing their decisions on.  
35

If that process doesn't occur, then you're in the situation where it  
36 could result in a disapproval, or a partial disapproval, of a council  
37 decision, and so I guess what I don't see on this slide is any sort of  
38 feedback loop back into the council process if it gets beyond  
39 council final action and information changes.  
40

41  
42 *Rick Methot:*

I'm having a hard time seeing a situation in which after the council  
43 had developed their recommendations that we have new science  
44 brought forward at that point in time that was something other than  
45 we found a mistake and that we have to go full stop and reset.  
46

1 If there is something new, then it's something to be taken up next  
2 time around. I don't see that there is any new review of the  
3 science that's going to happen at that stage. We're not conducting  
4 a new review in order to make that final BSIA determination. We  
5 are really relying upon the strength of all the deliberations that  
6 have happened through the council process and through the joint  
7 peer review process in order to make that final BSIA assertion.  
8

9 *Cisco Werner:*

10 In the document, we do acknowledge that that can happen, that the  
11 SSC could find something, and we state in the document that, if the  
12 SSC disagrees with the findings or the conclusions of that peer  
13 review, in whole or in part, the SSC must prepare a publicly-  
14 available report, et cetera, et cetera, and so there is at least a  
15 suggestion on how to do that, should that situation arise, in terms  
16 of how the SSC and the council would respond if there is such a  
17 disagreement.

18 *Chuck Tracy:*

19 I guess what I was thinking is it was not so much a reevaluation of  
20 what the best science is, but just an opportunity for the council to  
21 reconsider its recommendations to NMFS based on a different  
22 assessment of what the best available science is that would occur  
23 after the SSC has already completed its process.

24 I guess the reason I bring this up is I kind of thought, from our  
25 CCC meeting last year, that we had a little -- We had a couple of  
26 examples where BSIA determinations were made that differed  
27 from what the council had in front of it when it made its decisions,  
28 and I think one was in New England and one was in the Mid or the  
29 South Atlantic, and so, again, I just wanted to see if there is some  
30 process to sort of give that feedback loop, to make sure that, if  
31 something does change, again assuming that would be a very rare  
32 circumstance, but just to provide that mechanism.  
33

34 *Rick Methot:*

35 Yes, and you're right that the communication of any change in the  
36 process is a very important part of it. Neither side deserves to be  
37 blindsided by a change, and so, if that -- But that's only going to  
38 happen if there is a lot of ambiguity still at that stage or if there  
39 isn't a strong documentation of how a decision was made. Then  
40 it's going to be uncertain or what was the basis for the SSC, in that  
41 case, the conclusion that they made.

42 We're striving for better documentation of how the SSC resolves  
43 uncertainties, in order to come up with a recommendation. That  
44 certainly is an important part of doing this well, so that, when the  
45 agency looks at it, that we have that justification in front of us and  
46 it's well-reasoned and, unless we find clear mistakes, it's going to

1 have a lot of weight.

2  
3 *John Quinn:* Charlie Phillips.

4  
5 *Charlie Phillips:* Thank you, Mr. Chair. I was kind of listening to Leann, and I  
6 think I get where Chuck is coming from. A lot of times, we'll get  
7 a determination of BSIA on something, but there is uncertainty.  
8 Like you said, there is different ways of looking at it, and then the  
9 council is trying to listen to the public comment and take that into  
10 consideration, and sometimes the public comment will be contrary  
11 to what the BSIA may be, and so what kind of wiggle room do we  
12 have in there on making decisions?

13  
14 *Rick Methot:* The decision still is using, as the science component, what has  
15 come out of the science process. I mean, yes, you have additional  
16 input that comes from public comment and internal deliberations.  
17 That is not changing the science. It is added information in  
18 addition to the science, and I think that's an important part of it.  
19 You don't want to be using that to change what's come out of the  
20 science process, but it is input to your final recommendations that  
21 you're developing at the council level.

22  
23 In terms of how much latitude there is for change, it's hard. It's  
24 one of the hardest things that we do, because there always is going  
25 to be that uncertainty, or it's not going to be really firm point  
26 estimates that are going to come out of this, but the degree of range  
27 and choices that are available is something that comes out of that  
28 process.

29  
30 *John Quinn:* Sam Rauch.

31  
32 *Sam Rauch:* Maybe I can comment on this point. This is intended to be a very  
33 transparent public process, this entire process. The reason the  
34 council takes public comment, and that we in turn also take public  
35 comment, is there is always a possibility that something in here is  
36 not right or that there is some new information that, despite all of  
37 this, we overlooked, and we have tried to design the system so that  
38 the chances of that happening are small, but that could happen, and  
39 so both the council, and certainly the agency, needs to be able, at  
40 some point, to say, despite all of this, there was this piece of  
41 information that you didn't consider. We have to do that for the  
42 public. Otherwise, we're not truly taking the public comment.

43  
44 What the point here is though is that's going to be a very high bar.  
45 If we've done all of this right, and all the science has worked out,  
46 that's why we go through this, so that the chances of that

1 happening are slim and the bar is very high, but it's still a  
2 possibility there. We can never say that we will ignore that last  
3 piece of information. Otherwise, why have the public comment  
4 period?

5  
6 There is some wiggle room there for both the council and the  
7 Fisheries Service to take that into account, but, if we've done our  
8 job well, the bar should be very high to set aside any of this for that  
9 piece of information, but it's still there.

10  
11 *John Quinn:* Phil Anderson.

12  
13 *Phil Anderson:* Thanks, Mr. Chair. Cisco and Rick, you both are very familiar  
14 with the way the Pacific Council does its stock assessments and the  
15 process and the establishment of the stock assessment team and the  
16 STAR review process, and then both of those come to our SSC,  
17 and they deliberate and then come forward to the council with a  
18 recommendation and an opinion about whether the stock  
19 assessment represents the best scientific information available and  
20 make a recommendation to base our management utilizing that  
21 stock assessment.

22  
23 Given all of that, and then when I look at this flow chart up here,  
24 there is this additional step of National Marine Fisheries Service  
25 status determination, and so we go through all that process, and we  
26 have public comment as we go, and so is there or is there not an  
27 additional step being suggested or recommended or ordered,  
28 whatever the right term is, in addition to what we're currently  
29 doing?

30  
31 *Rick Methot:* No, there's not. It's just acknowledging and articulating here that  
32 there is a parallel process on the status determination side that that  
33 same assessment that we are, in the Pacific Council case, waiting  
34 to get that SSC deliberation on the assessments, before using it as a  
35 basis for the agency to act on changing a status determination, but  
36 we aren't doing a separate review, for sure. We are relying upon  
37 that STAR process to do the review.

38  
39 We, in that case, are waiting to get the final SSC deliberation  
40 before either making final actions ourselves, even though we aren't  
41 bound to, but, as soon as that assessment is pretty close to being  
42 finished, if we see a need to step in and make a status  
43 determination on that basis, we can use that as it is, but we  
44 typically do wait for that, but we aren't doing a separate process  
45 there. We are using that jointly-commissioned review process, the  
46 STAR review process, to do the heavy lift of the review, and that

1 has the SSC participation in it.

2

3 *John Quinn:* Tom Nies.

4

5 *Tom Nies:* If I might, I've got, I guess, two questions. One is just sort of a  
6 process-related question, and so maybe I will ask that first one. I  
7 am a little unclear on how this is moving forward. We've got this  
8 draft framework document in front of us, and we thought we were  
9 going to get the white paper at this meeting, and so we had  
10 scheduled time at our upcoming SSC meeting and June council  
11 meeting to talk about the white paper, but we don't have that yet.  
12 Do you know when that will be released and when you will be  
13 seeking comments on it, or should we go ahead and comment on  
14 this draft framework?

15

16 *Rick Methot:* The draft framework if we can, because we have -- The reason we  
17 don't have a white paper is largely because we realized, at the end,  
18 that much of the white paper was really about the review process,  
19 and that's all in the SAIP.

20

21 In stripping it out, we end up with basically just this flow chart as  
22 what we're focusing on here for the BSIA determination, and so  
23 what we really are looking for right now is discussion with each of  
24 the councils on how does this work in your case and how can we  
25 articulate the flow of this process, in your case, or is there  
26 something that you see very differently in how your process  
27 operates.

28

29 *Tom Nies:* Okay. Thanks. We will provide comments later. I think the very  
30 first paragraph is this framework though needs to be very carefully  
31 worded, because there are some sections in there that seem to tread  
32 on issues that National Standard 2 says assessments should not  
33 deal with.

34

35 National Standard 2 specifically says that assessments should not -  
36 - The scope of work may not request reviewers to provide advice  
37 on policy and regulatory issues, such as the amount of precaution  
38 used in decision making, and it goes on to say they should not  
39 provide fishing level recommendations. I think, when you write  
40 that first paragraph, it needs to be clarified that you're just  
41 providing technical information and you're not suggesting that the  
42 assessments provide advice on those things.

43

44 *Rick Methot:* The assessments provide the technical basis for the  
45 recommendations, and those recommendations are made by the  
46 SSCs. What we characterize as fishing level recommendations are

1 essentially the ABC and OFL, and I think we're clear in here that  
2 those are recommendations made by the SSCs, but they're guided  
3 by the calculations that are embodied in the assessment, and so it's  
4 a flow of information that goes from assessment to  
5 recommendation.  
6

7 *Tom Nies:* True, but we do it a little differently in our region, but the point  
8 I'm more concerned about is the reference to harvest control rules,  
9 which are clearly a council responsibility informed by the SSC,  
10 and they involve balancing risk and uncertainty, which is a council  
11 policy decision. I think you need to be careful about implying that  
12 advice on changing harvest control rules might come out of an  
13 assessment, directly from the assessment reviewers.  
14

15 *Rick Methot:* Part of our challenge is that sometimes we do have assessments  
16 come forward with information that would lead to a  
17 recommendation to a change of a harvest policy, and some  
18 assessments might have been requested to look into what is the  
19 best SPR to use or whether to switch from an SPR basis to a direct  
20 MSY basis.  
21

22 Those kinds of technical evaluations do happen sometimes within  
23 the assessments, and so I see it within the broader scope of  
24 assessments. Not all assessments deal with whether or not there  
25 should be or could be a change in a control rule, but they can, and  
26 sometimes they do.  
27

28 *Tom Nies:* Maybe incorrectly, but I was looking at the things that you  
29 mentioned as the status determination criteria, as opposed to how  
30 you apply those and use those in the harvest control rule, and, yes,  
31 we do understand that those do come up in assessments and are  
32 routinely evaluated there.  
33

34 *John Quinn:* Anybody else? Seeing none, thank you again for both of the  
35 presentations. Now we're back to Chuck Tracy for the next  
36 section.

---

## 12. SCS-6 UPDATE

1  
2  
3 *Chuck Tracy:*

Thank you, Mr. Chairman. Again, the Scientific Coordination Sub-Committee has been meeting on a regular basis to plan their next meeting, which is scheduled for January of 2018, January 17 through 19. We have selected a hotel and a venue. It's in San Diego, California, and so hopefully we'll get a little relief from some of the colder weather by going to southern California at that time.

10  
11 The planning is going well, I think. The agenda is in the presentation materials. The focus is management strategy evaluations. There are some sub-themes that are going to be explored, four sub-themes, and they are: ease of MSEs in evaluating and modifying harvest control rules; estimating and accommodating uncertainty; adjusting harvest control rules in changing environments; and I don't see the fourth one.

18  
19 In any event, the planning is going well. We have gone through a list of invited speakers, and I think we are at a decision point for that. I think there is a couple who we have decided on and two more that we're going to have a little more discussion.

23  
24 The structure of the meeting is going to be sequential. There will not be any concurrent sessions, and so, if people go, they will get to hear it all, and I guess I don't have too much more to say about it. I think we have planned on having at least four invited SSC members from each council, and we assume that there will be some more people coming on their own travel expense and whatever National Marine Fisheries Service participation is there.

31  
32 That's the status of where we're at now for the SCS. The Chairs, again, will continue to meet to refine the presentations and get the materials in and identify the invited speakers, and we will continue, and so I don't have much more than that.

36  
37 I am not sure how many other people besides SCS folks are going to be there. If council members or Executive Directors or Deputies are going to attend, I guess I would appreciate a heads-up, just for planning purposes, so we make sure that we have enough space and have sufficient resources to accommodate that, but that's the summary of my update.

40  
41  
42  
43  
44 *John Quinn:*

Thank you very much. Any questions of Chuck about the event? Seeing none, we are now going to break for lunch. We are breaking early, because we're finishing a little bit early, but, also,

1                                   there's about ten members that are going to be taking a tour of an  
2                                   offloading of a boat down the street at noontime, and so we're  
3                                   going to stand in recess until 1:15.

4  
5    (*Recess*)

1 **13. RECREATIONAL FISHERIES OVERVIEW**

2  
3 *John Quinn:* Next is the Recreational Fisheries Overview. There is four  
4 presenters, and, based on what I was told, we're going to start with  
5 Gregg Waugh.

6  
7 *Gregg Waugh:* Thank you, Mr. Chairman. I am just going to give an overview,  
8 basically walk you through that topic overview document that is on  
9 the briefing book. This section, we're going to do two things.  
10 We're going to receive a report on roundtable discussions that the  
11 National Marine Fisheries Service helped facilitate with ASA and  
12 others in the recreational community. We'll get some of their  
13 input on data and management approaches. Then we'll discuss the  
14 three issues that we raised at the last CCC meeting.

15  
16 After I am finished with this overview, Russ Dunn will give a  
17 presentation on the recreational roundtable summaries, and then  
18 you can see that the first of the three issues that we've raised is  
19 alternative ACL tracking methodologies.

20  
21 Again, we've got fisheries being closed due to recreational  
22 landings exceeding their recreational ACL based on variable data  
23 that, in many instances, seem to be an outlier, and we're to the  
24 point where we can have one intercept in one wave blow our entire  
25 recreational ACL for some species.

26  
27 MRIP staff provided a presentation to our SSC, back in 2015, that  
28 outlines some alternative approaches for estimating catch and  
29 effort for rare species and using that to compare to ACLs, and this  
30 was really an eye-opener to us, that we had some flexibility to lay  
31 out how those ACLs would be monitored.

32  
33 Our SSC thought this was a viable approach, and there was also  
34 discussion of developing precision standards within the MRIP  
35 program, and so we've got a couple of letters attached to this  
36 material that you all can look at at your leisure, but we requested  
37 the MRIP program to make sufficient staff resources within  
38 existing funding levels to work with the Southeast Fisheries  
39 Science Center to help us implement this new estimation  
40 methodology. We're looking at this for some of our more rare  
41 species, and some not so rare, hogfish, blueline tile, golden tile,  
42 snowy grouper, red snapper, and cobia is one that has become  
43 increasingly difficult.

44  
45 What we want the output of this effort to be is the delivery of  
46 estimates in different forms, maybe using annual estimates of catch

1 and effort, so that we reduce the PSEs. To get this effort started  
2 and ensure a consistent approach, we're organizing a joint SSC  
3 meeting between our SSC, and the Gulf is hopefully going to send  
4 some representatives, the Mid-Atlantic is sending a representative,  
5 and we're looking at the weeks of November 6 or 13.  
6

7 The idea is to get some work done ahead of that meeting and then  
8 leave that meeting with some concrete examples, and MRIP staff  
9 has indicated that they're willing to support this meeting, and  
10 Cisco is going to give a little bit of where they stand on that.  
11

12 The second topic, on page 2, is alternative methods to estimate the  
13 recreational catch, and, as we discussed at the last meeting, we  
14 have a pilot program ongoing, working with NMFS funding, our  
15 state partners, and MRIP, working with the Snook & Gamefish  
16 Foundation, on a pilot project to look at an electronic permit and  
17 an electronic logbook for the private recreational sector.  
18

19 We've asked MRIP to work with us on that, and they provide  
20 support to some efforts in the Gulf, and Cisco and Andy can  
21 provide a little more detail on those, but we're just looking for a  
22 little bit of guidance from Cisco.  
23

24 Then the third item, on the bottom of page 2 of this overview and  
25 continuing over to page 3, lays out this weight conversion issue,  
26 and this has to do with people going to the MRIP website and  
27 getting one weight estimate and then looking at our regional  
28 websites, where they take additional length data and weight data  
29 and convert to weight and get a better estimate of the weight, and  
30 so we have some confusion over two different estimates, and Andy  
31 Strelcheck is going to go through an explanation of that.  
32

33 We're just, on Topics 1 and 2, looking to see if any of the other  
34 councils are interested in this issue, and we know it has surfaced in  
35 the Mid-Atlantic, and whether anyone else is interested in  
36 participating in that meeting. Then, on the third one, I think we've  
37 got an explanation that it will be up to the councils to go back and  
38 determine whether they want to continue with recreational ACLs  
39 in weight or convert to numbers, and so that is a quick overview.  
40 If there are any questions, I will be glad to answer them before we  
41 start with Russ.  
42

43 *John Quinn:* Any questions to Gregg? Seeing none, Russ Dunn is up next.  
44

45 *Russel Dunn:* Thank you. I am Russ Dunn, and I am the lead for work on  
46 recreational fisheries issues at NOAA Fisheries Headquarters, and

1 I work with staff in our regions all around the country, Regional  
2 Offices and Science Centers, to really get a better understanding  
3 and address the concerns of the recreational community.  
4

5 Today, I am going to talk briefly about some of the findings that  
6 came out of a series of roundtable discussions we just held all  
7 around the country and simply introduce to you a document  
8 developed by the Teddy Roosevelt Conservation Partnership and  
9 the American Sportfishing Association on alternative management.  
10

11 First, just a quick glimpse of the scale, magnitude, of recreational  
12 fishing around the country. As you all know, it has become really  
13 an enormous business and driver of local and regional and national  
14 economies. These are 2015 numbers. They're our most recent  
15 numbers, and so there are roughly nine-million anglers who spent  
16 \$28.7 billion. About 85 percent of that was on durable goods.  
17 Then this drove the larger -- The \$29 billion in expenditures drove  
18 around \$63 billion in sales impacts and supported 439,000 jobs  
19 around the country.  
20

21 The roundtable discussions were really part of our work in  
22 reaching out and understanding the recreational community and  
23 trying to better address their priorities and concerns, and we have  
24 recently been, as you can see, to a town near you. We held nine  
25 meetings around the country, mostly between March and last  
26 week, but the first one was held in December. It worked out great  
27 to be on the shoulders of a council meeting up there.  
28

29 The meetings were generally pretty small, anywhere from twelve  
30 to about thirty people, in general. The one in Alaska was the  
31 largest, and there were about fifty people there, and we kept them  
32 intentionally small, so that we could have a real dialogue with  
33 folks. Our regional staff identified the participants as well as put  
34 the agenda together, and so it was really tailored towards concerns  
35 in your various regions.  
36

37 We held one in Alaska, two on the West Coast, two in the  
38 Southeast, two up here in the Greater Atlantic Region, one out in  
39 Hawaii, and then we treat Atlantic highly migratory species as its  
40 own region, and so one there as well. We were fortunate that we  
41 had NMFS leadership in participate in two. The AA participated  
42 in two, and all of our Regional Administrators participated in each  
43 of the others, as well as some of the science leadership.  
44

45 The goals of these really were to serve as a check-in for NOAA  
46 Fisheries with the recreational fishing community. They allowed

1 us to continue our dialogue to obtain a better understanding of their  
2 priorities for the new administration, identify emerging issues  
3 before they become crises, and, really, most recently, to give us  
4 food-for-thought for the upcoming Rec Fish Summit. We are  
5 moving forward, working with the Atlantic States Commission, to  
6 cohost a 2018 Rec Fish Summit again. We've done those in the  
7 past. We did one in 2010, one in 2014, and now we're planning  
8 for one, most likely at the end of March 2018.

9  
10 I am going to give you just a quick overview. There were dozens  
11 of issues identified at each, but we sort of distilled down the notes  
12 and the key issues of each, and so I'm going to just touch on it very  
13 briefly here, and then, the long-term concern, we did an interesting  
14 exercise, where we asked folks, in one to three words, to identify  
15 the issue of greatest concern for them on the five to ten-year time  
16 horizon. What keeps them up at night when thinking about the  
17 recreational fishing industry or sport?

18  
19 In Alaska, the big topic was halibut allocation. That was the first  
20 one. It mostly surrounded the RQE, the Recreational Quota Entity,  
21 which is an entity being developed still, which will be able to  
22 purchase commercial quota and put it into a common pool for use  
23 by the for-hire or what they call up there the guided industry.

24  
25 Council representation was a big issue up there. The recreational  
26 community feels like the representation has become better. There  
27 is one recreational seat on the council. However, they feel like  
28 there is underrepresentation, particularly with regard to the non-  
29 guided sector up there, and communication was a big issue.

30  
31 In short, the size and complexity of both the council and the NMFS  
32 documents was just overwhelming, and so what they are really  
33 interested in seeing is distilled, plain-language versions of NMFS  
34 and council documents. There was a lot of interest in trying to  
35 figure out if there was a way to develop short, explanatory  
36 videos, and we heard this in a number of places. You will see the  
37 same thing comes up.

38  
39 The West Coast, like I said, there were two meetings, but we've  
40 condensed it down into one. Sanctuaries and monuments was by  
41 far the big one that came up there, and it just boils down to public  
42 distrust of sanctuaries and monuments and the processes behind  
43 them and a real desire to make sure that, if there is fisheries  
44 management associated with those, that it be put in the hands of  
45 the councils and not in the hands of the sanctuary managers or the  
46 various entities which may manage the monuments.

1  
2 The access and availability were issues there as well, and to two  
3 different perspectives. Access really came up more in southern  
4 California, and it was with regard to physical access to fishing  
5 grounds, because of mostly the Marine Life Protection Act out in  
6 the State of California, but then availability came up more up  
7 north, where it's, frankly, a lack of fish, specifically salmon. Coho  
8 and winter steelhead were the examples generally used in that  
9 meeting. They spoke to the fact that this lack of available fish is  
10 driving shifts away from historically salmon fisheries to groundfish  
11 and albacore.

12  
13 In California, one of the concerns which arose from lack of access  
14 to the coastline was the concentration of effort in the remaining  
15 open areas and what is that doing to those areas.

16  
17 Communication challenges were exactly the same, in almost the  
18 identical language used in Alaska. The documents are  
19 overwhelming, they're too complex. Boil it down and give us a  
20 plain language breakdown of it and videos. There is a lot of  
21 interest in videos out there.

22  
23 The Southeast, what came to the top very quickly was really  
24 frustration and process exhaustion. It's a frustration both with the  
25 outcomes of management as well as with the process itself, and  
26 what they voiced pretty loudly was that this is driving people away  
27 from compliance, that people are simply shrugging their shoulders  
28 and walking away and saying, you know what, I don't see  
29 enforcement out there, I don't know anyone who has ever been  
30 busted, and I am going to do what I think is appropriate, and catch  
31 me if you can.

32  
33 This isn't sort of -- The impression they conveyed was this isn't  
34 sort of the bad-actor folks. This is people who had, for years, been  
35 part of the system and involved, supporters of the system who have  
36 now just said that we're done.

37  
38 Data, essentially a lack of trust in the lack of data that is available  
39 and also a lack of what they see as needed data, was a huge  
40 concern, and access and species availability came up, but in a  
41 different way than out west.

42  
43 Access really was speaking to the closure of red snapper in the  
44 South Atlantic and the extremely truncated seasons in the Gulf for  
45 red snapper, but the species availability was interesting, in that red  
46 snapper, in some instances, and black sea bass, in some instances,

1 has become essentially a nuisance species. They can't get past it,  
2 and we just heard that over and over, that that is all they catch and  
3 they can't catch anything but those, but they're not allowed to keep  
4 it. It's everywhere, and so it was interesting that they see them and  
5 they're frustrated by the inability to retain, and they really view  
6 them now, outside of windows where they can keep them, just as a  
7 nuisance.  
8

9 Greater Atlantic, data came up again, and it was the same as down  
10 in the Southeast, the lack of data and distrust of the data, and they  
11 gave some specifics, such as concerns about the high PSEs, which  
12 just really undermine anyone's confidence in the data. The  
13 timeliness of the data is an issue, and that the data is often all  
14 caveats. If NMFS, MRIP, gives a number, there are so many  
15 caveats associated with it that it's meaningless, and so that  
16 frustration, I don't think, is a surprise to many folks here.  
17

18 Regulatory stability was a strong theme here, and the need for that,  
19 particularly in the for-hire industry. Because of that lack of  
20 stability, they're losing customers, and, as a result, they are  
21 beginning to really lose infrastructure. There were a number of  
22 folks, in the two meetings that we had, who either had just sold  
23 their boats or put their boats up or had left the fishery, but still  
24 came to the meeting.  
25

26 That, to me, was a real change in events, in that, for years -- As a  
27 regulator, you all know, when you propose something, there is  
28 often the concern about this is going to put me out of business.  
29 Well, now we're really actually seeing it. There were, like I said, I  
30 think at least four people who had gone out of business or sold  
31 their boats or downsized.  
32

33 Access for Greater Atlantic, I guess a lot of that was just the need  
34 to access fish and the need to have something available year-round  
35 that they can sell to customers.  
36

37 Pacific Islands had a very flavor different flavor than most of the  
38 meetings. Communications were key there. In-person is very  
39 important. The scale of the region makes it difficult, but they  
40 really emphasized the need to have face-to-face communications,  
41 from a cultural perspective, and that it is essential to build those  
42 relationships, part of the issue being that the region is so vast, and  
43 you see this -- This goes to the challenges of geographic scale. It  
44 is very difficult and costly to get people together, to be able to  
45 build those needed connections.  
46

1 Cooperation and partnership was a frustration for fishermen out  
2 there, where they really felt there was a limited involvement in  
3 consultation or execution of science that was going on. They were  
4 frustrated in how some of the research was being conducted and  
5 not taking advantage of local expertise, which they felt could  
6 benefit the research that was ongoing.

7  
8 Our final one, which we held just last week, was Atlantic highly  
9 migratory species, and that focused primarily, initially, on  
10 commercial and non-commercial issues, and what that goes to is,  
11 under HMS, for for-hire boats, the sale of tunas is allowed by  
12 charter boats, and there is concern that Coast Guard regulations --  
13 That will trigger Coast Guard commercial vessel safety  
14 requirements.

15  
16 If that occurs, that's going to be a very costly upgrade for a number  
17 of vessels, and not viable for many, and so there is interest in  
18 essentially bifurcating the Atlantic HMS for-hire fishery into a  
19 portion which can sell and may be subject to those Coast Guard  
20 requirements and a portion which would be strictly recreational  
21 and not be able to sell.

22  
23 Post-release mortality was big. There was a lot of focus on that, in  
24 terms, primarily, of improving recreational understanding of how  
25 to decrease it and some interest in revisiting circle hook  
26 requirements.

27  
28 Finally, reporting compliance was discussed for quite a while, and  
29 a recognition that it is extremely low in Atlantic HMS, that folks  
30 are just not reporting as they are required to, and that they felt that  
31 it came from a number of reasons, including just not knowing  
32 about requirements, lack of trust, and the use of the data. That it  
33 will be used against them, and so why bother. There was really a  
34 call there, at the meeting, for more robust, enforceable regulations.

35  
36 What you see here is a little word cloud of the long-term concerns  
37 that were voiced, and so the size of the word scales to how  
38 frequently it was raised by individuals as we went around each  
39 room. We just went around each room, and people gave their one  
40 to three words.

41  
42 Obviously access was the big one, for the long-term. Are they  
43 going to be able to continue to get out there and fish? Data was  
44 number two, and, interestingly, followed by regulations and  
45 habitat. Regulations being overregulation in general, and data  
46 being concern about its reliability and the lack thereof. Let me

1 stop there, before I jump into the TRCP, and ask if there are any  
2 particular questions or anything I can answer, and then we will  
3 jump into the next part.  
4

5 *John Quinn:* McGrew Rice.  
6

7 *McGrew Rice:* As Russ knows, and this might be towards Sam and the people that  
8 are in charge, but, because our region is so large, our regional  
9 person, Andrew, has a hard time reaching out to the other, Guam,  
10 Samoa, American Samoa, areas, and so, basically, it's like it's a  
11 budget thing, for finance, and one of the things that came up in our  
12 meeting was to be able to give -- Because our region, being so big,  
13 a little more access to budgeting, so he can be able to go to these  
14 other places and talk to the recreational people and stuff. Anyway,  
15 that was one of the big things that came up in our meeting.  
16

17 *John Quinn:* Anybody else at this stage? Phil Anderson.  
18

19 *Phil Anderson:* Thanks, Mr. Chair, and thanks, Russ. You mentioned that you  
20 wanted to keep these meetings small, and I was wondering if you  
21 invited any state participation in these meetings.  
22

23 *Russel Dunn:* The meetings consisted primarily of fishermen, recreational  
24 fishermen, but we had participants from most, if not all, of the  
25 councils. We invited the recreational council member seats to  
26 them, as well as -- I can go back and check, but I know the state  
27 folks participated in a number of them. They were at California,  
28 they were in Newport, Oregon, and Alaska. Offhand, I can't  
29 remember where else they were, but we had a number of state  
30 participants at them.  
31

32 *Phil Anderson:* I know trying to canvass the entire country has got to be tough  
33 with holding public meetings. The closest one to Washington was  
34 about a four-and-a-half-hour drive, and there's no airplane  
35 opportunities going into Newport, Oregon.  
36

37 I guess I would just offer a perspective that I know one of the  
38 objectives was to build partnerships, and I know that is in reference  
39 to the recreational community and partnerships between National  
40 Marine Fisheries Service and the recreational community. I can't  
41 speak for the rest of the nation, but I can tell you that, on the West  
42 Coast, when it comes to recreational fisheries, the partnership  
43 extends to other entities.  
44

45 The partnerships is from the recreational community, National  
46 Marine Fisheries Service, and the states. When I think about the

1 state activity relative to recreational fisheries in Washington, from  
2 be it salmon, halibut, groundfish, and we do the catch monitoring  
3 and collect biological information and coordinate tag sampling,  
4 enforcement, licensing, all of those things, and I just would offer  
5 the perspective that this -- Between the councils and the states and  
6 National Marine Fisheries Service and the recreational community,  
7 those are the four legs of this partnership.  
8

9 I think, when you have meetings to ascertain some of the  
10 information that you are looking for that doesn't adequately  
11 recognize those four legs, it creates a void, and so I think the  
12 partnership between those four entities, in terms of promoting  
13 healthy recreational fisheries, is really important. When we're  
14 having conversations about issues associated with the recreational  
15 fisheries and talking about ways we can address those, all four of  
16 those entities need to be in the room.  
17

18 *Russel Dunn:* Yes, and we held -- Last time we held this similar set of meetings  
19 was 2013, and we held it in Seattle, and so this time we went down  
20 the road to Newport, but point taken.  
21

22 *John Quinn:* Any other questions at this time? Chris Moore.  
23

24 *Chris Moore:* Russ, I just have a quick question. What happened, or was this  
25 topic discussed at the Northeast Regional roundtable, the topic  
26 being governance, like who is in charge of recreational fisheries  
27 and who develops regulations and how does it work with the  
28 states?  
29

30 *Russel Dunn:* We began the one down in New Jersey with this sort of discussion  
31 of the federal management structure, we'll say, but I would say  
32 that, rapidly, the participants expressed interest in moving on to  
33 other topics of which they were more interested, and it wasn't so  
34 gentle, we'll say that.  
35

36 *John Quinn:* Anybody else? Seeing none, next portion of your presentation.  
37

38 *Russel Dunn:* Okay. This next part is very brief. You have all heard, many,  
39 many times in many places, the recreational community talk about  
40 the need for alternative management or management approaches  
41 that can potentially increase stability and predictability.  
42

43 One of the issues was, when we would ask them what do you  
44 mean, tell us what you mean by that, they would get wide-eyed and  
45 say, well, we're not really sure, and so we said, well, okay, we  
46 don't know what you mean, and so you need to figure it out and

1 then come back and talk.

2  
3 To help facilitate that process, we provided a matching grant to  
4 TRCP to help host a workshop. We didn't host it, but we provided  
5 the funds, and so TRCP teamed up with ASA and the State of  
6 Florida to host a discussion on alternative management. NOAA  
7 was part of that discussion, and I think we had about eleven staff  
8 there, and I think Andy Strelcheck went, where it was really sort of  
9 a brainstorming session on potential alternative approaches to  
10 management.

11  
12 They brought in terrestrial folks, and they brought in a lot of state  
13 folks, as you can see, and this is just a smattering of the  
14 organizations that were at that first meeting. This isn't names  
15 endorsing the report.

16  
17 They then held a second meeting, which they distilled that  
18 information down. They brought in some conservation  
19 organizations, and they brought in Hill staff, to try and narrow  
20 down that discussion into a set of what they felt were useable  
21 recommendations, and they just recently put forward a report,  
22 which actually there's about fifty copies that they sent up, and  
23 they're out on the table out there.

24  
25 This document, because I'm talking about it, it should in no way be  
26 seen as NOAA endorsing it. We didn't write it, but they were  
27 interested in how to socialize this document with the federal  
28 system. They were interested in speaking here, and there was a  
29 decision made not to have them come speak, and so they asked if I  
30 would touch on this, and I said, yes, sure.

31  
32 Basically, what their document does is it touches on these seven  
33 recommendations out there. They have really tried to put it  
34 forward as a menu of options which they would like to see  
35 considered at some level, and so harvest rates and management,  
36 obviously it's regulations being set by determining the proportion  
37 of fish harvested from a given stock.

38  
39 Distance-based, it sets catch limits either at a max distance from  
40 shore or a given distance from shore or based on depth, a  
41 maximum depth. Harvest tags, they are interested, in this paper,  
42 mostly in looking at it in terms of application in very low ACL  
43 fisheries. Improve angler harvest data, I don't really see that,  
44 frankly, as alternative management, but that's included in here.

45  
46 Release mortality reduction, their perspective there is, if we can

1 work to improve our estimates and reduce mortality, where  
2 feasible, if that is then fed back into the science and management  
3 loop, as it was out on the West Coast, there is the potential that it  
4 could allow additional fishing.  
5

6 Conservation equivalency is a tool that is used frequently with the  
7 Atlantic States Marine Fisheries Commission, and it really gives a  
8 lot of flexibility, at least in that case, to the states, to meet the  
9 conservation goals, and then there is interest in reevaluating OY,  
10 and the perspective there is essentially, while maximizing yield  
11 might be wholly appropriate in the commercial fisheries, in some  
12 recreational fisheries, you may get a better, a more optimum, yield  
13 by leaving some fish in the water and having higher encounter  
14 rates.  
15

16 I guess what I would say is there is papers out there, and, if you  
17 have interest in following up on discussions on this, the best thing  
18 to do is to contact Chris Macaluso at TRCP or Mike Leonard at  
19 ASA, and I can put you in touch, or your staff in touch, with those  
20 folks. That brings me to the end.  
21

22 *John Quinn:*

23 Thank you very much. Any quick questions of Russ on this  
24 portion of his presentation? Seeing none, we'll move on. Thank  
25 you very much, Russ. We appreciate it. We'll move on back to  
26 Cisco Werner for the next portion of this presentation.

27 *Cisco Werner:*

28 Thanks very much. I guess, following up on Gregg's introduction,  
29 I will just speak briefly to the topic of the alternative ACL tracking  
30 methodologies and, just briefly, to recap, there was a request from  
31 the South Atlantic Fishery Management Council that MRIP staff  
32 work with the Southeast Fisheries Science Center to evaluate  
33 alternative estimation methods for rare events that would improve  
34 the precision of catch statistics, and therefore allow for a better  
35 ACL tracking.

36 Again, just recapping, these rare encounters, because of the poor  
37 precision of the rarity of the events, introduce problems in the  
38 estimates from MRIP, again based because of the small effective  
39 sample sizes, and so, in October of 2015, the South Atlantic  
40 Fishery Management Council SSC received presentations from the  
41 Office of Science and Technology, and, at that point, we outlined a  
42 number of possible alternative approaches to estimations that could  
43 be considered that would then, in turn, improve the statistical  
44 precision of these catch estimates that have these rare events.  
45

46 Where we stand, to be very brief, is that Dr. Bonnie Ponwith, who

1 is the Southeast Fisheries Science Center Director, is leading the  
2 coordination of a joint, and by joint, it's the Southeast Fisheries  
3 Science Center, the Southeast Regional Office, the Office of  
4 Science and Technology, and both the Gulf and South Atlantic  
5 Councils, in an effort to plan a workshop in early FY18 that would  
6 consider these alternative approaches for catch estimation and  
7 fishery management options, to address this concern with the rare-  
8 even species.

9  
10 Number one, there is this workshop that's in the planning for  
11 FY18, and the second point had to do with the involvement of the  
12 MRIP staff, and I will just say that the Office of Science and  
13 Technology will participate in the planning of that workshop, and  
14 we will send the appropriate staff to participate, including funding  
15 for their participation.

16  
17 I think the requests from the South Atlantic Council are both  
18 addressed, and I'm not sure, Gregg, if you needed more  
19 information, but those are two items that we wanted to report on,  
20 that the workshop is in the process of being planned and you will  
21 have full participation of the Office of Science and Technology  
22 MRIP staff in it.

23  
24 *John Quinn:* Okay. Any questions of Cisco? Chris Moore.

25  
26 *Chris Moore:* Gregg or Cisco, is the workshop that you talked about the same  
27 one that he is talking about, or are those different workshops?

28  
29 *Gregg Waugh:* No, I think they're different workshops. I think we have a little  
30 confusion that we're trying to get resolved, because we're planning  
31 on hosting a workshop in November with the SSC, and certainly  
32 working with MRIP and Bonnie, and we had a little bit of  
33 discussion on a SEDAR Steering Committee call, but we're  
34 following up with Bonnie, and we will be resolving this at our June  
35 council meeting.

36  
37 *John Quinn:* Chris Moore.

38  
39 *Chris Moore:* Just to follow up, Cisco, and so your workshop would follow this  
40 workshop or -- I'm just wondering how the Mid-Atlantic Council  
41 might get involved, because we are going to send an SSC person to  
42 Gregg's workshop, and, based on what you said today, your  
43 workshop sounds pretty interesting as well, and certainly it would  
44 have application to the Mid-Atlantic Council recreational species.

45  
46 *Cisco Werner:* Since the workshop is in planning, I think this would be the right

1 time to talk to Bonnie and everybody else involved, to make sure  
2 that -- To include the Mid-Atlantic participation in the workshop as  
3 well. I think, since Bonnie is currently sort of spearheading it, I  
4 think the approach would be to approach Bonnie at this point.

5  
6 *John Quinn:* Gregg Waugh.

7  
8 *Gregg Waugh:* Thank you, Mr. Chairman. Cisco, assuming we go ahead with this  
9 workshop in November, I'm assuming that the MRIP folks would  
10 attend that meeting and do some work ahead of that meeting as  
11 well?

12  
13 *Cisco Werner:* Yes, I can confirm that. They're in with both feet, and let me put it  
14 that way.

15  
16 *Gregg Waugh:* Thank you.

17  
18 *John Quinn:* Any other questions of Cisco? Seeing none, we'll move on to the  
19 final portion of this presentation with Andy Strelcheck.

20  
21 *Andy Strelcheck:* I don't have a presentation, but, just to give people background on  
22 this issue, for many of you that use MRIP, you know that they post  
23 their landings statistics on the MRIP website. Those are done on a  
24 wave-by-wave basis, and produced in both numbers and pounds of  
25 fish.

26  
27 Gregg Waugh and the South Atlantic Council have expressed some  
28 concerns, because, when we generate statistics, at least in the  
29 Southeast Region, we use a different methodology for converting  
30 numbers of fish to pounds of fish that uses a greater sample size  
31 than what is used currently for MRIP.

32  
33 We also take into consideration differences in jurisdictional  
34 boundaries for the species that we manage. MRIP, on the other  
35 hand, splits the South Atlantic and Gulf of Mexico at the Miami-  
36 Dade County border, which is near the Florida Keys, and so there  
37 is no tracking of the jurisdictional boundaries as we manage the  
38 stocks. It's simply the sum of landings for the Gulf and South  
39 Atlantic.

40  
41 Also, at the Regional Office level, when we're working with our  
42 Science Center, we're cumulatively summing not only the MRIP  
43 landings that are generated, but landings from other state surveys,  
44 as well as our headboat program, and so it's a summation of  
45 multiple surveys and data collection programs, and so Gregg has  
46 expressed, obviously, some concerns, along with the South

1 Atlantic Council, about having mismatching numbers and ways we  
2 could potentially reconcile that.

3  
4 I think there's certainly going to be some natural differences, just  
5 because of the two datasets that are being presented to the public  
6 are accomplishing different objectives, but we're certainly open to  
7 discussion in terms of ways we maybe could better align the  
8 methodologies, at least with MRIP, with the Science Center's  
9 efforts, in terms of how average weights are being generated and  
10 pooled for estimating landings, in pounds of fish, simply compared  
11 to numbers of fish. Gregg, I will turn it over, if you want to add  
12 anything.

13  
14 *Gregg Waugh:* No, and I think that covers it well. I would open it up for any  
15 questions.

16  
17 *John Quinn:* Michelle Duval.

18  
19 *Michelle Duval:* Thank you, Mr. Chairman, and so this is actually becoming an  
20 issue at the Atlantic States Marine Fisheries Commission as well,  
21 and so the South Atlantic Council had requested that the ASMFC  
22 consider development of a complementary fishery management  
23 plan for cobia.

24  
25 The majority of cobia harvests along the Atlantic coast is primarily  
26 in state waters, and, given some challenges that we've had with  
27 cobia the last couple of years, namely exceeding the ACL by two-  
28 and-a-half times, we had requested that the Atlantic States consider  
29 stepping in and getting involved, and so, at the commission level,  
30 we are moving forward towards the development of a draft fishery  
31 management plan that we will hopefully see a draft at the August  
32 commission meeting and then approve that for public hearings to  
33 take place between then and the annual meeting.

34  
35 This issue of numbers from the MRIP website versus numbers  
36 from the Southeast Region has been one that has generated a lot of  
37 discussion, and I think probably not a small amount of distrust in  
38 the numbers, and, when comparing the average weights for a  
39 particular state in a particular year that are produced by S&T  
40 versus those that come out of the method that Andy outlined for  
41 the Southeast Region, which uses I think a minimum of thirty  
42 weights to develop that -- It's our understanding that MRIP can use  
43 as few as one or two weighed fish to develop that.

44  
45 It's creating some public confusion, and, unfortunately, the  
46 council, and now the commission, are getting caught in the middle,

1 and so this is something that we need to resolve as quickly as  
2 possible. We did, at the commission's meeting last week -- In  
3 discussing this issue, there was some consensus around the South  
4 Atlantic Board that folks felt a little bit more comfortable, should  
5 we move towards an approach that would result in development of  
6 say soft targets for determination of state-specific seasons, that  
7 folks felt more comfortable working in numbers of fish than  
8 pounds of fish, but the fact remains that we do have an annual  
9 catch limit that is in pounds.

10  
11 This is a concern for us. It was my understanding that there had  
12 been some conversations between the Science Center and MRIP  
13 staff, and it seems like those have been waylaid a bit by some of  
14 the MRIP recalibration conversations that have been going on, but  
15 I just want to raise this for folks. It affects the entire Southeast  
16 Region. Thank you, Mr. Chairman.

17  
18 *John Quinn:* Mike Louisi.

19  
20 *Mike Louisi:* Thank you, Mr. Chairman. Adding to what Michelle just said, I  
21 think we need to be thinking about this as an expanding problem,  
22 not just in the Southeast Region, but, if we're thinking about what  
23 we've talked about now, which is an important topic for discussion  
24 of shifting distributions, we want to make sure that, if we're  
25 sharing in the jurisdictional boundaries of a species, whether it's at  
26 the council level or in coordination with the commission, that  
27 apples are apples and not apples to oranges, and so it is an  
28 important issue.

29  
30 While you guys seem to have to be dealing with it now, I am just  
31 anticipating, within my career, that we'll be dealing with it as well  
32 in the Mid-Atlantic, and so I'm glad to hear that there is some  
33 ongoing conversation about trying to resolve these problems. It  
34 will help me sleep tonight. Thanks. Given that people have been  
35 threatening that they're going to start dropping red snapper in our  
36 waters, to give us another problem to deal with.

37  
38 *John Quinn:* Any other questions or comments on this topic? Michelle Duval.

39  
40 *Michelle Duval:* I hate to let this go without getting, I guess, some sense, from you  
41 all up there at that end of the table, in regards to how to resolve this  
42 issue and maybe a timeframe that we could expect some response  
43 or resolution of, in terms of this weight estimation procedure  
44 versus this weight estimation procedure.

45  
46 I mean, I know that the staff in the MRIP program have a lot going

1 on, but I think this disconnect, or difference in methodology, really  
2 just adds to some of the public frustration that we keep hearing  
3 more and more of about MRIP, despite the improvements in the  
4 program.

5  
6 *Cisco Werner:* Rick, did you want to offer a comment?

7  
8 *John Quinn:* He's walking away from it.

9  
10 *Rick Methot:* This is a topic that I got engaged in over ten years ago now with  
11 RecFIN on the Pacific coast. It's exactly the same issue, and I  
12 don't know where they've gone with it since then, but the issue is  
13 that the assessment models that are coming up with the quotas are  
14 working in numbers of fish.

15  
16 When a quota in weight is set, it's set with the expectation that it's  
17 going to cause a certain mortality rate on the numbers of fish, and  
18 so the assessment models actually are producing quotas initially,  
19 essentially, in numbers and then get converted to weight.

20  
21 I think, as you deliberate on this, we should try to think about it  
22 fairly holistically on what are we trying to achieve, and it seems  
23 conceivable, to me, that you actually could have a total quota that  
24 is calculated in order to achieve a certain control rule goal and then  
25 have the commercial quota in weight and the recreational quota in  
26 numbers, and it would all be equivalent. I think that is technically  
27 possible. I think the numbers are all there, coming out of our  
28 forecasts today, and so I just want to lay that out, that that is, I  
29 think, within the technical realm of we can produce numbers like  
30 that from the assessment side.

31  
32 *John Quinn:* Thank you. Andy.

33  
34 *Andy Strelcheck:* Beyond obviously whether we would be tracking in numbers  
35 versus pounds, I guess I would look back to Gregg or Michelle.  
36 To me, this boils down to what are we trying to solve here, and  
37 there is, I think, multiple things that we potentially would need to  
38 solve.

39  
40 One is making sure that we have MRIP estimates that are posted  
41 online that match up with anything that is produced by either our  
42 Science Center or another Science Center, and so making that  
43 weight estimation methodology consistent would be the big one.

44  
45 The other challenge though that I still see as problematic is MRIP,  
46 and the way they produce their statistics, does not match with the

1 jurisdictional boundaries of management, in many instances, and  
2 so is that something that you would want to pursue, either on the --  
3 Well, I guess it would have to be on the MRIP end, to match up  
4 with the jurisdictional boundaries, because that obviously plays an  
5 important role.

6  
7 The third item, which I don't think can be addressed, is, when we  
8 summarize landings statistics, we're not just including MRIP. We  
9 are including other sectors of the recreational fishery, and so,  
10 inherently, the Regional Office and Science Center estimates in the  
11 Southeast are never going to match the MRIP estimates. They're  
12 always going to be some amount higher, because we're including  
13 additional fleets.

14  
15 *Michelle Duval:* I guess, in terms of the second question, which had to do with the  
16 jurisdictional boundaries, I am -- Others might have different  
17 thoughts, but I'm a little bit less concerned about that. I mean,  
18 we've been stuck with the north of Hatteras and south of Hatteras  
19 thing in North Carolina for such a long time that I don't go to the  
20 MRIP website to get those numbers.

21  
22 I think, when considering the other surveys that are being  
23 incorporated into the overall recreational harvest estimates, such as  
24 the Southeast Region Headboat Survey, which my understanding is  
25 that you all have to back out any for-hire numbers coming from  
26 MRIP and replace those with the -- For head boats, with the  
27 numbers from the Headboat Survey.

28  
29 I am just wondering if moving, and I may be asking some ignorant  
30 questions here, but I think, if all those final estimates could be in  
31 one place, like in ACCSP, where that's where people go to get  
32 their final estimates, then everybody would be pulling from the  
33 same database, and there wouldn't be this question of where is the  
34 truth.

35  
36 *John Quinn:* Anybody else? Seeing none, that concludes this portion of the  
37 meeting.

38  
39 *Gregg Waugh:* Mr. Chairman, sorry, but I just had one other question of Cisco, in  
40 terms of the second topic, the alternative methods to estimate  
41 private recreational catch. I think Cisco was going to offer a  
42 couple of remarks on how MRIP is willing to and able to work  
43 with states and/or, in our instance, the council on looking at  
44 alternative methods.

45  
46 *John Quinn:* Cisco.

1  
2 *Cisco Werner:* Thanks, and I do have a couple of comments on that. Like you  
3 said, this is the alternative methods to estimate the private  
4 recreational catch, I guess, and the challenge of estimating the  
5 recreational catch and discards from some species.  
6  
7 Like you said, the South Atlantic Council is working with NMFS  
8 and the Southeast Regional Office and state partners, as well as the  
9 Snook & Gamefish Foundation, on a project to pilot an electronic  
10 permit logbook for the private recreational fishery, and the intent is  
11 to focus on the snapper grouper species, especially I think it's red  
12 snapper and cobia that they're working with.  
13  
14 At NMFS, we're working with partners, through MRIP, to review  
15 and evaluate these alternative methods and data needs, and some  
16 examples include some work that's being done with the Gulf States  
17 to test and certify some supplemental reef fish surveys, but there is  
18 issues in terms of how do we generalize standards, because  
19 different approaches may bring in different considerations, and so  
20 we consider these data to be very valuable, but, at the same time,  
21 it's important to agree on some form of validation of the different  
22 datasets that will come in.  
23  
24 There is perhaps three things that we would like to add in terms of  
25 that validation process, which is some peer review and MRIP  
26 certification of the survey designs that would bring in the  
27 additional data, how we integrate the data, and also a transition  
28 plan to incorporate the integrated estimates then into a time series  
29 that would be significant for the assessments.  
30  
31 I think the bottom line is that we continue working with the council  
32 and the Regional Office, and I think we have a way forward along  
33 these lines, and we can continue talking about that, as needed.  
34  
35 *John Quinn:* Thank you. Any questions of Cisco? Seeing none, that portion of  
36 the meeting is concluded. Phil Anderson.  
37  
38 *Phil Anderson:* John, would I throw you off course if I asked a question here?  
39  
40 *John Quinn:* Not at all.  
41  
42 *Phil Anderson:* I wonder if I could ask Rick Methot to come back up.  
43  
44 *John Quinn:* If he's willing.  
45  
46 *Phil Anderson:* Rick and I go way back. I'm sure he's willing. I wanted to take

1 off the comments that you made about managing recreational  
2 fisheries by weight as opposed to numbers, and, on the West Coast,  
3 our groundfish fisheries, our halibut fisheries, for recreational  
4 fisheries, are all managed by weight, in terms of catch allowances.  
5 Salmon is the only one that we manage by numbers of fish.  
6

7 In managing a recreational fishery with a poundage, if you have to  
8 go in and you're making some assumptions about what the average  
9 weight of a fish is going to be, to determine some of your  
10 regulations and when that average weight -- When you have not  
11 estimated that accurately and your average weight is higher, then  
12 you can catch a smaller number of fish when you meet that target,  
13 obviously.  
14

15 Rick, what threw me a bit was your explanation, or what I  
16 understood to be your explanation, of the stock assessments  
17 relative to groundfish and that they're done in numbers of fish and  
18 then they're converted to weight and then they're essentially  
19 handed off to the managers, maybe with the assumption that we  
20 like getting those in weight, as opposed to numbers of fish.  
21

22 I have never heard that before. Every stock assessment I have ever  
23 seen has been expressed in weight, and so at what point at the  
24 stock assessment are you looking at numbers of fish, and how  
25 could the output of the stock assessment be changed in such a way  
26 that we would have numbers of fish?  
27

28 *Rick Methot:* It already is in numbers of fish internally. Almost all of the  
29 assessments that you're dealing with in the West Coast are --  
30 They're all using an age-structured model, and so the age-  
31 structured model is operating in terms of numbers of fish, and it  
32 also has body weight at age of fish in the model, and it combines  
33 body weight at age and numbers to get total weights. Inherently,  
34 the mortality rates are calculated in terms of numbers.  
35

36 *Phil Anderson:* Correct, but the stock assessment, when it's looking at an age  
37 composition, you get an average weight per fish out of that.  
38

39 *Rick Methot:* That's right.  
40

41 *Phil Anderson:* If your catch is different than that, you will obtain your weight  
42 quota, or ceiling quicker.  
43

44 *Rick Methot:* That's correct.  
45

46 *Phil Anderson:* I don't want to -- I guess we could talk about this for a long time,  
47

1 and I know you don't want to do that, but I would like to have an  
2 opportunity to maybe explore that with you a little further offline.

3  
4 *Rick Methot:* Yes, and I have something that I wrote at that time, and I could  
5 send it to you, Phil.

6  
7 *Phil Anderson:* Okay. Thanks.

8  
9 *John Quinn:* Jim Balsiger.

10  
11 *Jim Balsiger:* Thanks. It's interesting. Phil's question here is that the stock  
12 assessment, of course, is in numbers, but it's enforced, as it's  
13 offloaded, in weight, whereas your salmon numbers are in numbers  
14 and enforced in numbers, and so, when we do the halibut, which is  
15 set in numbers and guessing in average weight, and also guessing  
16 what effort it will be, because you don't know how many people  
17 will fish or what their success will be, it is one stage farther  
18 removed, but Rick can handle it all.

19  
20 *John Quinn:* Very good. Thank you very much. The Council Habitat  
21 Initiatives, and I will turn it over to Chris Moore.

1 **14. COUNCIL HABITAT INITIATIVES**

2  
3 *Chris Moore:* Thank you, Mr. Chairman. First off, thanks to you and to Tom for  
4 putting this issue on the agenda today. Habitat is important to the  
5 Mid-Atlantic Council, and I thought, after our brief conversation in  
6 February about the CCC workgroups, and specifically the Habitat  
7 Workgroup, I thought it would be a good idea to bring some folks  
8 in and talk about that.  
9

10 Also, we've been doing some pretty cool things in the Mid-  
11 Atlantic relative to habitat, and so Jessica is going to be talking  
12 about those, and so, with that, I think Michelle is up first, to talk  
13 about the CCC workgroup, and that's it for me. Thank you.  
14

15 *Michelle Bachman:* Thanks. Yes, I'm going to talk about the workgroup really briefly,  
16 and then Jessica has some items on their EFH revisions and  
17 regional habitat assessments, and we thought we would just take  
18 questions at the end.  
19

20 My name is Michelle Bachman, and I'm a staff member at the  
21 New England Fishery Management Council, and we rotate the  
22 chairmanship of this workgroup along with the chairmanship of the  
23 CCC, and so I'm currently the chair of the workgroup.  
24

25 I'm excited to report that we have great participation in the  
26 workgroup. We have all eight councils that have a staff member  
27 that are part of the workgroup. A few of the councils have had  
28 multiple people participate over time, just as they cover different  
29 habitat-related issues, and we also have involvement from the  
30 Regional Offices of NMFS, all five of them, and, as well, we've  
31 gotten support from NMFS Headquarters.  
32

33 We've gotten a lot of great sort of staff logistical support, from  
34 Habitat Conservation in particular, and so sort of leaving some of  
35 the strategic, more decision-making kind of steering of the group  
36 to the council staff, and they're kind of helping with agendas and  
37 logistics and meeting reminders and those sort of nitty-gritty things  
38 that take up some time, and so as well as some Habitat  
39 Conservation folks listening in on our conversations, we've also  
40 had the Office of Science & Technology staff kind of participating  
41 and letting us know kind of how their initiatives may dovetail with  
42 our interests over time.  
43

44 Basically, the workgroup has functioned as sort of a virtual  
45 workgroup. We meet by conference call, and we've had about  
46 three to four calls a year for the last four years, and we have

1 another one coming up. The only in-person event that we've had  
2 since the workgroup has existed is the Habitat Summit, which is  
3 kind of a broader initiative that you've heard about in the past.  
4

5 This sort of core function of the workgroup, and then the biggest  
6 thing that it does, and that it's done over time, is kind of building  
7 connections between staff that fulfill similar functions across all  
8 the councils. For my part, it's really an opportunity to connect  
9 with folks that have my day job, but in other regions, and there's a  
10 lot of things that we do that are the same, or similar, and some  
11 different approaches we take, and so that opportunity for sharing  
12 across this functional group has been useful and kind of just  
13 strengthening and building those relationships.  
14

15 Then, when you have a need or you really need some more  
16 information, then having the workgroup kind of built in allows us  
17 to tap those connections and just create kind of a nice, informal  
18 space to get into the details and brainstorm problems and issues.  
19 We've definitely got some examples of places where connections  
20 through the workgroup have been translated into helping with  
21 other projects, and Jessica can talk about that with her EFH review,  
22 but kind of getting some feedback from the North Pacific Region,  
23 or Pacific Region, in terms of that process, and so it's kind of good  
24 to have this standing group.  
25

26 Another thing that is kind of nice about having this standing group  
27 of habitat experts and staff is that it provides a really good  
28 sounding board and a good kind of place to shop around a draft  
29 product or a set of ideas. Something else, beyond sort of serving  
30 this networking function that the workgroup has been doing the  
31 last few years, is kind of developing some products or serving as a  
32 starting point for developing products.  
33

34 Three things that I think all the councils certainly have dealt with is  
35 essential fish habitat and habitat areas of particular concern, and I  
36 believe all the councils have dealt with deep-sea coral  
37 management, in one form or another, and so we've used the  
38 workgroup as kind of a space to explore different approaches to  
39 those three topics. Then, going beyond the workgroup, we do  
40 some work offline, but it's mainly at these conference calls and the  
41 discussions there and just leading up to that.  
42

43 When there is another group that has some time and some funding  
44 to take on an initiative, then these workgroup discussions can be  
45 turned into a kind of more durable written product, and so, with the  
46 habitat area of particular concern document, that's something that

1 the Mid-Atlantic Council worked on, but the workgroup members  
2 reviewed it, and similarly with the EFH profiles document that we  
3 developed to support the EFH Summit. The Fisheries Forum staff  
4 really put that together, leading up to the summit, but that was kind  
5 of vetted through the workgroup, and so it's kind of a nice  
6 sounding board for those kinds of things.

7  
8 Obviously you heard last year, for anyone who was at the spring  
9 CCC meeting last year, about the summit. You kind of got the  
10 quick synopsis of how that went, and so I won't really go into it,  
11 but this workgroup, a large subset of the members of the  
12 workgroup, were involved in the steering committee for the  
13 summit. There was also an advisory group that some of you may  
14 have been on, and so that was really our sort of opportunity to  
15 connect in person and go through sort of all things EFH and sort of  
16 look back and think about the future as well. That kind of was a  
17 major initiative for this workgroup for time, and now we're sort of  
18 moving past that and thinking of what is next.

19  
20 Building on the summit, I am not entirely sure kind of how this  
21 idea for a habitat science roundtable emerged, whose idea it was,  
22 but it, I think, worked out really nicely. We basically did a virtual  
23 roundtable, via webinar, connecting with the different Science  
24 Centers and then Science & Technology and Habitat Conservation,  
25 just to get a sense, for all of us, what types of research is being  
26 done, really specific to habitat, that could relate to EFH or deep-  
27 sea coral management or other types of habitat questions and just  
28 kind of get a snapshot of where the current state of science and  
29 what's next at the Science Centers, and we have an archive of all  
30 those presentations. If anyone is interested, I can point you to  
31 them, but I think it was a really good opportunity to hear kind of  
32 where things are at across the country and kind of have a dialogue  
33 with the Regional Science Centers.

34  
35 Things that we've talked about that we really haven't kind of  
36 started on yet, but could be activities for later this year or into the  
37 future, but it seemed to us that there are many research plans  
38 related to habitat or broader research plans or research priorities.

39  
40 In many cases, there is likely kind of common themes and common  
41 gaps, and we felt that a good role for the workgroup would be to  
42 sort of take a step back and think about those research plans and  
43 priorities at a national level and see sort of where the common  
44 threads are, where the common gaps are, and then kind of elevate  
45 those gaps to the CCC or other sort of groups that we can really  
46 maybe hope to target some kind of key priorities that would benefit

1 us, collectively, in our pursuit of better habitat management, and so  
2 that's kind of something that we would plan on continuing work  
3 through this year.  
4

5 Another sort of set of conversations that we've had at the  
6 workgroup are sort of the nuts-and-bolts of how people get things  
7 done day-to-day, the kind of stuff that only fishery management  
8 council staff, and maybe regional office staff, are really interested  
9 in, but, basically, it's how do we talk to each other and how do we  
10 make sure that the right research is happening and that we know  
11 about the right information and that we're kind of feeding that all  
12 through the process appropriately.  
13

14 There are some regions that do have fairly formal processes and  
15 others that it's sort of more ad hoc and informal, and so there may  
16 be some lessons that we can kind of share with each other just  
17 about how we all kind of conduct business day-to-day.  
18

19 Sort of around the habitat and ocean planning large datasets about  
20 the marine environment, integrating those data within regions and  
21 across regions is really challenging, and so there may be an  
22 opportunity, through the workgroup, to think about some best  
23 practices for that, some kind of consistent challenges that people  
24 have run across just in dealing with habitat data, and so I think  
25 these are the conversations that will kind of keep coming up as  
26 kind of general themes as the workgroup is continuing to meet in  
27 the future.  
28

29 Then just kind of thinking about the types that a lot of us are  
30 dealing with day-to-day and kind of emerging future issues,  
31 potentially future avenues for the workgroup would be thinking  
32 about how habitat science really fits in with ecosystem science.  
33 How can folks that are sort of more in that habitat bucket get more  
34 involved in the ecosystem discussions and conversations that are  
35 happening? Where do those links need to be made?  
36

37 In terms of other uses of the marine environment that aren't  
38 fishing, I think all of us are -- I know I'm spending more time  
39 thinking about those things in the last couple of years, and so  
40 thinking about what those sources of impacts might be and  
41 developing, at the council level and the staff level, an  
42 understanding of those issues, kind of sharing information, where  
43 we can, and figuring out the best ways for councils to get involved,  
44 talking across the councils about how different groups approach  
45 involvement and issues like offshore and renewable energy or non-  
46 renewable energy or any kinds of issues like that, and near-shore

1 activities as well.

2  
3 At least at our council, we delegate a lot of that consultation role to  
4 the Fisheries Service Habitat Conservation Division. Other  
5 councils may do things a little bit differently, but, figuring out sort  
6 of how to get involved and be strategic about that, I think there  
7 may be some information that we can all share in that regard, and  
8 so that's all I have, and I will turn it over to Jessica to talk about  
9 EFH updates.

10  
11 *John Quinn:* Thank you very much, and we'll hold questions until after  
12 Jessica's presentation.

13  
14 *Jessica Coakley:* Thank you. I'm Jessica Coakley, and I'm staff with the Mid-  
15 Atlantic Fishery Management Council, and I'm our Habitat  
16 Coordinator, as well as the plan coordinator for our clam species. I  
17 am going to talk to you a little bit about some of our essential fish  
18 habitat and ecosystem approach to fishery management initiatives  
19 in the Mid-Atlantic.

20  
21 As Michelle pointed out, clearly habitat and ecosystem-based  
22 fisheries management are clearly intertwined. We tend to think of  
23 habitat as sort of a finer-scale process, and we tend to think of  
24 ecosystem management, ecosystem modeling, as a larger-scale  
25 process, but, really, there's a clear nexus between the two, and, as  
26 our council managed to rebuild all of its stocks, around 2012, and  
27 we haven't had any stocks overfished, with those rebuilding fires  
28 put out, the council has had more opportunity to focus on habitat  
29 initiatives, ecosystem initiatives, and some of the social and  
30 economic issues that are associated with our fishery management  
31 plans.

32  
33 In 2016, our council developed its ecosystem approach to fisheries  
34 management document, which is intended to be an evolutionary  
35 approach to addressing ecosystem management for the council.  
36 It's a little bit different than ecosystem-based fisheries  
37 management, and so this EAFM document focused on four core  
38 areas, and it's intended to sit as an umbrella document over all of  
39 our fishery management plans and all of our council activities.

40  
41 Aspects of it have been integrated into the council's 2014 to 2018  
42 strategic plan, and so we're trying to infuse habitat and ecosystem  
43 issues throughout all of the activities that the council is taking.  
44 The four core areas they focused on were forage, climate change,  
45 habitat, and then interactions across all of those aspects, as well as  
46 social and economic issues, which obviously pepper throughout all

1 of those as well.

2  
3 In our council's EAFM guidance document, they set some  
4 overarching habitat objectives. In fact, they set objectives for each  
5 of those four core areas, but I'm just going to focus on these. The  
6 first of those objectives they set was to strengthen our essential fish  
7 habitat designations from an ecosystem and multispecies  
8 perspective. They wanted to emphasize connectivity between  
9 species, life history stages, look across inshore and offshore  
10 habitats, look at production-related issues, and then look at those  
11 linkages as they relate to climate change, forage, and those other  
12 components.

13  
14 That is a big, lofty goal to move forward with, and so one of the  
15 things that our council is moving forward with is an essential fish  
16 habitat review, which we're now calling an EFH-redo, to try to  
17 build those EAFM objectives and goals directly into the council's  
18 habitat-related products, and so how do we address climate-related  
19 issues, and how do we begin to build in that connectivity, that  
20 multispecies component, into how we're doing our essential fish  
21 habitat designations and how we're doing our habitat area of  
22 particular concern designations.

23  
24 The drivers behind this EFH-redo are really part of a broader  
25 project that started a few years back with some support from the  
26 NOAA Office of Habitat Conservation, and the project was set up  
27 to really help drive more goal and objective-based management,  
28 and so I think that our council is gradually evolving towards trying  
29 to build more goals and objectives into what they're doing and  
30 using those to help us advance these habitat and ecosystem  
31 initiatives.

32  
33 Another important aspect, I think, of having this CCC workgroup  
34 formed, just a few years before we started this project, was it  
35 provided an opportunity to really talk to all of those habitat  
36 workgroup members and hear about how they've done their EFH  
37 reviews from a process standpoint, and so the folks in the South  
38 Atlantic, New England, North Pacific, and the Pacific have done  
39 some of these broader reviews, and so we were able to take some  
40 of those lessons learned from that, in terms of figuring out how we  
41 were going to do our process itself, and figure out how to move  
42 that forward.

43  
44 The goal of this redo is to work through 2017 and 2018, to develop  
45 refined habitat products, and we started with a kickoff data  
46 methods meeting that we just held this past March. We had a

1 fishery management action team, and we invited experts from our  
2 Science Center. As Michelle had pointed out, one of the CCC  
3 workgroup members from the Pacific, we brought him in to share  
4 his perspectives on how they've done designations and some of the  
5 modeling work out there.  
6

7 We also invited people that worked in NMFS on the essential fish  
8 habitat consultation process itself, because a lot of our EFH  
9 products feed right into that process. That's an important role of  
10 those designations, and so we wanted to hear from them how those  
11 products were working, but we also wanted to get broad Science  
12 Center engagement, to figure out how to integrate climate,  
13 multispecies, forage, production, all of those things into how we  
14 were doing those designations and make them better.  
15

16 Ultimately, what we've come out with is a roadmap for creating  
17 our next generation of essential fish habitat science products that  
18 are going to build components of that into the designations, with a  
19 real heavy emphasis on that production component, and so  
20 describing what those important production pieces are for our  
21 species individually and species as aggregate within our region and  
22 throughout their range, including those state-water areas where  
23 they're using those habitats.  
24

25 For our council, eleven of our thirteen managed resources all have  
26 at least one life stage that uses a near-shore habitat component, and  
27 many of them have multiple stages that use that near-shore  
28 component, but that sets up a challenge, in terms of that's not an  
29 area we're managing. We don't have federal surveys there, and  
30 we're trying to deal with state partners to figure out how to put all  
31 of that information together.  
32

33 We came up with a plan from that group. Also, the group talked a  
34 lot about using habitat areas of particular concern as a tool. If we  
35 go through a process and are able to identify these in time and  
36 space, really those can serve as tools to track habitat change, and  
37 we should be able to develop clear metrics for some of those, so  
38 we can evaluate how those are changing over time. Like I said, we  
39 just had this meeting last month, and so we've got a plan. We're  
40 going to have a draft of that in our council's briefing materials in  
41 June and have the opportunity to brief the council on that, but, over  
42 the next two years, we're going to be moving forward with that.  
43

44 As I noted, one area for work that was identified was that near-  
45 shore coastal piece, which we think is really important in terms of  
46 supporting the designation process, and that's one of the really big

1 challenges, in terms of compiling and integrating data across the  
2 entire continuum of where these species are going through their  
3 life processes, and so, from that inshore and near-shore, all the way  
4 to that offshore continental shelf continuum, integrating all of that  
5 is a very important part.  
6

7 With that, my next topic is I would like to talk about a regional  
8 habitat assessment, the potential for that, to support some national  
9 habitat initiatives. We're talking, at the Mid-Atlantic Council,  
10 about the potential to do a fish habitat assessment in the Mid-  
11 Atlantic that's going to meet both regional and national needs.  
12

13 Some of you may be familiar with the National Fish Habitat  
14 Partnership, and the National Fish Habitat Partnership does a  
15 national assessment each year. That has rolled out, and it looks  
16 largely at indicators of habitat health, in particular upland  
17 indicators, but many of the regional habitat partnerships have  
18 indicated that it isn't getting used as much. It hasn't been  
19 particularly -- It hasn't been as relevant to our federal fisheries  
20 management process, or to the habitat designation process, per se.  
21

22 One of the things that we're proposing to do in the Mid-Atlantic is  
23 moving forward with a regional assessment that could potentially  
24 improve habitat science for the National Fish Habitat Partnership  
25 assessment, for the designation of EFH and HAPCs within our  
26 region, and so helping to address those inshore areas, and also  
27 provide a tool that's going to be helpful to habitat restoration  
28 practitioners and folks in the state agencies and other entities that  
29 are doing that on-the-ground, finer-scale habitat work, because,  
30 right now, that assessment isn't fulfilling that tool in the same way.  
31

32 There are some benefits to doing regional assessments as opposed  
33 to doing these across the nation. There are some standard metrics  
34 across regions and indicators that could be used for habitat health.  
35 However, there are only a certain number of nation-wide -- One of  
36 the challenges with the national assessment was they had to rely on  
37 nation-wide only datasets, and that really limited what they were  
38 able to do and use, in terms of that national assessment, but we  
39 know, within our regions, that all of our regions have certain data  
40 strengths.  
41

42 Some of those strengths are only smaller regional datasets that  
43 might be available to us, and so, by looking at these habitat  
44 assessments regionally, and potentially taking those regional pieces  
45 and trying to put those together as part of a national assessment, I  
46 think we could take advantage of some of those regional data

1 strengths and meet some of the other needs, in terms of what we  
2 may be looking for as a council, in terms of data to support our  
3 EFH and HAPC designations, but also data that may support the  
4 habitat restoration process in a more effective way.  
5

6 In terms of next steps, we are discussing forming a steering  
7 committee to develop a request for a proposal to get a pilot going  
8 in our region to develop a regional habitat assessment that will  
9 meet the needs for those three components, for NFHP, for the  
10 councils and our habitat needs, and for other habitat restoration  
11 needs within our region.  
12

13 We're thinking about having the SSC serve as a technical review  
14 group for this project and proposal, and we're targeting to have  
15 that work completion in 2018, with the idea that, now that we're  
16 going through this EFH review, we would like to have that  
17 regional data compiled in a way that we can use it to improve our  
18 EFH designations and our HAPC designations for this cycle, but,  
19 optimally, just like the National Fish Habitat Partnership  
20 Assessment is done every few years, this is something that could  
21 be updated every year, and there is the potential of other regions  
22 adopting sort of a regional pilot approach.  
23

24 These regional components could then be combined, again, to  
25 create a national assessment, with some common metrics across all  
26 of those regions, but also in a way that's going to provide and  
27 support the needs of the councils and our fisheries process in a  
28 little more effective way.  
29

30 There is ongoing work in many of the regions, looking at  
31 compiling habitat data in those near-shore areas in a more  
32 comprehensive way, and all of them have pluses and drawbacks to  
33 the different approaches, but we're proposing, when we develop an  
34 RFP and develop a plan for this project, that we should really look  
35 across all of these and kind of take the best features that we think  
36 would be useful.  
37

38 The Southeast Aquatic Resources Partnership, SARP, and with the  
39 Atlantic Coast Fish Habitat Partnership, are developing a regional  
40 assessment, and it's not just focused on those indicators, mainly  
41 upland indicators, which is one of the components of the National  
42 Fish Habitat Assessment, but they're also looking at coastal habitat  
43 information, with an emphasis on habitat type.  
44

45 The Atlantic Coast Fish Habitat Partnership went through a  
46 process of, for all of the -- Actually, all of our species, federally-

1 managed species and state-managed species, they looked at all the  
2 species and life stages and created a matrix of habitat use by  
3 habitat type, and they looked at how plastic species were relative to  
4 those. Did they use those a lot? Are they very dependent on a  
5 specific habitat type, like mangrove, or are they very plastic, where  
6 they're moving across ten habitat types?  
7

8 They went through, with an emphasis on habitat type, and, by  
9 region, identified what habitat types were the most important, and  
10 so that SARP project emphasizes the habitat types in the Southeast  
11 Region that were most important for those federally and state-  
12 managed fisheries, and they're building that into part of their  
13 assessment, and so one of the positives to that SARP project, I  
14 think, is that habitat component that we thought was missing from  
15 that national fish assessment, which was more focused on  
16 indicators.  
17

18 The Pacific Marine and Estuarine Fish Habitat Partnership, PMEP,  
19 they did a really great job in terms of partner engagement, and so  
20 they have a number of initiatives that they've developed, including  
21 an estuaries inventory. They looked at individual species use and  
22 habitat use by estuary, in creating a state of knowledge report on  
23 habitat.  
24

25 They have done a fabulous job on that, and they did a good job in  
26 terms of having the different partners take on different components  
27 of that, and so I think it was a -- I don't want to say Nature  
28 Conservancy, but it was one of the groups, I think, that took a role  
29 in the estuaries component, and NMFS took another role on a  
30 different component, and so it was that team exercise. With a big  
31 lift like that, many hands make light work, and so they broke that  
32 piece apart, which I think is a positive to have those multiple  
33 partners involved.  
34

35 The Gulf of Mexico Estuary Program, GMPEP, did a little different  
36 assessment in their region, and they looked at those habitat  
37 indicators, but they also considered fish presence and absence with  
38 habitat indicators. That work was largely driven by -- It was  
39 academic work, and a lot of it was outside of agency groups that  
40 were working on that, and they tried to build those relationships  
41 and then be able to infer, from those relationships, where they then  
42 have indicator information, they could infer what the presence or  
43 absence of fish in those areas may be.  
44

45 My understanding was, for the work that was done, that that was a  
46 very expensive undertaking and process, because it involved some

1 data collection as well that went along with that and not just  
2 compiling existing information, but it's an interesting project and  
3 an interesting thing to think about.

4  
5 Obviously there's a lot of work going on out there, and there is  
6 some good, I think, take-aways from that. I think the partnership  
7 component is a really positive thing, figuring out how we can  
8 leverage resources with our partners as well as having that  
9 emphasis on habitat type, which I think, having that habitat  
10 information and spatially where the habitat is in the habitat  
11 assessment will be, I think, most useful to us, from a federal  
12 perspective, in terms of what we're doing for EFH and HAPC.

13  
14 With that, that is what we were doing for EFH review and our  
15 considerations for a regional assessment, and I can bring Michelle  
16 up here, if you have questions for either Michelle or I about our  
17 presentation.

18  
19 *John Quinn:* Thank you very much, Jessica and Michelle, and I will open it up  
20 to questions from committee members. Terry Stockwell.

21  
22 *Terry Stockwell:* Thanks, Michelle and Jessica. A question for you both probably is  
23 I am hugely supportive of the work that you're doing, but, on your  
24 next steps, you identified forming a steering committee to develop  
25 an RFP. How is that going to be funded?

26  
27 *Chris Moore:* I think you're referring to the slide that Jessica was talking about  
28 relative to future work, and so it's not this CCC working group.  
29 Basically, what Jessica was saying is that, if we proceed with the  
30 idea of a regional assessment in the Mid-Atlantic, that we would  
31 form some sort of committee, a steering committee, to put together  
32 an RFP that made sense to look for someone to actually do the  
33 work, and so that's the reference, and so it doesn't really have any  
34 directly to do with the CCC working group, but the CCC working  
35 group will benefit from that exercise.

36  
37 *Terry Stockwell:* Thanks for the clarification.

38  
39 *John Quinn:* Any other questions? Bill Tweit.

40  
41 *Bill Tweit:* Thanks, Mr. Chair. I had two about the EFH-redo, and so sort of  
42 aimed at Jessica, I think, and, by the way, both were excellent  
43 presentations, and thank you so much. If the Mid-Atlantic, who  
44 clearly are always thinking outside of the box, defines EFH from a  
45 multispecies perspective, does that then change how the agency  
46 actually implements EFH as well, from both fishing and non-

1 fishing impacts, or do they have to work out a different process for  
2 EFH consultation and how they educate stakeholders about EFH?  
3

4 *Jessica Coakley:*

5 At our EFH-redo meeting that we just had in March, we actually  
6 brought in several NMFS staff that work on the EFH consultation  
7 process, and we found that to be really informative, in terms of  
8 telling us how these tools get used, to either trigger consults or  
9 how they write their habitat recommendations that they send to  
10 these agencies.

11 One of the things that they had indicated to us with the trigger for  
12 designation process, and so the EFH designations they send to the  
13 Army Corps or other groups, is they go into the essential fish  
14 habitat mapper, largely, and drop a pin on that map. Then it will  
15 tell them whether a Mid-Atlantic or New England or HMS species  
16 is found within that square. Then that triggers the consultation  
17 process.  
18

19 One of the challenges for us is, the way that the maps are being  
20 created right now, there are holes in there, and so they were telling  
21 us that, for some of these areas, that we're missing some  
22 opportunities for consults, and so I don't think, from that  
23 consultation perspective and the discussions we had with them --  
24 They gave us some clear guidance on how they thought we could  
25 expand and enhance our EFH descriptions, to make sure that all of  
26 those broader areas are captured, but the multispecies designations  
27 and some of those other tools we were talking about would  
28 actually be better suited in the habitat area of particular concern  
29 designation, and so looking at like guilds of species and how  
30 they're moving between areas and how they're using our Mid-  
31 Atlantic space in time, and that that would probably be one of the  
32 more effective tools, in terms of dealing with that.  
33

34 Those HAPC tools are essentially an enhancement to the EFH  
35 descriptions themselves, and so it gets triggered on EFH, and, if  
36 you also have HAPCs in that area, that elevates it, in terms of level  
37 of importance, when they do their consultations, but it was  
38 surprising.  
39

40 In talking with them and talking with the NMFS staff that we had,  
41 there is a tremendous amount of flexibility, actually, in those  
42 essential fish habitat regulations, when you read through it, and  
43 there are sections in those regulations that actually say you can and  
44 should be considering things from an ecosystem and multispecies  
45 perspective. That's actually built in there.  
46

1 I think many of us just sort of went down the stream of doing a  
2 single-species life stage, because that's how our plans were  
3 structured, but, in our discussions with this technical group, we felt  
4 like there is a lot of flexibility there to build out some of these  
5 different tools and that, if we do it in the right way, it won't  
6 impede their consultation trigger, to give the NMFS consult people  
7 the opportunity to open that door to have a conversation about  
8 habitat with that agency. I know that was a long-winded answer.  
9 Did I answer that?

10  
11 *Bill Tweit:*

You did answer it really well. Thank you. You began to touch on  
my second question, which is the proposal to use HAPCs as a tool  
to track habitat change, and that is certainly really different than  
how we've thought of HAPCs as a council, and so I'm really sort  
of struck by that.

16  
17 I am wondering if you think that's actually sort of consistent with  
18 the Magnuson Act conceptualization of HAPCs, and then does that  
19 mean that then that, once you've designated EFH, you're going to  
20 end up looking then for certain parts of that to then define as a  
21 HAPC, strictly for tracking purposes, or are you trying to combine  
22 functions in that? I wasn't even sort of -- It seems like it's really  
23 different than at least how I thought the Magnuson Act was  
24 defining HAPCs.

25  
26 *Jessica Coakley:*

I think you touched on it. We were looking, in our discussions  
with this group, to have that broader EFH designation, which is  
really going to encompass where these species are throughout the  
year and throughout their life stages, as they're using space, and  
then going in in a more refined way and using the HAPC criteria,  
areas that are ecologically important, that may be rare or may be  
sensitive, relative to those life stages, but the technical group really  
emphasized the need to -- If we wanted to do the EAFM piece and  
move in that direction, linking that to production, and so using  
those general criteria and then looking at things that are driving  
production in our area and describing those as well.

37  
38 Are there areas where these fish are spawning? Can we describe  
39 those in time and space? Are there areas of large egg  
40 aggregations? Can we describe those? Are there coastal upwelling  
41 zones that are occurring?

42  
43 We know, for a lot of our pelagics in these boundary fronts, where  
44 these species are taking up that space over time, and, the tracking it  
45 relative to climate change, they highlighted that as a tool where,  
46 once you have identified these things in space and time, then you

1 can track whether they're changing or not.  
2

3 If you have identified these spawning areas and you've got those  
4 on a map, and then you look at a five-year time period, and, five  
5 years later, you see that it's shifting way up north, that they're  
6 moving along the shelf, because waters are warming, now you've  
7 got something that you're able to track, and so I think it's a dual  
8 purpose, but the focus of the discussions with that group was on  
9 EAFM and on climate and how to figure out how to make these  
10 tools help our council fill some of those functions and move us to  
11 more goal-based products.  
12

13 It's hard to move towards more goal-based products if you don't  
14 have metrics for how you're doing or if things are changing, and so  
15 being able to have things and have that tool help fill that function I  
16 think would help our council advance.  
17

18 *John Quinn:* Any additional questions? Michelle Duval.  
19

20 *Michelle Duval:* Thank you, Mr. Chairman, and thank you both for your  
21 presentations. I really appreciate all the great work that the habitat  
22 committee has done and the efforts of the Mid-Atlantic Council,  
23 and I'm sure that we'll be able to plagiarize, again, at some point,  
24 from your efforts.  
25

26 One of the things, I think from Michelle's presentation, that I guess  
27 may be more of a comment, but I sort of keyed in on the  
28 operational practices and the data assembly and integration and the  
29 challenge of that in looking at that, and I think that's especially -- I  
30 am encouraged to hear that you all are focusing on that, because  
31 we do have species for which -- You're looking at this I guess  
32 from a regional level, because we do have species for which there  
33 is cross-jurisdictional management.  
34

35 For the South Atlantic, we are the management lead for coastal  
36 migratory pelagic species, and so king and Spanish mackerel,  
37 which that extends all the way through the Mid-Atlantic Region  
38 into New York, and so having some consistent practices for data  
39 assembly and integration, so that, when we're looking at reviewing  
40 those essential fish habitat designations, we are, again, looking at I  
41 guess maybe consistent layers of habitat across the regions, and so  
42 I'm just very encouraged by that approach, and I look forward to  
43 seeing what the results are.  
44

45 *Michelle Bachman:* Just to comment on that real quickly, and this is related to the  
46 EFH-redo that will be done on the Mid-Atlantic and New England

1 datasets as well, but integrating those state sort of fish -- I mean, I  
2 was thinking, when I was making the comments during the  
3 presentation, about sort of habitat data, but fish data, integrating  
4 those across states, is pretty challenging, but there's been a really  
5 great effort at the Northeast Fisheries Science Center to do that  
6 across state surveys, and we'll be using that with the EFH group  
7 that Jessica is chairing, and we may have kind of some lessons for  
8 how to do that.

9  
10 Also, I think, at the workgroup, we were thinking about almost  
11 maybe we could develop some best practices for here is fields that  
12 you should capture in your data and here is better ways to organize  
13 it and here is the hardest dataset to integrate and here is why, those  
14 kinds of things, and just see what we can learn and kind of move  
15 that forward, because we could all collectively waste a lot of time  
16 processing messy data, rather than using the data and thinking  
17 strategically about how things are changing and with updates, and  
18 so thanks.

19  
20 *John Quinn:*

John Gourley.

21  
22 *John Gourley:*

Thank you, Mr. Chairman. Has there been much discussion about  
23 deleting EFH from impaired waters, such as harbors and areas that  
24 are going to have future maintenance dredging or sewer outfall  
25 areas? I mean, right now, we've got EFH everywhere, and we're  
26 doing consultations in areas that are kind of ridiculous. Have you  
27 all touched on that subject at all?

28  
29 *Michelle Bachman:*

Yes, I think we have in kind of a number of different contexts. We  
30 did talk about it at Jessica's workshop in March, both the idea of  
31 making sure that the inshore -- Literally at the inshore edge of  
32 EFH, that we're defining that as precisely as possible, so that, at  
33 the relevant spatial scales for projects, the maps look right, but,  
34 really, what we talked about at the workshop with the NOAA  
35 consultation folks was that it sort of relies on their discretion about  
36 what's the sort of spirit of the council's EFH designation and how  
37 does that fit in with the map and is this area really kind of valid as  
38 EFH or not.

39  
40 I think maybe there is sort of a policy conversation that at least our  
41 council, I don't think, has had about, when you're making these  
42 designations, really what's your intent, and maybe we can do a  
43 better job, as councils, of sort of articulating that this is what we're  
44 trying to designate with this EFH.

45  
46 We're not trying to designate frequently dredged areas that

1 wouldn't support -- In our region, winter flounder is kind of the  
2 poster child for that issue of area being unsuitable habitat or  
3 whatever, but, yes, it's a tricky question, but, in general, I think the  
4 response was it's -- To have that hook into the consultations, it's  
5 better to be a little more general and then, at the site or project  
6 level, find out that it's really not EFH right here, but sort of having  
7 that hook seemed like a good thing to most of the people who were  
8 in the room, who were all habitat scientists, and so maybe that's  
9 why we thought that.

10  
11 *John Quinn:* Sam Rauch.

12  
13 *Sam Rauch:* On this point, we have been having discussions with the U.S.  
14 Army Corps Headquarters about what is their policy regarding  
15 essential fish habitat in dredge channels.

16  
17 That policy will not get to whether the council should designate  
18 EFH in dredge channels, but, if it is there and the Corps is going to  
19 do maintenance dredging, what is their obligation to mitigate for  
20 any of that and when do they have to come in and consult with us  
21 on that.

22  
23 We're encouraging a programmatic response. They are developing  
24 a national policy, and so I would expect that in the next month or  
25 so maybe. They've been developing it for a while. That will help  
26 us dictate what the implications of EFH in dredge channels really  
27 are, but that doesn't give any indication of whether the council  
28 should designate it, but it is what's going to happen when it's  
29 maintained.

30  
31 *John Quinn:* Kitty.

32  
33 *Kitty Simonds:* Just to add that we're working on an omnibus refinement of our  
34 essential fish habitat, and I think one of our sections that we're  
35 calling low value, we're including harbors, degraded habitat,  
36 manmade structures, and things like that.

37  
38 *John Quinn:* Anybody else? Seeing none, Tom Nies.

39  
40 *Tom Nies:* Just very quickly, I think you might want to reflect on the report of  
41 this habitat workgroup prior to our discussion of workgroups  
42 tomorrow.

43  
44 *John Quinn:* Thank you very much, and I just want to give a shout-out to both  
45 Jessica and Michelle. I have chaired the Habitat Committee in  
46 New England the last couple of years, and I have worked closely

1 with both of them, and, as you can see, they do an outstanding job  
2 for us. Thank you. Now we're going to take a fifteen-minute  
3 break.

4  
5 *(Recess)*

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## 15. ENFORCEMENT OVERVIEW

1  
2  
3 *John Quinn:* Before I call on our next presenter, I just wanted to bring to your  
4 attention that the letter that we discussed yesterday that Kitty  
5 Simonds put together has been passed out, and so hope, at the end  
6 of business today, we'll take a look at that, and so, during the  
7 course of the next hour-and-a-half or so, if you can take a look at  
8 that. Our next presentation is the Enforcement Overview and Mr.  
9 James Landon.

10  
11 *James Landon:* Good afternoon, everybody. As advertised, I'm Jim Landon. I'm  
12 the Director of the Office of Law Enforcement in NOAA Fisheries.  
13 I am joined today with Commander Jay Caputo from the United  
14 States Coast Guard. For probably the next fifty minutes or so,  
15 we'll provide a basic overview of the enforcement operations and  
16 how they dovetail into the overall fisheries management.

17  
18 This being what used to be the last presentation, and I understand  
19 we're going to do a little bit more and, being that it's a nice day, I  
20 thought I would actually do something a little different and start  
21 with my conclusion.

22  
23 This is the conclusion. If you take nothing else away, I thought I  
24 would draw on some words of wisdom from Abraham Lincoln,  
25 that "laws without enforcement are just good advice." We are all  
26 here, I think, for the same purpose, and whether it's we use our  
27 best available science to attack a problem, to identify that problem,  
28 or we utilize the regulation making process in order to try to  
29 address that problem, but, if there's nothing to back that up, there's  
30 no enforcement, what we're left with is just good advice. I think  
31 the corollary for this is, for fishery management councils who  
32 don't take enforcement into consideration, all the work that you all  
33 do is just good advice.

34  
35 I want to go ahead and start with our mission. If you read through  
36 this, I want to hone in on the last piece of this. We at NOAA, we  
37 espouse the principles of science, service, and stewardship, and,  
38 whether you are here at the council from the scientific perspective,  
39 state perspective, federal perspective, commercial fishermen,  
40 recreational fishermen, NGO, the common thread, I think, for all of  
41 us, including those in the enforcement program, is that stewardship  
42 component.

43  
44 For us, it's stewardship through enforcement. In this picture, it's a  
45 little bit hard to see, but what it is that we have a NOAA uniformed  
46 enforcement officer, and there is a sea turtle that's hauled out on

1 the beach right there, and, as I said, in this picture, the lighting is  
2 very bad, but there is actually a red rope that generally traces here,  
3 and then there's a whole bunch of tourists behind that red line, that  
4 red rope.  
5

6 What this is, this is actually taken from an incident in Hawaii,  
7 where the turtles will haul out. There will be busloads of tourists  
8 that will disgorge from the bus whenever a turtle is seen on the  
9 beach, and they will proceed to get as close as possible to observe  
10 the wildlife, and I think this picture shows, if you will, that NOAA  
11 Enforcement in that over-watch position, and literally the red rope  
12 showing the line and where they are to make sure that folks don't  
13 cross the line and are able to enjoy, in this case, a protected  
14 resource, an endangered species, without harassing it, if you will,  
15 in a sustainable manner.  
16

17 That is essentially what we do, what we try to do, through the  
18 enforcement program, is that sustainability mission, and so our  
19 operations in OLE, and, if you can see it here, and, again, it's kind  
20 of hard to tell, but this is kind of the orange-shadowed area, and  
21 that's our entire area of operations. It is essentially the water, the  
22 salty water, from the boundaries of state waters out to 200 nautical  
23 miles, or the EEZ.  
24

25 If you look at the stats there, 3.36 million square miles of ocean is  
26 our jurisdiction. To place that in context, that's almost the same  
27 landmass of the United States. Look at 95,000 miles of U.S.  
28 coastline. Once again, in context, that's almost four times around  
29 the world at the equator. We also are responsible not only for  
30 fisheries enforcement, but enforcement within thirteen National  
31 Marine Sanctuaries and now five Marine National Monuments, in  
32 conjunction with the Fish and Wildlife Service and local partners.  
33

34 It doesn't stop there. We also have jurisdiction responsibility for  
35 the high seas and international trade relating to treaties and  
36 international law, and so it's quite a wide area to cover, and how  
37 we do that is our divisions are organized through the same five  
38 regional fishery management organizations within NOAA.  
39

40 We have an Alaska Division, we have a Pacific Island Division, a  
41 West Coast, a Southeast, and a Northeast. You can see where  
42 we're at. We have fifty-three field offices located throughout the  
43 United States. We have eighty Special Agents, currently, and fifty  
44 Enforcement Officers and sixty support staff.  
45

46 One of the questions that I get very often is what is the difference

1 between a Special Agent and an Enforcement Officer, and the best  
2 way to think of that is think of that Special Agent as that plain-  
3 clothes detective and that Enforcement Officer as the uniformed  
4 patrol officer. It's not a great analogy, but at least you get the  
5 sense of those Enforcement Officers, if you will, are on the front  
6 line, on the docks doing the boardings. Our Special Agents are  
7 doing the more complex investigations and the more in-depth and  
8 the things that are going to take long-term to investigate.

9  
10 The primary laws that we enforce are almost forty laws. Our top  
11 five are listed there on the board, and they are the Magnuson-  
12 Stevens Act; the Endangered Species Act; the Marine Mammal  
13 Protection Act; the Lacey Act, which utilizes an underlying  
14 violation of state laws as its predicate; and then the National  
15 Marine Sanctuary Act. It's not all about fisheries.

16  
17 To show how we break that down, we also do our international  
18 work, IUU fishing enforcement and high seas treaties and Port  
19 State Measures. For quick statistics here, this is a breakdown of  
20 our number of incidents for last year. You can see there are over  
21 6,000 incidents that were addressed by NOAA's Office of Law  
22 Enforcement, and "incident" doesn't necessarily mean that a case  
23 was opened, but if you will just think of an incident as an incoming  
24 report -- Whether it was an anonymous complaint, a hotline  
25 complaint, or a result of our own action or action by our federal  
26 partners, the United States Coast Guard, or state or territorial  
27 partners through our Cooperative Enforcement Program.

28  
29 You can see how those incidents were broken down by our major  
30 laws. In the pie chart here, the largest provision, or the largest  
31 slice, is the Magnuson-Stevens Act, and so a good 60 percent of  
32 what we do are MSA cases, but, if you also look, there's a  
33 significant amount of Halibut Act, as well as tuna and various  
34 other conventions, and so it represents about 70 percent of what we  
35 do is actually fisheries management or fisheries enforcement.

36  
37 We take essentially our approach through the establishment of  
38 enforcement priorities. Our two enforcement priorities are  
39 cascaded down from the Fisheries Service. You can see our  
40 national priorities of supporting sustainable fisheries and safe  
41 seafood and the second priority of support recovered and healthy  
42 marine and coastal species and healthy habitats. They basically  
43 translate into our sustainable fisheries and our protected resources  
44 mission. Everything that we do falls into one of essentially those  
45 two categories.

1 We are currently in the process of our next five-year review. If  
2 you look at the date of the existing document, it expires in 2017,  
3 and so we're in the process now of engaging with you all as our  
4 stakeholders, with members of the commercial and recreational  
5 fishing industry, our Sanctuary Superintendents, the NGO  
6 community, basically anyone that has, some input into what we  
7 should be focusing on for our next five-year strategic plan.  
8

9 The results of that engagement informs our priorities. It's not a  
10 paper drill. These don't stay on the shelf. We utilize these  
11 priorities, not only for our own priority-based resourcing, but also  
12 in our Cooperative Enforcement Program, which I will mention  
13 that a little bit more. It's how we're going to focus our state and  
14 territorial partners in order to be that force multiplier.  
15

16 How do we accomplish our priorities? It's not all just about  
17 writing tickets. We actually have a couple of pillars, and the  
18 strongest, what we would like to lead with, is an outreach and  
19 compliance assistance pillar. We would much rather have folks  
20 voluntarily comply, staying behind the red line, and, for the vast  
21 majority, just like that picture demonstrated, the vast majority of  
22 folks do. They voluntarily comply, and they want to do the right  
23 thing.  
24

25 Some of that though requires that, in fact, they know what the right  
26 thing is, what the law is, what the rules are and what the  
27 regulations are, and so we actually have a large component where  
28 we go out and do compliance and outreach and education.  
29

30 For those that cannot or will not comply, then that's when we go to  
31 our civil and criminal investigative stage. We also do a lot of  
32 patrols and inspections and monitoring. We partner with our state,  
33 territorial, and tribal organizations. We have collaborative  
34 fisheries enforcement for international treaties and obligations, all  
35 of our RFMOs that we're participating in, and we use innovative  
36 technology and tools. Probably the best is VMS, but we're also  
37 looking for emerging technologies of how to cover the waterfront a  
38 little bit better with that limited resources.  
39

40 This is just an example of our education, outreach, and compliance  
41 system activities. We will look for venues where we can set up  
42 booths and provide compliance assistance and guides and just  
43 interact with the stakeholders. Those that have questions, we  
44 provide a safe environment for folks to ask questions and to get  
45 that compliance assistance, so that they have that knowledge in  
46 order to voluntarily comply.

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We also have significant partnerships. The biggest one that we have is what is known as our Cooperative Enforcement Program. It's also known as the JEA, or Joint Enforcement Agreements. We currently have Joint Enforcement Agreements with twenty-seven coastal states and U.S. territories. If there is saltwater touching their shores, they can enter into an agreement with NOAA in order to provide that force multiplier for us, and we are able to leverage the use of the state and territorial partners to enforce our priorities.

You are going to hear, immediately after me, with Commander Caputo, about a little bit of our federal partnerships with the U.S. Coast Guard, the Fish and Wildlife Service, Customs and Border Protection, and others, such as the FDA.

Part of the enforcement program that you will see is the outward facing part. It's our NOAA Special Agents and Officers and our Coast Guardsmen doing the boardings and our state and territorial partners, but that's the frontend. We also have the backend within NOAA. The Enforcement Program is a little bit unique, in that we have, within NOAA, an in-house prosecuting team, that is the NOAA Office of the General Counsel. It has our civil prosecutors, and, for many of the cases that we investigate, they are prosecuted civilly, and those are handled through those attorneys within the Enforcement Section of the General Counsel's Office.

Criminal cases, however, are referred to the United States Attorney's Office and the Justice Department, as they are the only individuals that are allowed to represent the United States through criminal proceedings.

I touched on our JEA, and I wanted to break this down by council of how much money that we provide to our states and territories to provide that force multiplier. In any given year, it varies, but this is a snapshot from 2014. It's almost an \$18 million effort of providing funds for our state and territorial partners, who essentially apply to NOAA to participate in the program. They raise their hand and say, we would like to help you out with that stewardship mission.

The way that you can think about this is that, for every three-dollars that the Office of Law Enforcement receives in its annual budget, I give a dollar of that back to our state and territorial partners, in order to provide that force enhancement, and you can see the breakdown by territory. In some councils, it's very small, like the Caribbean Council, but, in others, it's quite significant. As

1 I said, our state and territorial partners provide that very critical  
2 force multiplier for us, because, with essentially 130 sworn officers  
3 to cover the United States, we obviously can't do it all. That is  
4 where that priority-setting process is critically important, as well as  
5 leveraging the resources from our state and territorial partners.  
6

7 Why does this matter? The bottom line is, getting back to Honest  
8 Abe, enforcement is critical to fisheries management. You can see  
9 what our work does, and, if you look through these, I think you  
10 will find that what we think our work does is what the work of the  
11 council does. Sustain fish stocks. Prevent illegal fishing. Protect  
12 marine mammals and endangered species. Habitat conservation.  
13 It levels the playing field for those who are going to abide by the  
14 rules and hold accountable those that don't. That's the bottom  
15 line.  
16

17 How can you all help? It's now been about ten years. This is  
18 actually something that was produced, *Enforcement*  
19 *Considerations for Regional Fishery Management Councils*. If  
20 you haven't viewed this, it is on the website. You can point your  
21 favorite web browser and just Google it. It's only twelve pages. If  
22 you have seen it, but haven't looked at it recently, it may be  
23 worthwhile looking at it again.  
24

25 This is what I would like to consider the unwritten national  
26 standard and would ask you to think about enforcement when  
27 you're making regulations. You can see the high level here. Make  
28 them simple and easy to understand and as few as possible and  
29 concise.  
30

31 I won't go line-by-line through this, but, as I said, this is a very  
32 good guide for when you're thinking about what regulations to  
33 make, think about that corollary. If a regulation is unenforceable,  
34 or difficult to enforce, put yourselves in our shoes. We're going to  
35 have ourselves a difficult time, and our Coast Guard partners and  
36 our states and territories, actually trying to enforce a regulation that  
37 is perhaps imprecise.  
38

39 If you want more information, the last slide, there is our contact.  
40 Yes, we have a website. There is lots of information on there.  
41 More importantly though, and I have highlighted it, is our twenty-  
42 four-hour, seven-days-a-week, enforcement hotline. You can call  
43 this, and someone will answer. If you have a violation, if you  
44 suspect a violation, call this number. Remember one of those  
45 6,000 incidents. Many of those were the result of someone calling  
46 this hotline and saying that I don't know what this is, but could you

1 take a look at it? It's 1-800-853-1964.

2  
3 We're going to stop now, and Commander Caputo and I discussed  
4 that, in the interests of time, that we'll go ahead and have a joint  
5 Q&A session. If you can think of your questions, but I am going  
6 to stop now, and we're going to do a joint question-and-answer at  
7 the end of Commander Caputo's presentation, if that's appropriate.  
8

9 *John Quinn:* That is fine. Thank you.

10  
11 [Presentation by CDR Jay Caputo, USCG]  
12

13 *John Quinn:* Thank you very much to both of you. Any questions for either one  
14 of the presenters? Chris Oliver.

15  
16 *Chris Oliver:* I had a question for Commander Caputo. It may be an ancillary  
17 question for Sam. The Texas-Mexico border issue, and I couldn't  
18 help but notice that all of those fish were red snapper, and do you  
19 all have any estimates of what the total removals might be by that  
20 illegal fishing of red snapper and whether and how that's factored  
21 into the management of red snapper off of Texas?  
22

23 *Jay Caputo:* We know how much that we take. I mean, we know how much we  
24 seize, and then we basically put it back into the water. Whether  
25 that's used with the council and the calculations, I cannot answer  
26 that.  
27

28 *John Quinn:* Leann.

29  
30 *Leann Bosarge:* We actually asked that same question, because our Coast Guard  
31 representative has been trying to keep us updated on this at our  
32 council meetings, and we would ultimately like to get to that point,  
33 where we can get some sort of estimate on those landings and have  
34 that tie in somehow at least to the stock assessment process, and  
35 we are working towards that, but, no, we're not there quite yet.  
36

37 *John Quinn:* McGrew Rice.

38  
39 *McGrew Rice:* What is the percentage of monitoring that the Coast Guard does in  
40 the Marine Monuments compared to the EEZ? Do you know that?  
41

42 *Jay Caputo:* I don't have a straight-up answer for you, like a straight-up  
43 percentage, because, the way that the Coast Guard tracks hours, we  
44 don't really track time in the Monuments. We don't have a code  
45 for it, and so I would have to try to figure it out.  
46

1 I know 97 percent of the area is in the Western Pacific, and so I  
2 would venture to guess that we don't patrol it very often. If we go  
3 through, we go through when we can, and we're probably doing  
4 fisheries operations and it's part of that fisheries operation, but,  
5 right now, we don't have a code to really track that.

6  
7 *John Quinn:* Mike Duenas.

8  
9 *Michael Duenas:* Just a follow-up for McGrew's question. Do you receive any  
10 additional funding to monitor the Marine Monuments?

11  
12 *Jay Caputo:* We have not received any additional funding for Marine National  
13 Monuments.

14  
15 *John Quinn:* Andy.

16  
17 *Andy Strelcheck:* Jim, I want to first thank you and your team. We have a very good  
18 relationship with Tracy and Manny, and they are certainly focused  
19 on priorities for our region. I have a question for you, and it comes  
20 down to communication.

21  
22 I often see a lot of great enforcement work, cases being made, but  
23 it's often years later before we can actually convey key messaging  
24 about those cases. Is there any way, when violations are  
25 happening and citations are being written, that we could improve  
26 the timeliness of those communications, or do we have to let it be  
27 vetted through the process and let due process kind of run its  
28 course in order to communicate that information?

29  
30 *James Landon:* We will typically wait for that case to be finally adjudicated before  
31 we essentially publicly announce it. As you mentioned, it's the  
32 due process requirement. We are conscious and aware of the fact  
33 of allowing folks to have their due process, and so we typically  
34 will wait until the case is concluded. We will not announce  
35 something until that case has been finally adjudicated.

36  
37 That being said though, there is -- Since 2010, posted on the  
38 NOAA Office of General Counsel website, every six months there  
39 is a listing, a summary, of every single NOVA, which is a Notice  
40 of Violation and Assessment of a civil penalty that's been  
41 assessed, as well as the disposition of previous cases, whether it's  
42 been settled, whether it's been paid, whether it's going to  
43 litigation, as well as things like written warnings and the results, or  
44 the opinions of our Administrative Law Judges.

45  
46 There is, on the General Counsel's website, a summary of

1 adjudicated cases. If you look, you will see it says, “Enforcement  
2 Actions”, and you can get a listing by year, and it goes by region,  
3 and the code by that, if you look at it, there is a two-letter and  
4 number of each of those cases. If it says “AK-1512345”, that’s a  
5 case that came out of our Alaska Region. If it says “SE-1412345”,  
6 that came out of the Southeast Region.

7  
8 Typically, what we will do is we will identify the vessel that is  
9 involved, or the corporation. We do not identify individuals in  
10 those civil cases, and so that’s one area that you can actually go to  
11 on essentially a six-month basis.

12  
13 On the Office of Law Enforcement website, we also have a weekly  
14 summary of some of our most major cases, and so you can go to  
15 the OLE website and you can see, on a weekly basis, some of those  
16 more significant cases that have been taken.

17  
18 The other piece of this is, on the criminal side, sometimes we will,  
19 and, once again, this is controlled by the Department of Justice,  
20 but, if a case gets indicted, they typically will issue a press release  
21 or a media release for an indictment, and that’s another way of  
22 seeing that an action has been taken. For those more significant  
23 cases, we will actually go ahead and post that media release or that  
24 press release from the Department of Justice.

25  
26 *John Quinn:* Tom Nies.

27  
28 *Tom Nies:* I have a question for you, Jim. Are the grants to the states under  
29 the Cooperative Enforcement Agreements tied to any sort of  
30 performance goals or performance metrics?

31  
32 *James Landon:* I guess the answer is yes, but not very robust ones, and that’s  
33 something that I have taken to try to strengthen. The general, if  
34 you will, currency of our Joint Enforcement Agreements is a  
35 commitment by a state or territorial partner to perform a certain  
36 number of hours, generally focused on the priorities that we  
37 identify for them, in exchange for, essentially, payment or  
38 reimbursement for the hourly rate of those wardens or troopers or  
39 what have you, and as well as some funding for what we call direct  
40 purchases for equipment.

41  
42 It has loosely, in the past, been linked to a certain number of hours  
43 of work performed on our general areas. Last year, we started a  
44 program by which we are moving towards tying, essentially,  
45 performance more to that priority-based resourcing, and so we’re  
46 moving towards a more defined level of effort focused on our

1 priorities.

2  
3 I will give just one example for the Gulf Council. One of the  
4 priorities, or actually the priority for this year, that was identified  
5 was TED enforcement, and so that's turtle excluder devices on  
6 shrimp boats. The priority for all of our five Gulf State partners  
7 was a certain level of effort in the Gulf during certain months of  
8 the year where we saw, obviously during shrimp season, where we  
9 saw high potential for sea turtle mortality.

10  
11 If you will, think of it as a mini-mission for those state partners to  
12 go focus on a certain level of effort for boardings of shrimp vessels  
13 and inspecting TEDs. That has obviously varied from state-to-  
14 state and territories, and so Washington State looked at orca  
15 patrols.

16  
17 We had striped bass enforcement out in the EEZ for some of our  
18 Mid-Atlantic states, and so we're moving towards a model by  
19 which we are defining and using that priority-setting process that I  
20 mentioned to go ahead and give our state and territorial partners a  
21 menu of more discreet or more defined focus and direction for  
22 what priorities we would like a certain level of effort, and that is  
23 the basis for our agreements with them.

24  
25 With that is coming, as Commander Caputo mentioned, something  
26 a little bit better as far as our performance metrics of number of  
27 hours performed in a certain area. We're looking at essentially  
28 what happens when we actually do those boardings. Commander  
29 Caputo described it as observed compliance. For us, it's almost  
30 like doing a stock assessment. It's starting with a baseline.

31  
32 Where are we seeing a problem? Is it really that we're not seeing a  
33 high rate of compliance with TEDs or possession of striped bass or  
34 whatever you name it? We're looking then to try to figure out,  
35 assessing those baselines of how do we move that performance to a  
36 level that we're moving towards that goal of sustainability, and so  
37 kind of part-and-parcel with this transition to more focused  
38 priorities and a more defined level of effort is also articulating  
39 those performance metrics of when do we think we're actually  
40 making an impact and where can we see that, with the application  
41 of more enforcement resources, we could make a bigger impact.

42  
43 *John Quinn:* Any other questions? Kitty.

44  
45 *Kitty Simonds:* Hi, Jay. I'm sure you miss Honolulu.

46

1 *Jay Caputo:* I love Honolulu.  
2  
3 *Kitty Simonds:* I know, and so my question is do both of your organizations  
4 monitor, 24/7, all of the ships that are out there? Occasionally, we  
5 will go to the Global Fish Watch to check up to see if any of our  
6 vessels are in or outside of our zone, and basically we're looking  
7 for the foreign boats, hoping that they're in our zone so you can  
8 catch them and we can get some money out of them, but is that  
9 what you folks watch? How do you look at everything every day,  
10 in terms of foreign fishing?  
11  
12 *Jay Caputo:* Do you want to talk about VMS?  
13  
14 *James Landon:* Yes, I can take that. For the Pacific Islands, we have both VMS,  
15 vessel monitoring system, and AIS, automatic identification  
16 system, feeds. I will be vague on the magic that occurs, but, if you  
17 think of filter and anomalies -- If you think of a trip wire that we  
18 will set out, and, when we see vessels, if you will, crossing the trip  
19 wire, that generates a response for us that we then drill down.  
20  
21 If you will, those are two of the technological resources that we  
22 utilize in order to establish that trip line, or that fence, around  
23 closed areas and monuments and things like that, in order to  
24 identify potential violations.  
25  
26 *Kitty Simonds:* You're talking about U.S. vessels.  
27  
28 *James Landon:* Also foreign vessels as well.  
29  
30 *Kitty Simonds:* What if a foreign vessel doesn't have their AIS turned on? You  
31 can still see them?  
32  
33 *James Landon:* No.  
34  
35 *Kitty Simonds:* They have to have it on, right?  
36  
37 *James Landon:* Right, and so that would be the definition of a ghost fishing vessel.  
38 You put a Home Depot bucket over the dish and it can block the  
39 signal. Yes, that is a weak link, and so, yes, you've hit the nail on  
40 the head of those who want to not be there can hide.  
41  
42 I mentioned on my slides, and, as I said, I moved very quickly  
43 through those, but some of the things that we're looking for some  
44 emerging technology, and so recognizing that this is, if you will, a  
45 very weak link, and we're looking to see if there's some way that  
46 we can actually utilize some technology to get that surveillance

1 piece of this a little bit more active that can't be defeated or  
2 circumvented, and so those are some of the things that we're trying  
3 to figure out, how we can actually use more active measures -- Not  
4 "Active Measures." That is a term with another meaning to it, but  
5 rather increase our surveillance that doesn't rely on the good will  
6 of the vessel of keeping their electronics energized.

7  
8 *Kitty Simonds:* Right, because I am doing a presentation on international fishing,  
9 and I am showing a snapshot from Global Fishing Watch, to show  
10 a number of things. One is that, for our EEZ, and so you can see  
11 that, after the monument was designated, our fishing boats stayed  
12 out of the 200-mile zone, but you can see the Chinese and those  
13 fishing boats fishing outside. Then the Marshalls is very close to  
14 us, and that's really where the Chinese take their fish to, and then  
15 that fish comes into Hawaii.

16  
17 *Jay Caputo:* I can confirm that. We actually have, within the last month,  
18 initiated investigations on foreign vessels that have crossed the  
19 line, to use my first slide.

20  
21 *John Quinn:* Phil Anderson.

22  
23 *Phil Anderson:* Thanks, Mr. Chairman, and thank you both for your presentations.  
24 I have a pretty good dose of sugar and then a little bit of lemon.  
25 First of all, I want to thank both the Office of Law Enforcement  
26 and the Coast Guard for the great work and collaboration that we  
27 enjoy in the Pacific Council.

28  
29 As you probably both know, we have an Enforcement Consultants  
30 Committee. It meets concurrently with the council, and they are  
31 free and encouraged to comment on any of the issues that come  
32 before the council and bring to our attention any enforcement  
33 concerns that they have or safety concerns, and it has really truly  
34 been a great partnership. Our Enforcement Consultants has  
35 membership from both of your entities as well as our state  
36 agencies, and it's worked really well, and so thanks for that.

37  
38 My just little bit of lemon is I was a little taken aback, Jim, with  
39 your reference to the "loosely defined objectives" under the JEAs  
40 and wanting to tighten that up a little bit. I don't have a quarrel  
41 with ensuring that there is accountability, but you can also  
42 overwhelm those entities with paperwork, to where they are  
43 spending a good deal of their time filling out paperwork.

44  
45 I would just caution to make sure we have that right balance of  
46 accountability and ensuring that their work is aligned with the

1 priorities that you lay out for them, but, at the same time, ensure  
2 that the reporting requirements are not so onerous that they're  
3 spending more time filling out paperwork than they are doing the  
4 work.

5  
6 *James Landon:*

If I could address that, one of the things that is also a component of  
7 that, in the more focused level of effort on these priorities, also  
8 comes with it, I think, a clearer definition of actually the reporting  
9 requirements.

10  
11 Just for example, one of the criticisms or the comments that I heard  
12 was we're not quite sure what we need to report, and so part of this  
13 initiative to more clearly define those priorities also has a  
14 component of the reporting and the case disposition of what type  
15 of cases we would like to see referred to NOAA and what cases  
16 can still be handled on the state and territorial side.

17  
18 What I have attempted to do, and I've been sensitive to that, is  
19 obviously not to bury folks in paper, but it's to actually make it a  
20 little bit easier, of saying these are the criteria of the types of  
21 information that we would like to see.

22  
23 If we're using my TED boarding example, the data requirements of  
24 using a standardized TED boarding form that all of the states, with  
25 the Coast Guard and OLE -- We are all now using a standardized  
26 TED boarding form, as opposed to having, arguably, seven  
27 different ways of doing it and getting seven different datasets.

28  
29 In some respects, the reporting requirements are easier. What it's  
30 really designed to do is be a little bit more defined and actually less  
31 onerous on our state and territorial partners of giving them some  
32 clear guidance on this is the type of information we need, so that  
33 we're not having them waste time and resources. The other part of  
34 that is on essentially the case disposition, having the information  
35 come to NOAA in a way that is going to be able to be prosecuted,  
36 and so the other part of that is getting our case management, those  
37 case packages, making sure that those have the information that we  
38 need and all the elements in order to prosecute those cases.

39  
40 There is a couple of initiatives here, but it really is designed to not  
41 burden folks with actually additional reporting, but to actually be  
42 more focused, and I think, at the end of the day, if we can fast-  
43 forward a little bit, I think the reporting requirements are going to  
44 be much more clearly defined and less onerous.

45  
46 *John Quinn:*

Any other additional questions? Ed.

1  
2 *Ed Ebisui:* Thank you, Mr. Chairman. I have a question for both of you, I  
3 guess. I want to follow up on what our Executive Director asked  
4 you about, and that's the AIS and VMS system. It only works, and  
5 you can only track vessels, if those systems are operational and  
6 turned on, right?

7  
8 If a vessel voluntarily shuts its system down, it basically is  
9 cloaked. It's invisible, and so, with the removal of the American  
10 fishermen from the American EEZ, doesn't that hamper  
11 enforcement a little bit, where you remove eyes and ears off the  
12 water, out of the EEZ?

13  
14 *Jay Caputo:* There are some other ways that we -- Obviously we track vessels.  
15 We have an agreement with the Foreign Fisheries Agency, and we  
16 receive VMS feeds from them, and we track those. Of course, if  
17 they were to turn it off, it would obviously notify the FFA that they  
18 have turned it off. The WCPFC VMS system is supposed to work  
19 like that also. If they turn it off, that country would be notified.

20  
21 When I worked out in Honolulu previously, when we did conduct  
22 boardings out, we would check the VMS unit and make sure that it  
23 was turned on, and, many of the times, they weren't. We would  
24 notify the country, and through the WCPFC, and they would  
25 receive a fine for that.

26  
27 Now, that's sort of a slap on the wrist, because you know what  
28 they were doing when they had their VMS off, but I think dark  
29 targets are a big problem. It's something that the Coast Guard  
30 talks about and the intelligence community, and we're looking for  
31 solutions, more cost-effective solutions, to find dark targets.

32  
33 Whether or not U.S. fishing vessels are in an area or not, a fishing  
34 vessel, with such a vast area like that, unless there is a lot of them,  
35 they don't make an impressive network, because they can only see  
36 so far. They can only see as far as their height of eye and their  
37 radar can see, and so, when you're trying to build a network like  
38 that -- It's much more effective to use other means, and so dark  
39 targets is a problem, and I completely acknowledge that, and the  
40 Coast Guard intelligence and the Navy intelligence is all working  
41 on dark targets. It's a big problem.

42  
43 *John Quinn:* Anybody else? Seeing none, thank you very much, gentlemen, for  
44 your presentation.

45  
46 *James Landon:* Thank you. Just one more shameless plug. It's hard, in twenty-

1 five minutes, to do a complete overview, and so, tomorrow, on the  
2 back table, there will be copies of OLE's annual report. There is  
3 something probably in it for everybody, and so, like I said, if you  
4 look for this tomorrow morning, you will have something to read  
5 on the plane ride back home, and so thank you.  
6

7 *John Quinn:*

8 Thank you very much. That concludes what we had planned for  
9 today. We are going to advance one item that we have for  
10 tomorrow. Tom Nies is going to present, under the council  
11 discussion, his workgroup organization. We already advanced one  
12 of those, and then we're going to revisit the letter to Secretary Ross  
13 that Kitty Simonds presented and we discussed yesterday. We all  
14 seemed to agree that we would sign it, but we wanted to go over  
15 the letter. That letter has been distributed, and there should be a  
16 hard copy in front of you, and so I'm going to turn it over to Mr.  
Nies for his presentation.

1 **16. CCC WORKGROUP ORGANIZATION**

2  
3 *Tom Nies:* Thank you. I'm going to talk about an issue that came up at the  
4 February council meeting, as we were leaving the meeting and we  
5 were summarizing the meeting. There was some discussion about  
6 workgroups and other interactions between the councils, and so we  
7 didn't really have any time on the agenda to talk about it, and there  
8 were some concerns about it, and so I thought we would talk about  
9 tomorrow, or now today.

10  
11 There is memo in the binder, and I think it's Number 19, and it's a  
12 memo from me to the CCC, which I will sort of summarize as we  
13 go through it. Our Terms of Reference for the CCC authorize  
14 workgroups and sub-committees. This is something I think that we  
15 addressed when Chris Moore and the Mid-Atlantic Council chaired  
16 the CCC.

17  
18 According to the TORs, they're established to address particular  
19 issues, and the implication is that a workgroup or a sub-committee  
20 is tasked directly by the CCC. Membership is not restricted to just  
21 CCC members. Staff, members of NMFS, or other council  
22 members can be assigned, and their recommendations are  
23 supposed to be reviewed and approved by the CCC.

24  
25 We only identify, in our Terms of Reference, one permanent  
26 workgroup, and that's the Scientific Coordination Sub-Committee.  
27 Chuck gave the report from that committee this morning, but it  
28 seems to me that we have three other groups that are more or less  
29 permanent workgroups or sub-committees.

30  
31 The first is the Legislative Workgroup, which tends to be more  
32 active when Magnuson reauthorization comes up, but it seems like  
33 just about every meeting they address something. There is the  
34 council communications group, the public affairs specialists, or  
35 outreach specialists, from all the councils. They talk regularly, and  
36 they have meet about every two years to discuss issues at a public  
37 affairs meeting, and the CCC reviews their recommendations  
38 before implementation.

39  
40 Then there's another group that we established in May of 2014,  
41 which is the Habitat Workgroup, which Jessica and Michelle  
42 talked about today. Probably their biggest event was the Essential  
43 Fish Habitat Summit in 2016, but you can see that they're still very  
44 active in discussing and trying to coordinate some habitat activities  
45 across the councils.

1 We also have some less formal interactions between the councils,  
2 and these are the ones that I am aware of, and there may be others  
3 that I am unaware of. The social scientists share information and  
4 ideas, routinely. They have three or four conference calls a year,  
5 and they held one meeting, I think, in 2015. They call themselves  
6 the Social Scientists in Regional Fisheries Management Group.

7  
8 The council Administrative Officers communicate all the time,  
9 either by conference call or by emails. They're always talking  
10 about issues related to their jobs. Then, at this meeting, the  
11 Executive Directors agreed to invite the Deputy Directors, or  
12 senior staff, and they are meeting across the hall, and we'll get a  
13 report on that meeting tomorrow before we leave.

14  
15 I think this is the first time they have met as a group, though my  
16 understanding is there was an effort to have them meet at another  
17 CCC meeting that fell through for -- I think the reason is primarily  
18 because my predecessor objected to it. I wasn't going to say that,  
19 but I think that's what it was.

20  
21 Anyway, at the end of the February meeting, when I was  
22 summarizing the meeting results, I got a little sloppy. I referred to  
23 some things as workgroups, et cetera, and that led to some  
24 discussion that suggested that there are a number of concerns that  
25 the workgroups, or these informal committees, seem to form  
26 without specific review or approval by the CCC. Once they were  
27 formed, it was hard for a council to refuse to participate, and some  
28 councils, or council leadership anyway, was uncomfortable with  
29 that.

30  
31 There didn't seem to be a clear process for determining when these  
32 should meet. These just seemed to spring up sometimes, and there  
33 was a lack of input from the CCC on what they should talk about  
34 or what they should work on. There seemed to be a lack of  
35 coordination between these meetings and CCC meeting preps, and  
36 there were infrequent reports to the CCC on the accomplishment of  
37 the workgroups and other interactions.

38  
39 Based on that discussion, I thought of a couple of suggestions here,  
40 and these are in Paragraph 6. I will read them, and then we can  
41 talk about them and decide what we want to do with them, if  
42 anything.

43  
44 I divided it into two sections. The first is Paragraph a, which talks  
45 about workgroups or sub-committees only be formed as described  
46 in the CCC TORs. The CCC must specifically authorize work

1 groups or subcommittees and they respond to tasking by the CCC.  
2 This acknowledges the four standing work groups that I have  
3 mentioned earlier.  
4

5 Either the CCC or the Executive Directors must approve any  
6 proposed meetings, and, to have this coordinated a little bit, my  
7 suggestion is whichever council chairs the CCC should be  
8 responsible for coordinating the approval of a group meeting, and a  
9 report will be provided to the CCC when it's complete. I didn't  
10 say that the report had to be in-person, but I think that's probably  
11 preferred, but I could see an instance where we just get a written  
12 report that somebody delivers.  
13

14 The second paragraph refers to the less formal collaboration. In  
15 my opinion, we don't really want to discourage that, but we should  
16 acknowledge that participation is voluntary, and one council or  
17 other councils may choose not to participate, because of demands  
18 on staff time. If there are going to be meetings, I think the  
19 Executive Directors should approve the meetings in advance,  
20 before detailed planning begins.  
21

22 In other words, I don't think the Executive Directors should get a  
23 phone call that says we've got a meeting this month and here is the  
24 agenda. I think we should be involved upfront and say, okay, yes,  
25 go off and plan a meeting that's going to address those topics and  
26 bring us an agenda.  
27

28 Once again, I think the council chairing the CCC should coordinate  
29 that, and we could get a report, and, again, it could be written or  
30 otherwise, provided to the CCC after any meetings, and so those  
31 are the concepts, I think, that might make people a little more  
32 comfortable with knowing what's going on. If people think it's  
33 necessary to document that, I've got some suggested one or two-  
34 sentence edits to the TORs to kind of document it. I am not so  
35 certain that we actually need to do it, but I put it together in case  
36 people think that would be helpful. With that, I think it's open to  
37 discussion.  
38

39 *John Quinn:* Thank you very much. Why don't we take discussion on Item  
40 Number 1, which was the more formal workgroup portion of the  
41 CCC, and so any comment or discussion on Tom's proposal?  
42 Chris Moore.  
43

44 *Chris Moore:* Thank you, Mr. Chairman. In 6a, you say, basically, the CCC or  
45 Executive Directors must approve any proposed meetings for those  
46 four groups. Is that every time they meet they need approval, or do

1 we just say that we approve those committees and groups and they  
2 can meet when they need to meet?  
3

4 *Tom Nies:* To be clear, when I use the term “meeting” here, I meant an in-  
5 person meeting and not conference calls. My thought was that, if  
6 it’s a meeting and they’re going to meet somewhere, as a group,  
7 that we would want to approve it ahead of time. I don’t feel like  
8 we really need to approve conference calls.  
9

10 *John Quinn:* Chris Moore.

11  
12 *Chris Moore:* With that clarification, I think that’s appropriate. I think if we said  
13 those kinds of meetings do need approval, I think that would be  
14 fine. I would agree with that. Thank you.  
15

16 *John Quinn:* Bill Tweit.

17  
18 *Bill Tweit:* Thank you, Mr. Chair, and thanks, Tom, for this work. You  
19 suggest that they should be responsive to tasking by the CCC, and  
20 I am wondering -- You also observed, when you were describing  
21 the Habitat Workgroup, that it’s not clear that it’s routinely tasked  
22 by the CCC, which I thought was a good way of describing it.  
23

24 That one seems like sort of the most difficult of the groups, in  
25 terms of tasking, and so I’m just wondering what your thoughts are  
26 relative to -- It looks like some fairly careful wording under 6a, to  
27 be responsive to tasking, but how do you see that as working for  
28 the different working groups?  
29

30 *Tom Nies:* When I came back from the February CCC meeting, I had a little  
31 conversation with Michelle. The Habitat Workgroup, sort of on  
32 their own, decided that their chair would be whichever council  
33 chairs the CCC. I was talking to Michelle, and I explained to her  
34 some of the discomfort that some people expressed at the meeting,  
35 and she became somewhat nervous about the activities of the  
36 Habitat Workgroup, because, as you heard today, they have some  
37 pretty extensive plans, and they’ve been working on a lot of things  
38 on the side.  
39

40 I am not sure that my intent is that tasking be -- I think the CCC  
41 has a choice. You can either say that we’re going to approve  
42 everything you do or you could be much more generic for some of  
43 the standing working groups that we know exist, and say  
44 something like -- I don’t know that I’ve got good language for the  
45 habitat group, but, just to be very general, we could say, okay,  
46 look, you guys can go off and work on -- Then we would look at

1 that list of things they're working on and say, yes, keep doing that.

2  
3 I mean, the fact that they came in and gave us a report, at Chris's  
4 prompting, at this meeting, I think that gives us an opportunity to  
5 stand up and say, no, don't do that stuff or to say, yes, we would  
6 like you to keep doing it and they go off and keep doing it.

7  
8 Now, there may be other instances where we want to form a  
9 workgroup that does a specific task and we get very explicit with  
10 them and tell them that this is what you're going to go off and do,  
11 and I'm not sure that we need to do that with all of our standing  
12 working groups.

13  
14 *John Quinn:* Bill.

15  
16 *Bill Tweit:* Thanks, Mr. Chair. Tom, that makes a lot of sense to me. I think  
17 then the onus would be on us for the Habitat Workgroup in  
18 particular, or any workgroup that is sort of organized that way,  
19 where the tasking is sort of a report and then either a head nod or a  
20 bit of redirection. The onus is on us to ensure that the reporting is  
21 regular, because, otherwise, it seems like you could be in a position  
22 where they could start to head off into some fairly interesting  
23 territory, and I have seen groups do that, some of these sub-groups  
24 do that, at the council level.

25  
26 Again, I think your wording sort of captures that, but maybe some  
27 emphasis on the reporting requirement and really not taking  
28 something new on until there has been dialogue with the CCC  
29 about that and when there has been regular reporting.

30  
31 *John Quinn:* Gregg Waugh.

32  
33 *Gregg Waugh:* Thank you, Mr. Chair. I support the wording in 6a. Still being  
34 relatively new to this process and to the ED position, it helps me  
35 understand what my staff are being tasked with and the cost  
36 consequences of that work, and the other is making sure, as we just  
37 mentioned, that we get reports of the work, so we all know what  
38 work is being done and what's being accomplished, and so I fully  
39 support what's in 6a.

40  
41 *John Quinn:* Anyone else? How about the suggestion of maybe editing the  
42 TORs? Do you think that's necessary or do you think we've got  
43 enough guidance here? Chuck Tracy.

44  
45 *Chuck Tracy:* Thank you, Mr. Chairman. I think I support the 6a language as  
46 well. I think it's a good idea, certainly, to have a report from these

1 groups and an opportunity for the CCC to weigh in on what their  
2 future plans are and giving them some direction as well.

3  
4 I also like having something in the Terms of Reference. I think it's  
5 good for the record and it's good to have something to work from,  
6 especially as people turn over. I think it's worthwhile to have that  
7 stuff written down and have it formalized and have an opportunity  
8 for us to modify it in the future if we need to.

9  
10 *John Quinn:* Anyone else? Chris Moore.

11  
12 *Chris Moore:* I agree with Chuck. I would just, again, suggest that the wording  
13 be changed relative to in-person meetings. I think everything else  
14 is fine.

15  
16 *John Quinn:* Tom Nies.

17  
18 *Tom Nies:* When I made the changes, I think I made them too brief, based on  
19 the comments. I think I need to -- Attachment 2 has some  
20 suggested edits to the Terms of Reference, and I think I will  
21 expand it a little bit to cover Bill's point about reports and  
22 meetings and tasking and to cover Chris's point about in-person  
23 meetings. I think I can modify that and get it out to everybody  
24 tonight and we can approve it tomorrow if we want to.

25  
26 *John Quinn:* That sounds like a plan. Anybody else on this? So, we will, by  
27 consensus, adopt those proposed changes, and Mr. Nies will get  
28 the edits out in the TORs, and we can take a quick look at them  
29 tomorrow during one of the set-aside times to review information.  
30 All right. That was to 6a, and so we'll go on to 6b now. 6b is the  
31 more informal work. Any comments? Gregg Waugh.

32  
33 *Gregg Waugh:* Thank you, Mr. Chair. I support what's written in there, and,  
34 again, just clarifying in-person meetings versus others, but, yes, I  
35 think we need to coordinate that, and we need to know, again,  
36 ahead of time, for workload and cost issues, before we get too far  
37 into planning, and, again, a report of any meetings. I think even  
38 for conference calls, I think a short email even, some sort of  
39 documentation, anytime these groups meet, would be helpful, just  
40 to keep us abreast of what's going on.

41  
42 *John Quinn:* Anybody else to 6b? Chuck Tracy.

43  
44 *Chuck Tracy:* Thanks. I agree, Gregg. I think it would be a good idea to have  
45 that notification for the Executive Directors. Again, as mentioned  
46 in 6b, this is sort of subject to demands on staff time, and I think

1 it's a good idea for EDs and supervisors to know what is being  
2 requested, so they can use their best judgment as to how to commit  
3 their staff time to things like this.

4  
5 *John Quinn:* Miguel.

6  
7 *Miguel Rolon:* We also agree with 6b. If we adopt these two paragraphs, that  
8 means that we have four standing committees, and then we will  
9 have ad hoc committees that will be coordinated by whoever is in  
10 charge that year. Do we have any idea, at this time, of examples of  
11 what committees we will be dealing with in 6b, or do we just want  
12 to leave it open as the necessity arises?

13  
14 *Tom Nies:* The only committee that I am aware of that falls under 6b right  
15 now is the group of social scientists that communicate I guess three  
16 or four times a year via conference call. They held one meeting in  
17 Hawaii in 2015. They are the only ones that I know about, at  
18 present. I don't know if there would be any others that form. I  
19 mean, I kind of -- One of the things that goes on is I think,  
20 sometimes, when you're on council staff, you tend to be focused  
21 on only what goes on in your council, and you don't always learn  
22 lessons, because somebody else may have faced a similar problem  
23 across the country.

24  
25 I don't think we want to discourage the -- This is kind of funny  
26 after the comment about Sam being a low-level official, and so this  
27 is a real, real low-level collaboration across councils, and I don't  
28 think we really want to discourage that, but we don't want it to get  
29 out of control, and so EDs need to know about it and need to know  
30 that these folks need to know that they can't just start planning  
31 meetings.

32  
33 I am not really aware of any other activities like that, other than the  
34 social scientists, that are going on at present. It's hard for me to  
35 predict whether something would come up in the future.

36  
37 *John Quinn:* Miguel.

38  
39 *Miguel Rolon:* I thank you for putting all of this together, and we concur with the  
40 6a and 6b.

41  
42 *John Quinn:* Chris Oliver.

43  
44 *Chris Oliver:* Just to follow up on Tom's comment, I don't think we want to  
45 discourage that either. I think just as long as it's not under a CCC  
46 banner, then that kind of communication is -- It's up to the EDs to

1 manage that kind of communication.

2

3 *John Quinn:* Anyone else? Based on the comments, I think, by consensus, we  
4 can adopt the 6b language or concepts as well. Seeing no  
5 objection, we will adopt that 6b.

6

7 *Tom Nies:* I will bring the TORs back tomorrow.

8

9 *John Quinn:* The TORs will be brought back tomorrow. We will email them  
10 tonight, and we will review those again. The final item of the day,  
11 before we adjourn, is revisiting the letter that we discussed  
12 yesterday, and I'm going to turn it over to Kitty Simonds. That  
13 letter was handed out in hard copy, and it should be in front of you,  
14 and hopefully you have taken a look at it.

1 **17. NATIONAL MONUMENT LETTER DISCUSSION**

2  
3 *Kitty Simonds:* We drafted a letter. We conferred with Dave Whaley, and  
4 remember, when I asked that we support this, I said that we are a  
5 federal agency, of sorts. We have been called all sorts of things,  
6 and then Chris reminded me that we did -- There are several legal  
7 opinions from 1978, all the way to -- This one was a 1995 one, that  
8 told us that we were executive agencies. Anyway, that kind of  
9 provided background. Dave was really good to help us, and should  
10 I read the letter, unless everybody is fine with it?

11  
12 *John Quinn:* I don't think you have to read it, but maybe just outline what's in  
13 it. I mean, we had a pretty healthy discussion yesterday about it.

14  
15 *Kitty Simonds:* It starts off with who we are and that we're meeting and that we  
16 discussed the Executive Orders. Then we note, in the third  
17 paragraph, we note that the Executive Orders specifically require  
18 the Secretary of Interior to consult and coordinate with the heads  
19 of any other executive departments or agencies concerned with the  
20 areas designated under the Act.

21  
22 I just need to read this sentence: Given this mandate, the councils  
23 of the federal entities statutorily charged with the stewardship of  
24 the nation's living marine resources and the development of  
25 conservation and management measures request the opportunity to  
26 consult and coordinate with the Department of Interior and  
27 Commerce as recommendations are being prepared for presidential  
28 action to carry out the policies set forth in Executive Orders 13792  
29 and 13795.

30  
31 Then the last paragraph kind of explains what we think has been  
32 missing and how the establishment of these monuments disrupted  
33 the ability of the councils to manage and that we bring more than  
34 forty years of experience in successful U.S. fishery management  
35 under the MSA to these reviews.

36  
37 *John Quinn:* Thank you. I'm going to call on Sam Rauch first.

38  
39 *Sam Rauch:* Thank you, Mr. Chair. I just looked at that letter, and one of the  
40 things that it seems to do is ask the administration to specifically  
41 ask the councils for their input into this process, and I don't know  
42 that if I wasn't clear yesterday, but I will go ahead and do that, if I  
43 didn't do that before, and so, on behalf of the administration, I do  
44 think the councils have relevant information to the criteria  
45 articulated in both Executive Orders, and we would benefit from  
46 receiving that information if there is more, and I think there is

1 more than just this paragraph.

2

3 I get the sense that the councils, at least two of them, might have  
4 views on additional topics. I would caution that we currently have  
5 a sixty-day comment period. The Interior process is going to be  
6 very quick, but I do not believe there will be a second consultation  
7 time period, and so, if you are going to provide us with anything as  
8 a part of that, please do it within the sixty days.

9

10 It will be harder if it is not timely, but I do not want -- I do not  
11 think that it is necessary, and it's up to you, to wait to be told,  
12 because I am asking right now for your input into that process, if I  
13 didn't do it yesterday.

14

15 I would also suggest that if -- On the first Executive Order, you  
16 have written here that Section 2b of that Executive Order requires  
17 the Secretary of Interior to consult and coordinate, and, if you want  
18 Interior to consult and coordinate with you, you might address it to  
19 Interior and not just to Ross in Commerce.

20

21 *Kitty Simonds:* Right, because --

22

23 *Sam Rauch:* I don't think it's necessary, but it is awkward if you are asking  
24 Secretary Ross if what you really want is the Secretary of Interior  
25 to consult with you.

26

27 *Kitty Simonds:* Yes, and, because of the way it was written, it's really an Interior --

28

29 *Sam Rauch:* Or address it to both.

30

31 *Kitty Simonds:* Yes, and then it says, "in consultation with the DOC", and so that's  
32 why -- What I was thinking of is should we send it to both?  
33 Actually, I had this conversation with Adam. Should we send it to  
34 Zinke and copy Ross? That might be the best way to deal with it,  
35 but, as long as both of them have this information, I think that  
36 would be okay.

37

38 *John Quinn:* Terry Stockwell.

39

40 *Terry Stockwell:* Thank you, Mr. Chairman. Thank you, Kitty and others, for  
41 drafting this letter. I am generally supportive of it, with the  
42 exception of a couple of words in the last paragraph that I don't  
43 think all of the members of the New England Council would  
44 support.

45

46 *Kitty Simonds:* Okay.

1  
2 *Terry Stockwell:* That is the sentence that reads: Marine monument designations, to  
3 date, have proven to be counterproductive. I don't think our  
4 council would wholeheartedly support that, and so perhaps we  
5 could wordsmith it to say, "have the potential to be  
6 counterproductive", to just soften up the statement.  
7  
8 *Kitty Simonds:* That's about you, but it is -- For us, we have had these monuments  
9 since 2006, and so maybe could we say both? I know you're  
10 talking about your members who support the monument, and I  
11 understand that, but we have members who support the monuments  
12 too.  
13  
14 *John Quinn:* Mr. Nies.  
15  
16 *Tom Nies:* The other problem is our monument hasn't been in place as long as  
17 yours, and so it's difficult to say it's been proven to be that for us.  
18  
19 *Kitty Simonds:* Right. I understand. I do understand where you're coming from,  
20 and so we can fix that, too. What did you say?  
21  
22 *Terry Stockwell:* "The potential".  
23  
24 *John Quinn:* So, in place of "to date have proven", put "have the potential to be  
25 counterproductive". Mike Louisi.  
26  
27 *Mike Louisi:* I also had the same comments that Terry did regarding the blanket  
28 statement about being counterproductive to domestic fishery  
29 management goals. I think it's more -- Domestic fishery  
30 management goals is more broad than just what fish are harvested  
31 and where fishing activity can occur. The Mid has taken actions to  
32 protect corals and other habitat type of work, which I think, if the  
33 blanket statement applies to everything that we do, I don't  
34 necessarily believe that it's all counterproductive. If there's a  
35 change to that portion of that paragraph, then --  
36  
37 *Kitty Simonds:* Well, do you agree to his suggestion?  
38  
39 *Mike Louisi:* It softens it. It certainly does, and so I think we can -- I just  
40 wanted to make the same point that New England did.  
41  
42 *Kitty Simonds:* Right. We have a different situation. We already protect corals  
43 and all of those things, and these monuments just replaced over our  
44 MSA regulations.  
45  
46 *Mike Louisi:* I completely understand, but --

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*Kitty Simonds:* So we're fine. I'm fine with this.

*Mike Louisi:* Okay. My council may not agree, in our area, that it's an overarching -- The other point I wanted to make, and you tried to clarify it, I think, but I missed it when you mentioned it before, but it's in the third paragraph. It's referring to the councils as federal entities. Is that absolutely true, that councils are federal entities, or is there some -- Can we just remove the "federal entities" part? I don't know if that necessarily matters. You could say, given this mandate, the council is statutorily charged with the stewardship of the nation's living marine resources and so forth.

I don't know if it gains you anything, because the councils aren't federal -- It's kind of a quasi. I mean, we always say the councils are kind of a quasi-federal agency, but --

*Kitty Simonds:* I think that's why I mentioned earlier of one of the legal opinions, and there have been many about the councils, from 1978, and the 1995 -- Those earlier ones said we were quasi-federal agencies, and then this one, the 1995 one, which I have given a copy to Tom, says that the councils are executive agencies of the Department of Commerce, and so, instead of getting into all of that, just saying a federal entity, which we are, but, Adam, maybe you should step into this conversation right now.

*John Quinn:* Adam.

*Adam Issenberg:* Kitty and I did have a conversation about this, and I actually recommended against using the term "federal agency", just because there are those opinions out there, but they talk about -- I think Kitty just alluded to this. They talk about the councils being federal agencies because they are integral parts of the Department of Commerce, and you can debate it. There's a lot of nuances to that, but, at the end of the day, if what you're trying to -- The argument you're trying to make in this letter is, hey, we have our own views to make.

It's not really helpful to say we're integral to the Department of Commerce, and so I don't think relying on those opinions here is the most helpful thing, but I do think federal entities is -- It's not really a term of art. I think that that's a broad enough term that you can reasonably say the councils are federal entities and it doesn't really have kind of a specific legal meaning, and so I don't think there's a problem with saying that. It is certainly up to you all whether you want to use that term or not.

1  
2 *John Quinn:* Could I make a suggestion? If we put “federally-created entities  
3 that are statutorily charged” -- We are created under Magnuson-  
4 Stevens, and so if somebody wants to get that word “federally” in  
5 there, I think “federally-created agencies” may be hopefully  
6 acceptable to Mike Louisi, if that’s the concern.  
7  
8 *Kitty Simonds:* Federally created?  
9  
10 *John Quinn:* Yes, we’re federally-created entities.  
11  
12 *Kitty Simonds:* I will wait.  
13  
14 *John Quinn:* Maybe we’re not.  
15  
16 *Miguel Rolon:* If I may, Mr. Chairman, we have been using, since 1976, “federal  
17 instrumentality”, whatever that means.  
18  
19 *Kitty Simonds:* Yes, that was another term. I forgot about that one.  
20  
21 *Miguel Rolon:* “Federal instrumentality” is what is in the books from the  
22 beginning, from the get-go. If we start calling ourselves  
23 “agencies”, that’s when we have a problem with other folks, but  
24 “federal instrumentality” is --  
25  
26 *Kitty Simonds:* I don’t like that word either.  
27  
28 *John Quinn:* I am just trying to be responsive to Adam saying he advised  
29 against it, using “agencies”.  
30  
31 *Adam Issenberg:* Just to be clear, I think “federal entities” is fine. I don’t think that  
32 is problematic. I just think “agencies” is not really -- Because of  
33 the context in which it’s been used, it’s not really kind of your  
34 strongest argument here.  
35  
36 *Kitty Simonds:* Right, and so “federal entity”, which is like Nothing Burger, but  
37 that’s okay.  
38  
39 *John Quinn:* Michelle Duval.  
40  
41 *Michelle Duval:* Thank you, Mr. Chairman. A couple of points. I like the proposed  
42 softening that both Mike and Terry --  
43  
44 *Kitty Simonds:* Especially for people who don’t have monuments.  
45  
46 *Michelle Duval:* Right.

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*Kitty Simonds:* But you have sanctuaries.

*Michelle Duval:* Yes, we do. I like and appreciate your willingness to alter that, and then, in terms of the whole entities conversation, I mean, you could just remove the word “federal” if it’s causing problems. You could just say “the entities statutorily charged with the stewardship of the nation’s living marine resources” et cetera, et cetera, if it’s causing people heartburn. If you want to get in there that we are entities statutorily charged under the Magnuson Act -- We already say under the MSA. We already state that we’re charged under the Magnuson-Stevens Fishery Conservation and Management Act, the very first sentence, with managing, conserving, and utilizing those resources. If people are really having heartburn around “federal entities”, just remove “federal”. That would be one of my suggestions.

Then the other thing, and I don’t really care. I’ve got no dog in that fight, but, just given Sam’s comments about that he is, in terms of the sentence in the third paragraph that we are requesting the opportunity to consult and coordinate with, and Sam’s comments to that sentence saying, on behalf of the administration, I am requesting that you provide us with any information that you might have within the sixty-day comment period, I feel like what we’re asking -- It’s not just about providing any information that might help the administration during that sixty-day comment period.

It’s that, once that information has been provided, I feel like the point of this letter is that the administration would then come to the councils and try to consult or to coordinate with any decisions that might be made as a result of all the information that’s being submitted during that sixty-day period. Am I correct on that?

*Kitty Simonds:* That’s right. That’s what we talked about yesterday. That was the request in the PowerPoint, and that’s why we wrote this letter this way. We know about that. We’ve already, our council, we’ve already provided our information this other route, and so we’re done with that, and so this was an added thing about being a part of developing whatever kind of policy was going to come from the review. That is what I was talking about.

*Michelle Duval:* I understand that. I am just clarifying that that was our collective understanding of the intent of this letter beyond simply submitting information within that sixty-day comment period, because it seems like there’s a little bit of a disconnect.

1  
2 *Kitty Simonds:* We're responding to the Federal Register notices, yes.  
3  
4 *Michelle Duval:* Right.  
5  
6 *John Quinn:* I am going to go to Bill and then back to Mike Louisi, who had the  
7 concern about that language. Let's try to nail down a resolution at  
8 least to that section first, before we bring up some other stuff. Bill.  
9  
10 *Bill Tweit:* Thanks, Mr. Chair, but my question had been, prior to Michelle's  
11 questions, my question had been, wait, do we still need the letter,  
12 given Sam's response. I think Michelle's question and the answer  
13 helped some, but I don't see that in the letter. The letter doesn't  
14 make it clear what we're asking for, and so I don't think it's ready  
15 to go.  
16  
17 I thought the way Michelle put it made some sense, but I look at  
18 this letter, and I don't see anything like that request in here right  
19 now, and so, right now, I think, if we sent this letter as it is or with  
20 the few edits that we've talked about, we're going to get -- Sam's  
21 response was a good response to what's in the letter, and that's all  
22 we're going to get out of Interior too, is exactly what Sam said.  
23  
24 If we want more than that, we should be clear about what more we  
25 want, and I think the letter needs to be redrafted to be clear about  
26 it. If I were Sam, I would have responded to this letter exactly the  
27 way he did.  
28  
29 *Kitty Simonds:* If this letter was sent to you, you don't get the message that we  
30 were trying to get across, which was what Michelle explained  
31 earlier?  
32  
33 *John Quinn:* Sam Rauch.  
34  
35 *Sam Rauch:* I would leave it to you to decide what you want to put in the letter.  
36  
37 *Kitty Simonds:* Of course.  
38  
39 *Sam Rauch:* I cannot speak more than what I said for how the administration  
40 may choose to crystalize all of that information into  
41 recommendations. I do not know what process that is going to  
42 undertake. If you feel that you need more of a role, which I sense  
43 that is what you're saying --  
44  
45 *Kitty Simonds:* Yes.  
46

1 *Sam Rauch:* -- Then the ability to provide information, you probably should be  
2 clearer about that.  
3

4 *Kitty Simonds:* Okay, and so I will take another crack at it. I thought it was clear,  
5 but that's all right. Thank you.  
6

7 *John Quinn:* I think at this point, why don't we take another crack at it, and then  
8 we can revisit it tomorrow during one of the sessions. Chuck  
9 Tracy.  
10

11 *Chuck Tracy:* Thank you. I think that's an excellent idea. I did want to -- In  
12 regards to the language in the fourth paragraph, I did want to  
13 suggest perhaps one other option to look at. Rather than using the  
14 word "potential", to just insert something here like "Marine  
15 Monument designations to date have been proven to be  
16 counterproductive to achieving some or many domestic fishery  
17 management goals".  
18

19 That way, you're getting your message across. It's not a blanket  
20 statement, but you are referring to some specific cases, and you're  
21 not talking about something that might happen in the future. You  
22 are talking about something that has actually been experienced,  
23 and so that's just my suggestion for that.  
24

25 *John Quinn:* So we don't have to start from square-one tomorrow, I'm just  
26 going to go back to Mike Louisi on that federal entities softening.  
27 If the goal is to try and get all eight councils to sign it, maybe,  
28 Mike, you could explain what softening language would be  
29 acceptable to the Mid-Atlantic.  
30

31 *Mike Louisi:* Mr. Chairman, I'm a state government employee, and I'm not  
32 going to -- I put a question mark over it when I read it, and my  
33 hope would be that whoever reads this letter doesn't have to put  
34 question marks on it as to whether or not what's being said is  
35 accurate.  
36

37 If the advice that we're getting from Adam is -- That's enough for  
38 me. I would be fine with that, if you want to leave it as "entities"  
39 and that's clear. We just don't need question marks on the letters  
40 we send. Thanks.  
41

42 *Kitty Simonds:* Thank you all very much. We will take care of it.  
43

44 *John Quinn:* With that, we will rework that letter, taking into consideration what  
45 was suggested today, and I move that we adjourn. I will now  
46 transfer it to Tom Nies for a couple of final announcements.

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*Tom Nies:* Okay. I am not going to put this on the board, but there is a couple of things. Just to make sure that we've got the follow-ups, I've got, I think, two follow-ups, the Marine Monument letter that we just talked about and the Terms of Reference that I said that I would bring back.

Gregg has distributed some edits to the MSA paper that people should review and we will be going over tomorrow at some point, and I think he also sent an email to a few people who owe him some edits to that MSA paper as well, and so, if you got those, you know who you are.

*Gregg Waugh:* If I could just add that the working group and a couple of other people are providing input, and then, tomorrow morning, I will shoot that out to the EDs. They will distribute it to the council members, so you'll have it to look at ahead of when we go through it.

*John Quinn:* Tom, maybe you can share the details of this evening's social event, too.

*Tom Nies:* Yes, and Joan is going to put something on the board in a minute or two here, but, just to go over the social event for today, it's at the Cape Ann Museum. We're being hosted by the Northeast Seafood Coalition and the Gloucester Fishing Community Preservation Fund. You should all have a map. I would like to remind all of you that this event starts at 5:30.

The one thing that I wanted to mention is that the Mayor of Gloucester is going to show up and give us a welcome. She will probably do that at about quarter to six or ten to six, and so, if you could, try and be there by quarter to six or ten to six. Don't wait until after that, so that there are some people in the room when she welcomes us.

Also, I want to point out the highlight of our visit to the pier today is Leann decided that she would lend a hand and do the heavy lifting for this meeting and threw some ice on the haddock coming off the boat.

*John Quinn:* Great, and so we'll see you later on tonight, and then we'll see you in the morning. Thank you.

*(Recess)*

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## 18. NATIONAL STANDARD 1 GUIDELINES

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2  
3 *John Quinn:* I want to thank again the Northeast Seafood Preservation and the  
4 Gloucester Preservation Trust, which I think is their name, but I  
5 hope that everybody enjoyed the evening. Just a couple of minor  
6 housekeeping items. Let's kind of get a show of hands of what  
7 time people's planes are leaving today, those that are leaving  
8 today, so we can plan accordingly on maybe bringing some  
9 documents or issues up earlier rather than later, so we have a full  
10 meeting here. Anybody before two o'clock?

11  
12 *Charlie Phillips:* I am going to have to leave about noon.

13  
14 *John Quinn:* Okay. Before four o'clock.

15  
16 *Mike Louisi:* Chris and I need to leave before four and Warren. We're going to  
17 probably leave around three.

18  
19 *John Quinn:* Okay. I think that's good. Before we get into the first item of the  
20 day, just kind of to set the stage for some of the items we have to  
21 bring back, there is three topics that we're going to have to revisit  
22 during the review session. One is Tom Nies' Workgroup  
23 Organization Report, the suggestions. He mailed out to everybody  
24 the new edits that he put into that 6a and 6b, and so if you can take  
25 a look at that during the course of the morning.

26  
27 The second is Gregg Waugh's Legislative Workgroup Report. We  
28 will revisit that as well. Then, last, and certainly not least, we have  
29 Kitty's monument letter, and so those three items we will bring up  
30 at one of those review sessions, and so if you could be prepared to  
31 discuss those at that time. With that, we're going to start with  
32 National Standard 1 Guidelines, Alan Risenhoover and Emily  
33 Menashes.

34  
35 *Alan Risenhoover:* Thank you, Mr. Chairman. I am going to start it, and Emily is  
36 going to finish it, and so just a couple of quick things at the start  
37 here. As you know, we got all of your questions right before the  
38 February meeting, and we immediately started answering those.  
39 We thought it would be good to take a little extra time and share all  
40 of the answers to all of the individual questions around the country.  
41 Instead of just say our GARFO folks working on the New England  
42 Council and Mid-Atlantic questions, we had them look at all the  
43 questions too, because a lot of this would be applicable around the  
44 country. We wouldn't want to have it so that what we said specific  
45 in response to one region confused or conflated or not be clear to  
46 another region. So we took that little extra time to make sure that

1 all of our Sustainable Fisheries Assistant Regional Administrators  
2 saw those, just to make sure that we had a good response that  
3 everybody could use.  
4

5 With that, thank you for that extra time. We had sent out the final  
6 of these a couple of weeks ago for you to look at, but Emily  
7 Menashes, the head of the Sustainable Fisheries, right now, will  
8 run through a little presentation highlighting some of the key  
9 common threads. Then Emily and Erin Schnettler, who is from the  
10 Sustainable Fisheries Office, will answer any questions you have,  
11 and so I will turn it over to Emily.  
12

13 *Emily Menashes:*

14 Thank you. There were three topics that we wanted to hit on today  
15 with all of you. The first, as Alan mentioned, were the responses  
16 to your questions on the National Standard 1 Guidelines. We got,  
17 as Alan mentioned, twenty-five questions from you before the  
18 February meeting. We have spent a bit of time working on them,  
19 circulating them around the regions, to make sure that the  
20 responses were accurate. Then, as Alan said, we've had the  
21 responses for a couple of weeks now.

22 We wanted to take this opportunity in sharing this with the  
23 councils before we post this information on our more broadly-  
24 looked-at NS 1 webpage, to make that there aren't any points of  
25 clarification that we should do before we finally finalize these.  
26

27 What I was just going to do today was highlight a couple of the  
28 key issues. I'm not going to go through each question. You've  
29 gotten those, and, as we said in February as well, we're also happy  
30 to continue working with you as other questions come up, but also,  
31 if it's appropriate, to set up a more focused discussion on the  
32 specific issues in your fishery, with your region, your council,  
33 certain folks to work through those, with really considering the  
34 facts of the situation you're working through. We would be happy  
35 to do that as well.  
36

37 The second thing we wanted to update you on is the rebuilding  
38 progress determination process. This is a Magnuson requirement,  
39 but we did add some criteria to the NS 1 Guidelines. We really  
40 didn't get much comment on this, but it's a process that we are  
41 starting to more systematically work through, and so we want you  
42 to be aware of that.  
43

44 Then the third thing, which we also mentioned at the February  
45 meeting, was that we are working and talking internally about both  
46 additional policy guidance or technical guidance that would be

1 helpful in implementing these guidelines, and so it's not revising  
2 the guidelines again, but looking at some more specific technical  
3 information that could be helpful both to the agency as well as to  
4 the councils as you work through the specific implementation of  
5 these, and so we wanted to let you know what we're thinking about  
6 on those, and, if you either have any input now or later, we would  
7 be happy to take that into consideration and work with that.  
8

9 I have a couple of slides on some of the key issues that emerged  
10 from your questions. The first topic that we received quite a few  
11 questions on was about the stocks in need of conservation and  
12 management, things like how do we consider the ten criteria, what  
13 does "consider" mean, in the context of adding or removing, how  
14 do we weigh the ten criteria, and what process should we use to  
15 consider them.  
16

17 In terms of how you use the ten criteria, it really depends on  
18 whether you're adding or removing a stock from conservation and  
19 management. If a stock is being added, there is really no single  
20 factor that is required that would lead you to necessarily adding  
21 that. Councils can add stocks based on any one factor or other  
22 relevant considerations that you may have.  
23

24 However, if a stock is being removed from conservation and  
25 management, the Guidelines state that there should be a thorough  
26 analysis of all ten factors. When removing a stock, there is a  
27 general weighing of structure for the ten criteria, and that's  
28 described in the Q&A document.  
29

30 Really, because of the wide range of scenarios, the different facts  
31 for different fisheries, when we were working on the Guidelines,  
32 we didn't want to set up one structure that would have to apply in  
33 all fisheries, and so we tried to keep it so that there was appropriate  
34 flexibility. Some bounds, but appropriate flexibility to recognize  
35 the specific situation that you're all dealing with.  
36

37 In terms of the process for considering the ten criteria, that really  
38 would be similar to the process that you use to make any other  
39 decision, and the key aspect of that is really documenting your  
40 rationale for making that decision and for the criteria and how you  
41 apply them.  
42

43 The second set of questions that we received quite a few questions  
44 on related to stock complexes, aggregate MSY, and reference  
45 points, and this is also a topic area that we are thinking about, in  
46 terms of additional technical guidance, and so I will highlight that

1 a little bit later.

2  
3 I think the overall message between the relationship between stock  
4 complexes and aggregate MSY is that the SDCs and ACLs for an  
5 individual stock should be used when those are available, given the  
6 MSA's requirement to end and prevent overfishing, and so that is  
7 kind of the baseline message that we have regarding the  
8 relationship between these different types of reference points.

9  
10 We did try and clarify that, in terms of using aggregate MSY, we  
11 really were thinking about aggregate MSY as something that was  
12 intended to account for multispecies interactions and ecosystem  
13 limitations, and, because you're doing that, those are likely to be  
14 more precautionary reference points, but we did provide quite a bit  
15 of information in the Q&A about those and the interactions  
16 between some of these points, and, as I said, we are considering  
17 additional technical guidance, and so we recognize this is an area  
18 that is complicated to work through.

19  
20 The third topic that I just wanted to highlight from the responses  
21 was carryover ABC rules. We received some questions about how  
22 a carryover ABC rule could be designed and what are the  
23 requirements for the comprehensive analysis and how we would  
24 evaluate the impacts of ACL underages.

25  
26 There is a couple of examples, general examples, in the responses  
27 of ways that you may approach an ABC carryover rule. There are  
28 a variety of ways to do this. One example would be to establish,  
29 sort of upfront, a framework in your FMP that explains how the  
30 council is going to determine ACL underages in the future, and so  
31 it would describe the analysis that would be conducted to  
32 determine the impacts of the ACL underages on the stock  
33 abundance and what that process would be for implementing  
34 changes, and so you would want to kind of define that upfront, so  
35 that you're clear in your FMP about how you're going to do that.  
36 That's just one approach, and there are others that would be  
37 available, too.

38  
39 In terms of the requirements for a comprehensive analysis, we're  
40 really considering that as the same type of analysis that you would  
41 use for other control rules, and so looking at accounting for  
42 scientific uncertainty, considering what the council's risk policy is,  
43 and analyzing how using the carryover would still prevent  
44 overfishing, because that is something that we still need to do on  
45 an annual basis, and then describing when you would use that  
46 control rule or when you wouldn't use that control rule as well.

1  
2 Then, in terms of how you would evaluate the impact of ACL  
3 underages, the presumption with this is that you're in a situation  
4 where you haven't been able to catch the entire ACL and that  
5 presumably that would lead to an increase in stock abundance.  
6 We're not expecting that you would necessarily have definitive  
7 proof, for example from a stock assessment, that the abundance has  
8 increased, but there are modeling or other technical tools, using the  
9 best scientific information available, that you could apply to think  
10 through that process, like looking at the stock dynamics and the  
11 fishery characteristic or consulting with your SSC to look at  
12 whether that relationship has occurred.  
13

14 I think we do have some discussion that, if you're in a situation  
15 where you're not catching your ACL, but it's not necessarily -- Is  
16 that an indication of some other issue that's going on in there or is  
17 it really more an operational, if there's bad weather at the end of  
18 the season, for example, and people weren't able to get out there,  
19 and so those are the types of things that the councils need to be  
20 looking at and thinking about when they're establishing the control  
21 rule that you may use for a carryover.  
22

23 I am going to move on to the second topic that we wanted to hit on,  
24 which was an update on rebuilding progress determinations. MSA,  
25 Section 304(e)(7), requires the Secretary to review rebuilding plans  
26 every two years, to determine if we are making adequate progress.  
27 If not, the Secretary is required to recommend conservation and  
28 management measures to help achieve those goals that the councils  
29 would then consider.  
30

31 We haven't, in the past, really had a clearly-defined process for  
32 doing this, and so that's what we're working on trying to do. The  
33 first step was to establish some criteria within the Guidelines to  
34 move forward on this, and this really is similar to the work that we  
35 already do as we're tracking stock status determinations with  
36 regards to overfishing and overfished as well.  
37

38 The two criteria that we laid out in the NS 1 Guidelines is that  
39 adequate rebuilding progress is not being made if, in the first  
40 situation, if  $F$  is greater than  $F_{rebuild}$  or catch is greater than ACL  
41 and accountability measures are not effective.  
42

43 This is really looking at is the stock exhibiting the expected  
44 relationship between  $F_{rebuild}$  and biomass, and so the idea would  
45 be that -- Normally, if  $F$  is constrained below  $F_{rebuild}$ , biomass  
46 should increase, and, if that's not happening, then there may be an

1 issue that we need to look at.  
2

3 The second criteria is really, if the stock isn't exhibiting that  
4 expected relationship, and so your F has been constrained below  
5 your F rebuild, but biomass is still not increasing, that would be the  
6 type of situation where you would trigger that.  
7

8 Basically, we wanted to flag this to you, that, as required by the  
9 MSA, we are starting to work on more systematically reviewing  
10 the progress we're making on rebuilding plans, and we would be  
11 communicating those findings with the councils, as we do already  
12 with overfishing and overfished status determinations.  
13

14 Then the final topic that I wanted to hit on was the topics that we  
15 are focusing on in terms of additional technical guidance, and there  
16 is three general topics with some more specific points that we're  
17 focusing in on, at least at this point. This is draft. It's working.  
18 We really just wanted to kind of keep you in the loop as we were  
19 focusing in on the topics that we plan to put some work into.  
20

21 The first is related to reference points, selecting proxy and status  
22 determination criteria, when you can use proxies, estimating and  
23 using an aggregate MSY, which obviously is an issue of interest to  
24 many of you.  
25

26 The second topic was harvest policies and developing those phase-  
27 in carryover provisions and looking at that comprehensive analysis  
28 recommendation and also looking at economic considerations into  
29 the tradeoffs, and then the third is looking at data limitations and  
30 alternative approaches that may be brought to bear, so that we can  
31 still meet statutory requirements, but particularly when we have  
32 data-limited situations in place.  
33

34 If you have input into any of these, if there's other topics, either  
35 now or as you're working through the Guidelines, we would be  
36 happy to hear them and kind of put them into the mix of issues that  
37 we're continuing to do some additional work on, and that was  
38 everything that I had. Alan, anything else? Okay. Then I'm  
39 happy to take questions.  
40

41 *John Quinn:* Thank you very much, Emily. Any questions for Emily and Erin?  
42 Gregg Waugh.  
43

44 *Gregg Waugh:* Thank you, Mr. Chairman, and thanks, Emily, for that  
45 presentation. I was really interested in the idea of checking  
46 progress towards rebuilding every three years and looking at the F

1 rates. What are your thoughts to how to do this when we get  
2 assessments maybe every four to six years?  
3

4 *Emily Menashes:* I think a lot of that will depend on how your rebuilding plan is set  
5 up and the kind of data streams that are coming in. You're right  
6 that when we have -- With overfishing, it somewhat depends on  
7 the control rules. Some are related to an assessment and some are  
8 related to your catch. Rebuilding plans are more often that target  
9 tied with the biomass, which we get those updates at an assessment  
10 point, and so I think -- As I said, we put sort of the general criteria  
11 in place, and we're just sort of starting to work through all of the  
12 different situations that we have. Do you have any more guidance  
13 on that?  
14

15 *Erin Schnettler:* The criteria also include catch to ACL as well, and so that also  
16 might be a data point we take into consideration in the analysis,  
17 and so it will be kind of a holistic look at where the stock is at in  
18 its rebuilding plan.  
19

20 *John Quinn:* Tom Nies.  
21

22 *Tom Nies:* Thank you, Emily. I've got I guess one question and then perhaps  
23 one comment, and my question relates to your response to  
24 Question Number 4. Specifically, Question Number 4, the  
25 response says: If a stock is both subject to overfishing, overfished,  
26 or likely to become so, and predominantly caught in federal waters,  
27 a council must prepare an FMP for this stock or add it to an  
28 existing FMP.  
29

30 I have got, I guess, two questions related to that statement. One is  
31 that there is some language in the National Standard Guidelines  
32 that says, at least in the discretionary addition of stocks to an FMP,  
33 there is language that says the adequacy of state management can  
34 be taken into account, and it's not clear to me if that applies to this  
35 part of Question 4, when a stock is overfished and overfishing is  
36 occurring. If a stock was overfished and overfishing was occurring  
37 in federal waters, but there was adequate state management, is an  
38 FMP still required?  
39

40 *Emily Menashes:* I think, to some extent, it would be looking at sort of the facts of  
41 the specific situation and trying to balance the -- We have the ten  
42 criteria for considering, and the ten criteria really come in -- As we  
43 said before, there is no one of those criteria that is specifically  
44 required or overrides the other criteria.  
45

46 You would look at all ten of those, really, if you're determining to

1 rebuild a stock, but any one of those could also be brought in if  
2 you are considering adding a stock in need of conservation and  
3 management, and we do recognize that adequate management of a  
4 fishery by states, or in some of those state/federal partnerships,  
5 would probably weigh heavily against federal management, but I  
6 think the other kind of key point is that, within the Guidelines,  
7 there is an expectation that the council should periodically review  
8 their FMPs and use the best information available to determine if  
9 stocks are appropriately identified and potentially should be added  
10 in that type of situation.

11  
12 Some of it may be looking at the specific factors of that fishery and  
13 in the situation and making a determination based on that kind of  
14 review of looking at that. Is this a stock that we really should be  
15 doing conservation and management of, even if there is substantial  
16 state involvement in management?

17  
18 *Tom Nies:* If I might follow up, I'm a little confused by your answer, because,  
19 when I read the Guidelines, it seems to say that, if they're  
20 overfished and subject to overfishing, or likely to become so, that  
21 they're determined to need conservation and management, period.

22  
23 Then it seems like those ten factors are applied in the situations  
24 where they're not overfished and overfishing is occurring, but, if  
25 that's not what the Guidelines mean -- If you still apply those ten  
26 factors to the overfished and overfishing, that doesn't seem clear,  
27 either in your responses to questions or in the Guidelines.

28  
29 *Emily Menashes:* Yes, and I'm happy to take that back and look at that a little bit  
30 more and think about if there is some clarifications that we can  
31 make there.

32  
33 *Tom Nies:* Then a follow-up question to that is whose responsibility is it to  
34 make that determination? Is that the council's or the Secretary's or  
35 is it a joint effort? By determination, I mean who makes -- Who  
36 goes around looking for stocks that are overfished or subject to  
37 overfishing that don't have management?

38  
39 *Emily Menashes:* I think we would consider that kind of a joint responsibility. There  
40 is a role both for the councils and for the Secretary, in terms of  
41 making sure that we're meeting the management requirements  
42 under the Magnuson Act, and so I don't know that there's one  
43 clear answer that only the council does it or only the agency does  
44 it. Kind of like we take on a lot of management issues, we try and  
45 do that in partnership.

- 
- 1 *Tom Nies:* Thanks. Moving on to a comment, my comment relates to your  
2 replies to several of our questions on aggregate MSY. I would like  
3 to thank you for those, because I think they clear up some  
4 confusion that was existing. I am not sure that your response to  
5 Question 9 is going to satisfy us, and we might come back and ask  
6 for further clarification.  
7
- 8 I am not sure that I can explain the technical basis that was behind  
9 that original question, but I am going to take it back to the people  
10 who asked it, and so I would ask that -- When you mentioned the  
11 technical guidance and said that you welcomed comments, is there  
12 going to be any, and I guess I don't know if formal or informal, but  
13 outreach to the councils or their SSCs to weigh in on the draft  
14 technical guidance down the road? I am just trying to figure out  
15 how to fit this in with some of the other things we're doing.  
16
- 17 *Emily Menashes:* I think, in response to kind of the Question 9 issues, these are very  
18 technical issues, and, as Alan mentioned, trying to draft responses  
19 that sort of applied nationally and didn't get into a situation where  
20 we were making responses that were just specific to kind of one  
21 region, one council, one fishery. As I said upfront, if there are sort  
22 of the application of some of these issues, on a specific-fishery  
23 basis, we would be happy to work with you to set up some  
24 discussion about those situations and get all the right experts  
25 together on that.  
26
- 27 *Alan Risenhoover:* Tom, it sounds like, on your question about a stock that may be  
28 subject to overfishing or be overfished, predominantly in federal  
29 waters, but state managed, it sounds to me like you're talking  
30 about something specific, and so --  
31
- 32 *Tom Nies:* No.  
33
- 34 *Alan Risenhoover:* So it's just a general question then. But I think what Emily is  
35 saying is, if that situation does occur, the specifics of that situation  
36 are important, and us just to answer it with a broad stroke probably  
37 isn't the way to go, and that was some of our concerns here. Yes,  
38 if we're talking hypothetically, then the answer would hold, but, if  
39 you're talking about a specific stock or situation, we would like to  
40 look at that in those specific situations. Thanks.  
41
- 42 *Emily Menashes:* Just one more thing, in response to Tom's question about the  
43 technical guidance. So far, we're really at the point of scoping and  
44 outlining which are the issues we want to focus on, but, as we  
45 move forward, and I don't think for all of them that we will  
46 necessarily have -- There may be different formats for how we
-

1 may end up documenting results of that discussion, and we  
2 certainly would want to share some of that information with the  
3 councils and make sure that the guidance that we're putting out is  
4 responsive and helpful, and so I think we certainly would plan to  
5 work with the councils as much as we can, and other folks that you  
6 have, as we get some documentation about some of those issues.

7  
8 *John Quinn:*

Any other questions? Chuck Tracy.

9  
10 *Chuck Tracy:*

Thank you, Mr. Chairman, and thanks, Emily. Our council is  
11 contemplating a carryover provision for our groundfish fishery,  
12 and, up to this point, we've kind of been looking at a situation  
13 where -- We have biennial management measures, a biennial cycle.  
14 In the first year, if we were under, then we would look at changing  
15 our ABC level for the second year and establishing a separate ACL  
16 for year two.

17  
18 We have kind of been scoping that out, and we think that might  
19 work, but it would essentially involve some sort of catch update  
20 type of assessment process in the middle of it, in order to change  
21 our ABC, and so we're also thinking about looking at an average  
22 ACL policy, so that, rather than calling our SSC together to do an  
23 assessment update, we might be looking at setting up an advanced  
24 possibility of having an ACL in the second year that reflects the  
25 underage in the first year.

26  
27 Maybe this isn't a question, and maybe it's just a head-ups that  
28 we'll be looking at that. We've had some discussion with the  
29 Region and with GC and the Region as well about this. There are  
30 some concerns about the potential for setting an ACL in the second  
31 year, or having an ACL that would exceed the OFL, which we  
32 understand would not be appropriate, but, in terms of setting up the  
33 second-year ACL in a formulaic manner, rather than as a hard  
34 number, I think that's something that we're going to be looking at,  
35 and I don't know if you've had any thoughts about that, but, if you  
36 have, we would be interested in it. If you haven't, I guess there's  
37 your heads-up.

38  
39 *Emily Menashes:*

I think we would be happy to keep talking to you as those ideas  
40 firm up. I think you still need to make sure that, if you're using the  
41 carryover and adjusting your ABC, that you are preventing  
42 overfishing each year. That's kind of the key Magnuson Act  
43 standard, but one of the ideas with these provisions is trying to  
44 provide some flexibility, so that you can have more rational  
45 management from year-to-year as well, but we would be happy to  
46 kind of keep talking with you as that thinking evolves.

1  
2  
3  
4

*John Quinn:*

Any other questions? Seeing none, thank you, Emily, Erin, and Alan. We will move on to our next topic, the Management and Budget Update, and Brian Pawlak.

1 **19. MANAGEMENT AND BUDGET UPDATE**

2  
3 *Brian Pawlak:* Thanks for the invitation, again, to come and speak about budget to  
4 this group. I know I've done this a few times before, and I know  
5 Paul Doremus has often done this to you guys as well. The  
6 presentation that I will go through here, just on the overview of the  
7 Management and Budget and where we are -- I recognize a number  
8 of faces here, from the different times that I have presented, and it  
9 will look very similar. We're in a very similar place where we  
10 happen to be in the budget since I think I spoke to you guys in St.  
11 Thomas.

12  
13 Not a whole lot has changed, but that's kind of typical of the  
14 budget process. In one respect, it's very slow and incremental, and  
15 so we've moved past, at least in some places, and have a 2017  
16 budget, and we're a couple of days away from learning about  
17 FY18, but a lot of this will look familiar, and there is different  
18 pieces to give updates, but I will move through pretty quickly,  
19 because I don't think there's a whole lot of new information. If  
20 you have been in the audience before, some of it might be repeat,  
21 but I'll be glad to also takes questions along the way, as we go.

22  
23 Just a big overview of where we are in 2017. I will talk about  
24 where we are with the council funding and what is that looking like  
25 for 2017 as well as just what we've done so far on the 2017  
26 execution of grants. We'll do an overview of the S-K process,  
27 which you all know very well, because you've been participating  
28 in that, and I will talk about what I can talk about on 2018, which  
29 is not much.

30  
31 Just a reminder, again, and this is a timeline and outline that  
32 you've seen of the schedule before. It's a very unique year for us,  
33 and, actually, the several past years have been very unique, in that  
34 we just are getting a budget very late in the year. You can see the  
35 display of FY17 up here at the top here. Just across the top is just  
36 where we are on the timeline. You can see just where the fiscal  
37 year begins. We were under a short-term CR and a longer-term  
38 CR, which really creates obstacles for us in executing our budget  
39 and getting an understanding of what we might have for the year.

40  
41 Then, obviously, just May 5 or May 6, we had our full  
42 appropriation for FY17. FY18, we're usually getting the  
43 President's budget back in February here, but we're not getting  
44 that President's budget until next Tuesday is supposed to be the  
45 official announcement, and that budget will become public.  
46

1 In a normal year, we usually get the budget in February for the  
2 next year. We're usually well into planning for FY19, or the next  
3 year, at this time, and we haven't really even initiated that yet. I  
4 think, with the change in administration, the transition, we will  
5 likely get guidance from the department and OMB at the end of  
6 June to start planning the FY19 budget.

7  
8 I know we're talking about 2019, and you haven't even seen 2018  
9 yet, and we barely have got the ink dry on 2017, but FY19, the  
10 goal is to actually get back onto a schedule of a, quote, unquote,  
11 normal cycle and get a President's budget or an agency budget  
12 submitted to the department in the summer and to OMB in the fall  
13 timeframe, and so we'll see if those schedules hold.

14  
15 On FY17, the good news for us is the 2017 omnibus does give us a  
16 slight bit more funding than we've had from our 2016 enacted.  
17 You can see the bars here depicting kind of the different years and  
18 the different levels, the different enacted. It's largely a flat and  
19 level budget.

20  
21 Again, I'm considering that good news, given the discussions in  
22 the press and the newspaper and the desire for potentially shifting  
23 2017 funding to defense and homeland security issues. That did  
24 not play out as some had feared that it might in 2017, and so the  
25 omnibus passed, which largely kept us level funded. There were  
26 some small increases here and there, which I will walk through,  
27 but, most importantly, we do have a budget without a significant  
28 number of decreases, and the omnibus really adopts the House and  
29 Senate language that you all might have seen back in the summer,  
30 when that was first adopted.

31  
32 Some of the specifics on 2017, we'll walk through some of these  
33 increases. The Protected Resource and Science & Management  
34 budget has slight increases there, a \$3.4 million increase, and \$1  
35 million of that is focusing on our consultation requirements in  
36 protected species, and so hopefully improving our ability to focus  
37 there. We have a lot of backlog in our ESA consultation  
38 requirements.

39  
40 There is a small increase there to help address that and also some  
41 specific language in our protected species line to address and  
42 produce hatchery genetic management plans for salmon and  
43 hatchery interactions.

44  
45 Other increases are in Fisheries Science and Management. The big  
46 increase there is \$3 million for aquaculture. There is a \$1 million

1 increase for IUU traceability. Enforcement remains level funded,  
2 and Habitat Conservation, that's not really a decrease. It really  
3 reflects a transfer of a grant program out of Fisheries and into the  
4 National Ocean Service and putting our coastal resiliency grants in  
5 one place.

6  
7 Again, even though it appears to be a suite of increases around this,  
8 and we'll talk about this a little bit later in the discussions, we do  
9 not have management administration lines in NOAA Fisheries.  
10 We do not have labor lines in NOAA Fisheries, and so slight  
11 increases here, with directions from Congress to put this funding at  
12 certain activity, but we also have increased costs, rising costs, in  
13 facilities and things like that that we have to figure out how to pay  
14 for within these budgets and within the direction that Congress had  
15 provided us.

16  
17 Again, this is something that you've seen before, and I don't want  
18 to go it line-by-line, but I will just give you the highlights of what  
19 you've seen us asking for. In the President's budget, way back  
20 when, which became pretty quickly irrelevant, our focus has been  
21 on trying to get some increases in our consultation capacity and  
22 our regulatory requirements. We got a little bit of attention on that  
23 in the omnibus, and just -- This is big picture. I will put this up,  
24 because you've seen this slide before, of what we have asked in the  
25 President's budget compared to what we might be getting traction  
26 on from Congress.

27  
28 Obviously, you see the big gap here. Our requests and asks for  
29 science, we're seeing very little response and interest from  
30 Congress over the last couple of years, and some attention to our  
31 management programs.

32  
33 One item in here that's actually not in the Fisheries budget, but it's  
34 in NOAA's budget, is that we have funding to start to initiate  
35 planning on rebuilding our Mukilteo Research Center north of  
36 Seattle. It's a facility, a building, that was actually condemned a  
37 few years ago. We had to move people out, and we shored up the  
38 structure for people to move back in on a temporary basis.

39  
40 Councils funding, we have done two releases of the funds this  
41 year, and so this is good news, I think. We have heard you. We  
42 have heard the concern about not getting funding on time and not  
43 getting funding in a timely manner. It's particularly a challenge  
44 when your five-year grant cycle is ending and we have to issue the  
45 full grant award for that first year upfront.

1 We're not under that constraint outside of the first year of that five-  
2 year award, and so we were able to get funding out in the CRs in  
3 Quarter 1 and Quarter 2. I think every council has 50 percent of its  
4 anticipated total now, and this did require us working with NOAA.  
5

6 It's a different cultural shift. It's a shift of view of working under  
7 a CR and getting grants out, and so we're glad to be able to go  
8 back with NOAA and with our Grants Management Division and  
9 express kind of the urgency of getting this funding to you earlier in  
10 the year and prior to an appropriation, because, once we get an  
11 appropriation, which is the place we're at now, we have to wait for  
12 -- OMB is still giving us a portion of it now.  
13

14 We have to let the 2017 numbers settle and get our spend plans in  
15 place, and so we expect, after we get that apportionment, which is  
16 a bit of an unknown, after that, GMD, and that's our Grants  
17 Management Division, should be able to release the final and full  
18 grant award to the councils thirty days after that, and so it's hard to  
19 predict exactly when that will be, but I would not be any more  
20 optimistic than saying we're still probably about sixty days away  
21 from being able to do that.  
22

23 This is also a slide that I think we presented back in February, and  
24 I think we started talking about it at the St. Thomas meeting. If  
25 you remember the Senate language, in their Senate mark, it had  
26 this language that I will just quickly read to you again: All amounts  
27 provided by this act for NMFS Regional Councils and Fisheries  
28 Commissions, which are above amounts provided in fiscal year  
29 2016, shall be distributed in equal proportion between the councils  
30 and the Interstate Fish Commissions.  
31

32 If you remember this issue, the councils, just based on a calculated  
33 ATB, had been receiving -- We have a budget line, suite of budget  
34 lines, within the Regional Councils and Commissions Budget.  
35 That ATB and any increase in that line had been going strictly to  
36 the councils, and we had not been spreading that ATB between  
37 these three sub-components of the budget.  
38

39 That's largely because that was how the Department of Commerce  
40 was providing that ATB to us, and so the House, and I'm sure in  
41 conversation with the state commissions and the Senate, directed  
42 us to change that approach. The approach we're going to adopt,  
43 because it's more conventional and budget practice to spread  
44 ATBs in proportion to your budget, and so, this year, total increase  
45 in the Regional Councils and Fisheries Commissions line is this  
46 784.

1  
2 The way we're going to proportion that out this year is based on  
3 proportion of budget. The International Fish Commissions don't  
4 apply here, and this will be the spread of that increase, with the  
5 resulting kind of impact is the commissions who normally received  
6 no increases on ATBs will receive about a \$200K increase in  
7 ATBs this year, and, just for demonstration purposes, because  
8 members of this group have asked before what would a 50/50 split  
9 look like, and, if we had gone the 50/50 split route, the councils  
10 would have received about \$200K less than under this model. I  
11 think, just from a basic fiscal budget convention, this is the model  
12 that we have chosen.

13  
14 Grants update, S-K, thanks for all your help on S-K. I know you  
15 guys send folks to the panel for reviews and the technical review.  
16 We are near close to finalizing the S-K decisions and awards. That  
17 won't really happen until the end of this month. Just broad  
18 estimates right now is we expect about \$10.4 million to be  
19 available this year. As you remember, the priorities are listed here,  
20 and I think you're well familiar with those. Those remain the same  
21 as 2016.

22  
23 This year, we did things a bit different. We communicated that we  
24 were going to do that different about a year ago. We received pre-  
25 proposals and asked for two-page pre-proposals in the S-K process.  
26 There were a couple of reasons for asking for that. One is we get a  
27 lot of proposals in. We typically get a lot of proposals. This year,  
28 we had 277. I think, last year, the full proposals topped 300, but  
29 we get a lot of detailed proposals and some that just didn't fit the  
30 mark, and people were obviously putting a lot of work into huge  
31 proposals that did not have a high chance of receiving an award.

32  
33 We also had concerns and heard concerns from the Hill and  
34 constituents that the application process was daunting and didn't  
35 provide enough access to different entities, different groups, into  
36 the process, because of the detailed application procedure.

37  
38 This year, we initiated the pre-proposal process. It's a two-page  
39 proposal process that then we were able to submit letters back to  
40 folks on we encourage them to please submit or maybe think twice  
41 about submitting, and so we got a lot of positive feedback on this,  
42 even folks that we told maybe it's not best to submit a full  
43 proposal. I think folks were happy to hear that and didn't spend  
44 time applying when they thought there might not be a chance to  
45 receive an award.

1 It created a lot of work for us. It's a lot of work to review 667 pre-  
2 proposals, but we do think it improved the process, and we did get  
3 a much stronger pool of proposals overall when the final full  
4 applications were received.  
5

6 Again, you guys are already familiar with the review process, since  
7 you participate, and we took the top ninety-six applicants and  
8 moved that to the panel review, which I believe that all of you got  
9 a chance to look at and comment on. We're anticipating, and,  
10 again, it's a ballpark estimate right now, but that approximately  
11 forty applicants will be recommended for final funding.  
12

13 This year -- It says we think we're going to inform folks in mid-  
14 May, and that's probably a little optimistic. It will probably be  
15 later May or early June that we are able to make announcements on  
16 the full awards.  
17

18 FY18, which is just one week away, and I think Tuesday will be  
19 the full announcement, and so I cannot give a whole lot of  
20 specifics on FY18. We had hoped -- When scheduling this  
21 meeting, the original date for announcement of the President's  
22 budget was to have been this week, I think Tuesday, but that got  
23 pushed back. It was scheduled for Monday the 22<sup>nd</sup>, and now it's  
24 moved to the 23<sup>rd</sup>, and so, the 23<sup>rd</sup>, I believe you will be able to see  
25 the full budget. It will be all up online, or should be up online, and  
26 it will all be out there.  
27

28 A little bit of background here on just how we built 2018 and what  
29 we can say about 2018, which is the only information that's been  
30 given public is that the President released, on March 16, what is  
31 sometimes referred to as the skinny budget, this budget blueprint.  
32

33 It gives the top line for the major agencies and a brief insight into  
34 what the administration's priorities are. For us in Commerce, it's a  
35 16 percent decrease out of 2017 annualized CR. That's kind of  
36 fancy language for it's about a 16 percent decrease from basically  
37 our 2016 enacted budget. This is a public document. It's out  
38 there, if you haven't seen it, and each agency within the  
39 department -- I am not expecting you to read this, and I will blow it  
40 up here in a second.  
41

42 Each agency within the department got a couple of sentences on  
43 describing what was the priority of the administration, what they  
44 expected the focus to be in the budget, and our Commerce piece  
45 and our reference to NOAA is this specific language here, where,  
46 without any other detail than this, and it's the only detail that I can

1 provide, is that it talks about zeroing out \$250 million in targeted  
2 NOAA grant programs, and it specifically mentions education and  
3 Sea Grant here.  
4

5 The key take-away, I think, is that at least the appealing part of the  
6 language here is that it talks about maintaining priority focus on  
7 core mission functions, and that core mission function they flag  
8 here, one of those is obviously central to us, which is fisheries  
9 management.  
10

11 As I said, we expect the full release on the 23<sup>rd</sup>. Hearings begin  
12 shortly after that, with Secretary Ross, I think, is going to be likely  
13 the one conducting these hearings. Information will be all up  
14 there, and we are still working with the department on what we can  
15 do and what we can do on external and our constituent briefings.  
16

17 We definitely have plans to discuss and share with you the details  
18 and talk about those details. There might be a little bit of pacing  
19 and timing though that is dictated by the Department of OMB of  
20 kind of who gets to go first. They like the department heads and  
21 agency heads to go first, but we expect, shortly, mid-June, we'll  
22 have conversations about everything that appears in 2018 and the  
23 implications of it.  
24

25 With the challenges of just getting the 2017 budget in place, the  
26 challenges of just learning what 2018 might be, just kind of  
27 coming back full circle and saying that our priorities don't change.  
28 In Fisheries, we've still got a priority to do sustainable fisheries,  
29 recover protected species, and we've got efforts to improve our  
30 organizational efforts, which is our management, our facilities, our  
31 kind of internal housekeeping pieces.  
32

33 We still have this priorities document that still we're focusing on.  
34 We believe we can execute toward these priorities well in 2017,  
35 and we expect, regardless of what is in 2018, that we will focus on  
36 these priorities as well, and I think that's it for this portion.  
37

38 *John Quinn:* Thank you very much, Brian. Are there questions? Chuck Tracy.

39  
40 *Chuck Tracy:* Thank you, Brian. Thanks for the presentation. I have a couple of  
41 questions for you, starting on Slide 9, with the Senate report  
42 language and the proportional sharing of the increase. I guess the  
43 first question is, is that for 2017 only? Is the report language going  
44 to carry through for 2018, or is that depending on what occurs  
45 during the hearings, or is that something that's going to carry  
46 forward?

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*Brian Pawlak:* You know, I'm glad you asked that, because I should have mentioned that on that discussion as well. That is 2017 language put in by the Senate, and so there is no guarantee. There is no prediction that it will hold over to 2018 or not, and, for right now, it is for this year only, but what we have to do and what we need to do, and it's largely my responsibility to make sure that we try to do it, is get that issue and discussion out of the appropriators hands and addressing it through appropriations language. We need to work with NOAA and the Department of Commerce.

They way they've been -- As I referenced it, it might have been nuanced, but the way the Department of Commerce has provided us an ATB in that line has been for the councils, understanding the commissions have been saying we haven't received ATBs and we've had a flat-line budget, which basically means a decreasing budget, over the years.

We need to work with the Department of Commerce and have them hopefully provide ATB through those lines and work with them to spread that differently. Rather than being directed by the Hill of how to spread that, we should be thinking and working with Commerce and OMB on how to put that in there and get it out of the mystery of what does equally proportional mean and let us drive that, and so, no, I can't speak to what it would be in 2018. I don't know, and obviously that's not until the Senate -- Since the Senate put it in, they would speak on it.

*Chuck Tracy:* Then a quick follow-up on that. So, again, on that slide, it looked like the International Commissions didn't go up, but I don't know if that's just a significant figure reporting issue or if they in fact did not go up.

*Brian Pawlak:* I think, from that display, they did not go up. I don't know if we have other sources of funding that go to them or not, but, from that right there, it did not.

*John Quinn:* Any other questions of Brian on budget and management? Gregg Waugh.

*Gregg Waugh:* Thank you, Mr. Chairman, and thank you, Brian, for that presentation, and thanks for working to get portions of our budget out. That obviously was very helpful. Following up on Chuck's questions about this proportional split, two questions. Are you all interested in input from the councils on perhaps how that should be handled in the future? The second question is what are the plans, if

1 that line goes down, on how to apportion that reduction?

2

3 *Brian Pawlak:* That's a good question. Yes, we're always interested in the  
4 council's view on that, and I should have also added that we did  
5 inform the commissions, last week, of how we would spread that  
6 line. The state commissions, we had a conversation with them on  
7 how we would do that.

8

9 If it goes down, that's hard to predict how we would do that,  
10 because it often depends on, if it goes down, what would be the  
11 direction or language that you have that's associated with that, and  
12 so that's pretty hard to predict. If it's without language, we would  
13 have to consider it. If we have the ability to spread that, what the  
14 impacts of that might be, and so we have not thought about that, at  
15 that level of detail, for a detailed answer.

16

17 *John Quinn:* Chris Moore.

18

19 *Chris Moore:* Thank you, Mr. Chairman, and thank you, Brian. I wanted to echo  
20 what Gregg said about releasing our funds this year, and so that's a  
21 different pattern than what we've seen in prior years, and so what  
22 do you expect for the future, that it's going to be more like what  
23 happened in 2017, or is it going to be uncertain?

24

25 *Brian Pawlak:* I think, with the work we did with NOAA and with our NOAA  
26 Grants Management Division in understanding kind of the need for  
27 the resources and the need for the predictability on it, and, to be  
28 perfectly frank, the stability of that funding line -- If we end up in  
29 CRs again, long-term CRs, the goal would be to still get it out like  
30 we did this year.

31

32 Another approach, which is harder, is to try to even get it out all at  
33 the front of the year, but we have to request an anomaly from  
34 OMB to spend more than our spend rate under a CR. Under a CR,  
35 if a CR is a month, you're only allowed to spend up to a month of  
36 your spending.

37

38 You can ask for what they call anomalies, to spend more, but those  
39 are pretty hard to get those approved through the system. They  
40 tend to be really big things, for like paying for satellites or  
41 contracts or that kind of thing, but our intent would be to keep  
42 doing it this way.

43

44 It worked, and it's not really -- It's a little bit of extra work to issue  
45 three grants over the year, but that's fine. Under CRs, we would  
46 hope to keep doing this and get the money out as quickly as we

1 can. The challenge will be at that five-year award. I know we're a  
2 few years away from that, but our rules are, the first year of an  
3 award, you're supposed to submit the full amount, and you're not  
4 supposed to do that piecemeal.  
5

6 Again, we have already talked to NOAA GMD about getting an  
7 exception to that rule if we end up at that place at five years again,  
8 where the full amount has to go out in the first award and they  
9 don't let you do the sequential loading of the grants, and so it has  
10 worked. The bottom line is we hope to still put the money out as  
11 soon as we can.  
12

13 *John Quinn:* Kitty.

14  
15 *Kitty Simonds:* When Mr. Ross goes to the Hill to testify, what is he going to be  
16 talking about? Is he going to be just following the budget that is  
17 out there? Do you all have input into what he says to the  
18 committee?  
19

20 *Brian Pawlak:* Sure. We will have input to what he says to the committee. We  
21 will be asked and are being asked. We're prepping him for  
22 questions and answers, as it might be for any specific issue or  
23 overall fisheries management issues.  
24

25 Again, he will be representing that whole department, and so it will  
26 be a piece of that, but what he'll be speaking to is he will be  
27 speaking to the full President's budget, which we don't have  
28 access to yet and you don't have access to yet, and that would be at  
29 least the 23<sup>rd</sup>, and so he'll be speaking to the details of the budget  
30 that are in there, beyond what is in that skinny budget.  
31

32 *Kitty Simonds:* Right. Obviously what we councils are hoping for is that our  
33 budgets will be increased considerably. As I said the other day, I  
34 was thinking about Don McIsaac, who was our budget guy. He  
35 was always out there developing proposals, and our last big  
36 discussion was about how the council budget really should be at  
37 \$30 million and we would be fine.  
38

39 Obviously we depend on all those add-ons. We can't live on that  
40 line item alone, and I don't know if any council can live that way.  
41 If we didn't have the add-ons, hello or goodbye or whatever, and  
42 so what I hope is that he will at least listen to whatever we're  
43 saying, and so maybe we should be writing him a letter about  
44 money, so that he knows exactly what we think we should be  
45 operating with, and this is aside from the commissions. I am only  
46 talking about the regional councils.

1  
2 Some of the councils were talking the other day, in our meeting,  
3 about how they need money for healthcare and for all sorts of  
4 things, and some of us have to fill positions that we haven't filled  
5 over the last couple of years, and so there is a need for an increase  
6 in budgets for the regional councils, and that's what I hope that the  
7 Secretary will be at least acknowledging and making a pitch, and  
8 that's what we would like to have, frankly. I haven't changed.  
9 Has anybody else changed about what we need to operate, because  
10 these add-ons can come and go. We are just fortunate that you all  
11 give us the pennies from your budget, and so I would just like to  
12 make that comment and that pitch for the regional councils.  
13

14 *Brian Pawlak:* I can appreciate that, and I know Paul Doremus, and probably Sam  
15 Rauch has well, has briefings with the transition team and  
16 discussion with Secretary Ross, which has been, I think, a very few  
17 discussions at that direct level, but they have raised the importance  
18 of fisheries management, and they have raised the importance of  
19 the partnership with the council, and I know those discussions have  
20 happened.  
21

22 *Kitty Simonds:* I mean, just looking at the \$150,000 or \$300,000 for all eight of us  
23 as an increase is like nothing. Of course, we accept it, but what  
24 does that pay for, if I divide it up by eight? What is that? I haven't  
25 figured it out, and I don't want to, but just we really, really, really  
26 need to have an increase in the regional fishery management  
27 council budget.  
28

29 *John Quinn:* Tom Nies.

30  
31 *Tom Nies:* Thank you, Brian. I apologize if I missed this, but, so far, you've  
32 been giving us about 50 percent of the top line that you show on  
33 that chart, the council and commission PPA line, and do you  
34 anticipate that we're going to get something from the add-ons now  
35 that the continuing resolution has been approved?  
36

37 *Brian Pawlak:* I would imagine that you guys are much more aware of this than I  
38 am. As folks are speaking about the add-ons, quote, unquote, the  
39 things that come outside of the regional fishery management  
40 councils line, obviously we've got the big blank circle here  
41 because we don't know the details yet.  
42

43 We've got to figure out our spend plan, and we've got to figure out  
44 where we have other costs, other rescissions, before we give you  
45 the exact number available for a grant. Any appropriated amount,  
46 which the next presentation will actually go through in detail, any

1 appropriated amount obviously gets reduced by M&A costs and  
2 rescissions from Congress or what have you.

3  
4 Given that we're largely level funded, I would expect that you still  
5 can expect your level funding, or there's a slight increase, and we  
6 just went through the numbers of the ATB, for your baseline, and I  
7 would have to look to Alan to confirm, but I would imagine that,  
8 level-funded, there would still expect to be sources of funding for  
9 the councils outside of that, and, Alan, you seem to be  
10 acknowledging that.

11  
12 *Alan Risenhoover:* Yes, I think so, unless there is something that has happened in the  
13 appropriation that we would have to all take a reduction, but, as far  
14 as I know, it's all level.

15  
16 *Brian Pawlak:* For folks that aren't familiar with that, that's the, quote, unquote,  
17 add-ons, the things that come out of the base.

18  
19 *John Quinn:* Chuck Tracy.

20  
21 *Chuck Tracy:* Thank you, Mr. Chairman. In the meantime, until we get that line  
22 item increase the Kitty was mentioning, I will have to ask you  
23 these questions. With regard to the spend plan for 2017, and going  
24 into 2018, for the agency as a whole as well as for the regional  
25 bodies, and I'm curious. In 2015, some of the discretionary  
26 funding for our region, there was a fair amount, or there was a  
27 certain amount, in the Phase II funds. Then, in 2016, that went  
28 down quite a bit, and most of that money went into the  
29 headquarters awards category.

30  
31 Our council asked for some money for projects that we have done  
32 cooperatively with the region, and they've been very supportive of  
33 us, but it's tougher for them to be supportive of us if they don't  
34 have the discretionary money in their pot and it's in headquarters,  
35 and so I guess I'm just looking for a little insight as whether the  
36 monies, those Phase II funds, are going to remain at the similar  
37 level for 2017 and going into 2018 and the money is going to be in  
38 headquarters awards or if there's going to be a shift back to the  
39 region for that, because that's important for us to know where to  
40 focus our comments.

41  
42 *Brian Pawlak:* 2018 is hard to say anything about. I don't know, and, what I  
43 would know, I wouldn't be able to convey at this point. 2017, I  
44 think as Alan said, we expect to see that level, based on we've got  
45 level funding now. What is hard to predict on the spend plan, and  
46 even though we got the budget on May 5, I think is when we got

1 the 2017 budget, and it still takes us several weeks to get our spend  
2 plan together, based on costs that we might have, facilities costs  
3 that we might not expect and other corporate costs that might be  
4 coming or reprogramming.  
5

6 I can't speak specifically to what the region/headquarters breakout  
7 is that you're speaking about, other than the overall pot, with the  
8 2017 omnibus, is largely the same, but, like you and us and like  
9 most entities, whether their business is the federal government,  
10 we're getting increasing pressure on rising labor costs, facility  
11 costs, and NOAA is feeling that, and the department is feeling that,  
12 and we all have to contribute to that some, and so our spend plan is  
13 due to the Hill thirty days after the budget, but that's kind of the  
14 top line number. It takes us even a little more time to figure out  
15 the detailed allocations to our regions and centers, and so that's not  
16 a very specific answer.  
17

18 *John Quinn:* A follow-up?  
19

20 *Chuck Tracy:* Another sort of regional and headquarters situation that we have to  
21 deal with quite a bit is travel funds for the region and the science  
22 centers to attend council functions. It's been a constraint for them  
23 in past years, and there was a little bit of relief last year, but they  
24 still face pretty severe constraints on travel, and that really affects  
25 the council's ability to carry out its mission and to have their  
26 technical support and their policy support at the council meetings  
27 when we're having discussions and making decisions, and so that's  
28 been tough for us.  
29

30 I guess, just in terms of making an allowance for that additional  
31 travel, that would be helpful, but the other thing that frequently  
32 happens is that, as the year goes along and there is maybe some  
33 surplus in their travel budget, that doesn't get released until  
34 August, when after four council meetings are over. They have  
35 been conservative, conservative, conservative, and now, all of a  
36 sudden, we've got a bunch of travel money left over that we need  
37 to spend and it's too late to use it on council functions.  
38

39 I guess it's a similar situation as to the grant funding release. If  
40 there was some mechanism to anticipate that a little better and to  
41 release some of those funds throughout the year, so that it could be  
42 used more effectively, I think we would like to see something like  
43 that and to give some relief to our regions and science centers for  
44 that travel.  
45

46 *Brian Pawlak:* I can appreciate that, the travel, and it's really not so much a funds

1 issue. It's a ceiling issue, and what it is, it's because of, to be quite  
2 frank, embarrassing practices by some other federal entities, not  
3 NOAA and not the Department of Commerce, but it has resulted in  
4 OMB pushing down this very tight travel ceiling, which has  
5 become very restrictive and hard to manage. For Fisheries, we  
6 have eleven regions and science centers and headquarters office,  
7 and there may be some relief coming to that in the next year.

8  
9 There doesn't seem to be as much focus on that ceiling right now.  
10 I can't make commitments or promises on that, but there does  
11 seem to be a recognition that those ceilings that were set based on  
12 some FY2010 travel amounts aren't working for a lot of people,  
13 and we're trying to find a way to get relief out of that with this  
14 administration.

15  
16 One of the challenges is we don't have -- Our political transition  
17 team is not really in place yet, and so that was a political decision.  
18 As folks come in, we can discuss and share with them the impacts  
19 of that, and we're hoping to get relief on that, but that's still kind  
20 of an unknown, but I hear that every day, internal from our own  
21 folks and other constituents, the constraints that the travel ceiling  
22 has put on all of us.

23  
24 *John Quinn:* Any other questions? Tom Nies.

25  
26 *Tom Nies:* Hi, Brian. I've got an issue, and it's not really a question, but I just  
27 wanted to bring something to the attention of you, Brian, and Sam  
28 and Alan as well. One of the things the councils have taken  
29 advantage of, in recent years, is a group called the Forum for  
30 Fisheries Leadership and Sustainability.

31  
32 It's a policy-neutral group that provides council support, and I  
33 know that's a vague definition, but they have hosted a number of  
34 activities that help us solve problems, basically. They have  
35 basically three functions they do. They hold either annual or  
36 biannual forums, where they would bring council members,  
37 council staff, and NMFS people together in a two or three-day  
38 meeting to discuss an issue of importance.

39  
40 I think the most recent one was how to manage changing  
41 environments, with climate or other ecological factors. For some  
42 of the councils, they have provided direct council support. I know  
43 our council has used them, I guess at least three times, to come in  
44 and host workshops to help us plan, organize, and facilitate  
45 workshops to address issues that were of importance to us, and  
46 there are several other councils that have done the same thing.

1  
2 Related to that, they have also done a number of workshops that  
3 were on a regional basis, and I'm going to point to the Mid-  
4 Atlantic Council that used them to host a workshop to address  
5 governance in the face of climate change, where we brought in at  
6 least -- They brought in at least three councils and the Atlantic  
7 States Marine Fisheries Commission in a broad-based discussion  
8 of the topic.  
9

10 This group has been funded from a variety of sources, and I think  
11 the agency might have provided some funding at one time. They  
12 have foundation support. Obviously they've worked with some  
13 contracts with some of the councils, but their funding situation has  
14 become quite difficult lately. Some of their foundation support has  
15 been withdrawn. However, they think they have enough  
16 foundation support, going forward, for roughly half their budget.  
17

18 Some of the councils are pursuing, I think, or are discussing with  
19 them some contracts that will provide additional support, but I  
20 think they're really looking for about \$150,000 in dedicated  
21 support going forward, and we recognize that you can't say  
22 anything here, but we just wanted to highlight this issue, highlight  
23 how important we think they are, and highlight how important we  
24 think this capability is.  
25

26 Fisheries issues tend to be somewhat arcane. You just can't go out  
27 and hire any facilitator to run a meeting for you. You need people  
28 who are familiar with the process and familiar with the topics, and  
29 they have got literally years of experience with this, and we would  
30 hate to lose them. I think there might be a couple of other people  
31 who want to add into that comment here.  
32

33 *John Quinn:*

Bill.

34  
35 *Bill Tweit:*

Thank you, Mr. Chair, and thanks, Tom, for bringing that up. It is  
36 a really important issue. I certainly can attest to the value that the  
37 Fisheries Forum has brought to the council process, as well as I  
38 think to my own ability to function as a council member. I think it  
39 has certainly improved my capabilities fairly considerably, and, as  
40 most of you know, that's probably no easy task.  
41

42 Tom did a good job, I think, of ticking through a lot of the major  
43 accomplishments that the Fisheries Forum has provided. As I look  
44 towards the near future, I see a lot of challenges remaining for  
45 councils, the kinds of challenges that -- As we adapt our fisheries  
46 to a changing environment, there is a lot of work in that and a lot

1 of need for the kinds of services that the Fisheries Forum provides.

2  
3 That policy-neutral facilitation that they've got is a fairly unique  
4 value. They have honed that very well, and it's extremely  
5 valuable, particularly when we're making decisions in these  
6 highly-contentious environments with some pretty major forces  
7 tugging in all directions.

8  
9 The ability of the Fisheries Forum to sort of calmly come in and  
10 structure and organize discussions in a way that you can make  
11 progress I think is pretty impressive, and so I would just add to  
12 what Tom was saying, that I think that it would be very  
13 unfortunate at this point if, given the challenges that we see ahead  
14 of us, if we were going to lose this group that has, over the years,  
15 really demonstrated their value to us.

16  
17 *John Quinn:* Terry Stockwell.

18  
19 *Terry Stockwell:* Thank you, Mr. Chairman. I would like to follow and concur and  
20 underscore the comments that were just made by Tom and Bill. I  
21 have had the fortunate ability to attend a number of the forums,  
22 and, as Tom said, the New England Council has been able to work  
23 with the forum through some workshops that have been quite  
24 controversial.

25  
26 There is huge institutional memory here, great personal skills, and  
27 it's an asset that I think benefits all the regional fishery  
28 management councils. As a council member, a council leader, and  
29 a member of the CCC for a few years, I am hoping that there is  
30 some way that, in the overall budget, we can move ahead with  
31 support for the forum without individually impacting different  
32 council's abilities. We all use the forum differently, and the  
33 thought of -- If New England wants to use them on a different level  
34 and in a different form, we can certainly have a payout, but I  
35 would hate to see this service go by.

36  
37 *John Quinn:* Anybody else? Chris Moore.

38  
39 *Chris Moore:* I would just emphasize what other folks have already said. The  
40 Mid-Atlantic Council has been a strong supporter of the forum  
41 over the last seven years. A number of our council members have  
42 attended the forums, various forums. Many of our council  
43 members have attended the forums and benefited from that  
44 experience.

45  
46 In addition, we have used them extensively on a number of

1 workshops and white papers. Just to give you an idea of what they  
2 have done for me since 2010, they did a Mid-Atlantic catch shares  
3 workshop, and they did a recreational community engagement  
4 workshop for us, a squid management workshop, a climate change  
5 and fisheries governance workshop that Tom mentioned, and they  
6 produced a document for us on habitat areas of particular concern  
7 that detailed regional use.

8  
9 They have looked at council policies on non-fishing activities that  
10 impact fish habitat, and they have worked on a document for us  
11 related to summer flounder goals and objectives, and they're  
12 currently working for me to develop some goals and objectives for  
13 the surf clam and ocean quahog fishery management plan.

14  
15 Again, I would just emphasize how important they are to us. I  
16 think that gives you an idea of how much work they've done for  
17 us, and hopefully they can continue to work for us in the future.  
18 Thank you.

19  
20 *John Quinn:* Charlie Phillips.

21  
22 *Charlie Phillips:* I am just going to say a big ditto and add the point that we also are  
23 sending some of our staff. Just what they get from interactions  
24 between the other councils and council people, and so not only do  
25 the council members, but the staff also get a lot out of it, and it  
26 helps give us a much more rounded view of what's going on and  
27 how to run rabbits. Thank you.

28  
29 *Brian Pawlak:* I think the best response I can give is your very articulate message  
30 is received.

31  
32 *John Quinn:* Very good. Anybody else on the budget and management? Seeing  
33 none, Brian, while you're up there, if you would be willing to  
34 continue.

35  
36 *Kitty Simonds:* First, I would like to know how and where we can get the \$5  
37 million to increase our regional budget to \$30 million, and so, if  
38 you said that the Secretary is going to be up there testifying for the  
39 Trump budget, and if what you showed us earlier -- I don't think it  
40 was the word "elimination", but reducing the Sea Grant budget,  
41 and I think their budget is around, what, \$50 million, and so that's  
42 a pot that could be used for us.

43  
44 The other is maybe the sanctuaries. We have a sanctuary in  
45 Hawaii, a single-species sanctuary, where the humpback whale is  
46 recovered, and there is no other species included in that sanctuary,

1 and so my question was not to you, really, or any of you, but  
2 maybe that sanctuary isn't necessary, and so there are different line  
3 items out there that would help us increase our budget, and so I  
4 think that maybe not this whole body, but I know that I will  
5 probably speak to people about this. Thank you.

6  
7 *John Quinn:* All right. Fishery-Independent Data, and the floor is yours.

1 **20. FISHERY INDEPENDENT DATA FUNDING OUTLOOK**

2  
3 *Brian Pawlak:* I will jump into the second topic here. It's much more specific and  
4 much more detailed. Some of us at the bar last night were joking  
5 about budget terminology and stuff here, and we'll try to -- The  
6 word was "re-budgeting", which I don't think exists, and so I'm  
7 glad that you didn't ask me about re-budgeting.

8  
9 This is a little more detailed and specific here on an issue that has  
10 been an issue with the state commissions, largely, but it obviously  
11 deals with things that we're all interested in, is independent data  
12 sampling funding.

13  
14 It's a little more detail here, and I've got detail on the slides, and  
15 I'm probably going to try to stay away from some of the detailed  
16 terminology in there, but it's there, kind of for reference and point,  
17 or for pointing back to it, if you need to.

18  
19 What this issue really is, and I think Gregg Waugh had asked for  
20 this agenda item, is we have had, for a couple of years now, a  
21 discussion, kind of at the Paul Doremus level and me, since  
22 entering this position, with the state commissions on their  
23 predictability of their funding for the state data needs, collection,  
24 and support for the commissions.

25  
26 Obviously, in the last presentation you just saw, there was an  
27 interest in ensuring the commissions see ATBs, but, specific to the  
28 independent data collection, which really deals with our FIN  
29 programs, which is about a \$22-million appropriation; SEAMAP,  
30 which is about a \$5-million appropriation; and MARMAP and the  
31 commission funding.

32  
33 That is really getting an understanding in how and the  
34 predictability of their funding level, and the concern that the  
35 commissions expressed and have expressed, similar to the way this  
36 group did a few years ago, on the M&A and overhead charges that  
37 Fisheries assesses from the state commissions. I don't want to  
38 revisit the CCC and the council M&A charges, because I think  
39 we've worked through that and resolved that, but we probably  
40 have not gotten to the same place yet with the commissions as we  
41 had with the councils a few years ago.

42  
43 I will give you kind of the punchline first and then walk through  
44 what it means, and so the commissions have been talking to us on  
45 more predictability of their resources and trying to understand  
46 what the assessments from the appropriate budget are for their state

1 funding needs and understanding what those assessments are.  
2

3 We have treated the councils different than other budget lines, the  
4 councils' budget line, in that we take the appropriated amount that  
5 we get at Fisheries and we charge our headquarters M&A overhead  
6 charges at the Fisheries level, and that gets assessed to your budget  
7 line. We have been doing that, and we will continue to do that.  
8

9 With the councils' funding lines and this mix of funding that  
10 serves the independent sampling needs, we've been doing it  
11 differently over different budget lines, and so it's confusing, and it  
12 created unpredictability and obviously questions of what do we use  
13 that money for and why is that taken, and we were charging FMC,  
14 regional centers, overhead charges to their budget lines.  
15

16 The punchline here is we're working on an approach for FY18, and  
17 so not this year, but next year, and we will step back from that  
18 approach. We will not take the overhead assessments at our  
19 regional center levels for the amounts of funding that go to the FIN  
20 programs and the state commissions, and, really, we're doing that  
21 to harmonize the approaches in the same way we treat the councils.  
22 They will get more predictability and understanding of that, and  
23 we just had a variety of approaches to it that created confusion  
24 with our state partners and not understanding.  
25

26 Really, why we're doing this, we obviously have a shared priority.  
27 It's an interest of ours to make sure that the states have the ability  
28 to do their data collection, particularly on the data collection that  
29 supports co-managed species, or, obviously, whether they're co-  
30 managed or not, we have an interest in the states having the right  
31 data for their work.  
32

33 We also recognize the states, as state budget cuts have been  
34 happening and as they have seen declining funding in their rising  
35 costs, our assessments have basically been impacting their ability  
36 to do their work.  
37

38 Just your real quick, drive-by tutorial, which I will do a little more  
39 deep-dive into that as well, but our budget, from planning to  
40 execution, obviously budget planning is largely internal. It's a  
41 NOAA process and Department of Commerce and OMB process,  
42 an internal administration process. Once we get our President's  
43 budget, you guys actually get to see that, obviously, and  
44 understand what's in there, and we go through congressional  
45 markups and appropriations, and then, when we get to budget  
46 execution, we have to wait for our apportionment.

1  
2 Really, what we're talking about is this bottom component here,  
3 the rescissions and other costs that happen at the NOAA level, and  
4 particularly NOAA Fisheries level, in addressing and coming up  
5 with an approach that is more palatable and understandable to the  
6 folks who receive our funding.

7  
8 What we specifically have -- The specific assessment that Fisheries  
9 makes within these lines is to run our operation, basically, and so,  
10 again, I think the councils probably had this discussion as we  
11 moved into, three or four years ago, the requirement in following  
12 basic sound fiscal practices of doing overhead assessments evenly  
13 across all lines.

14  
15 What we're paying for -- Again, I won't read through every piece  
16 of it here, but overhead costs, which deal with basically funding  
17 our direction and executive functions of IT, budget and finance,  
18 my office, our facilities. Those are the things that we have to pay  
19 for at the headquarters level, and it's synonymous with overhead  
20 costs. It's a slight distinction, often without a difference.

21  
22 Common services, which are just bills that we have to pay, and  
23 they're managed centrally, such as rent and utilities and other  
24 things like that, and so what Paul Doremus directed me to do, after  
25 discussion with the commissions and trying to figure out an  
26 approach that is more explainable, is to look at how we charge our  
27 overhead charges throughout 2017 and come up with maybe some  
28 better business practices for that internally, and some of this is  
29 purely an internal thing, meaning what categories and bins we put  
30 things in for our overhead, but the external component is just how  
31 our grant recipients see and how they basically feel that assessment  
32 we're taking.

33  
34 None of this review assessment here is really designed at -- It's not  
35 going to result in reduced overhead costs, and so I don't want to  
36 give any misimpression here that the effort and review is going to -  
37 - Your overhead costs are largely your fixed costs. You can  
38 control, obviously, the number of people you have. Maybe, in the  
39 budget office, you maybe can control your rent, by moving places  
40 differently or renegotiating leases, but this isn't an effort to reduce  
41 overhead costs.

42  
43 It's just to better define them and categorize them and find an  
44 approach to treat them in a way that, if you're receiving similar  
45 funding from similar funding streams in the Northwest versus the  
46 Southeast, you will understand that flow of funding and can predict

1 what you will see from that funding.  
2

3 Again, from appropriation to grant award, we get the congressional  
4 appropriation, and we may be directed to do reprogramming of our  
5 funding, meaning Congress appropriated us X dollars for one  
6 activity, and we may be directed by the department or NOAA to  
7 shift the funding of that activity to something else, for some urgent  
8 need, administration priority, and those have happened in the past,  
9 and it had to do with working capital fund issues for the  
10 department.

11  
12 We obviously then, from the appropriation, there is reductions  
13 directed by Congress, which the Hollings rescission is the most  
14 common and probably the longest one in play, and so, everything  
15 above here, we don't really have any control of. That is kind of  
16 dictated to us at the NOAA Fisheries level, but, then at the NOAA  
17 Fisheries level, where we at least have some control, at least in  
18 how we do it and come from, these are really our costs, where, up  
19 here, this is not necessary, quote, unquote, our costs.  
20

21 This is the piece that we were looking at addressing, and, again, I  
22 flagged it earlier, in the first presentation, when folks asked if --  
23 Well, the FY17 is kind of level and what does that mean for our  
24 other funding for the councils, and does it mean that we're going to  
25 get other resources of funding, do we still have that available, and  
26 the challenge in answer that immediately, with an appropriation, is  
27 we do not have these budget lines that are dedicated to labor or to  
28 facilities or to just costs, budget lines dedicated to pay for costs of  
29 running the organization.  
30

31 Some federal entities do. I believe the Coast Guard does, since I  
32 have two deputies that are former Coast Guard guys. They have  
33 actually a labor line and a M&A line, and so, as we figure out how  
34 to pay for these costs, the costs I just kind of depicted on that last  
35 slide, that has to ultimately come from program budgets, and that's  
36 why sometimes predicting and understanding what we have  
37 immediately with an appropriation is difficult.  
38

39 This map, from appropriation to grant, is basically demonstrated  
40 here in a SEAMAP funding example. This is detailed information  
41 we had shared before with the commissions and state partners. It  
42 just depicts kind of the different pieces of the appropriations and  
43 execution process that happen every step of the way, and so  
44 obviously we've got an omnibus appropriation.  
45

46 We were directed to do reprogramming in 2016, and I will flag that

1 most reprogramming never hits -- I don't think reprogramming has  
2 ever hit the councils, and so that's not an issue for you guys.  
3 Directed on rescissions, we have headquarters running the 3.9  
4 percent, to pay for the headquarters directorate functions that is  
5 taken off of that, and, again, a portion of that is the headquarters  
6 part.

7  
8 Then what we have been having applied, and this is the piece  
9 where the commissions were concerned and talking to us, we have  
10 differential rates of M&A applies at region centers, and we just  
11 have different practices for how we've been practicing that, and so  
12 it's just the regional M&A assessment for these funding lines for  
13 fishery-independent sampling that we're backing away from and  
14 not going to charge that at a region.

15  
16 Within this funding stream, we also have direct program costs that  
17 support SEAMAP in this example, or support our execution of the  
18 FIN or other programs, and so we still need that. That is critical to  
19 executing the program, and so the review we're doing, prior to  
20 2018, is stepping back from the regional M&A and reexamining  
21 what our direct program support costs are, which doesn't mean  
22 they're too low or too high, but it's just reexamining what they  
23 need to be, and reassessing that, so that, when we get to 2018,  
24 we'll be able to provide a more predictable and standardized  
25 approach across this group of funding lines for our external  
26 partners.

27  
28 What that basically results in for FY17, and we've kind of already  
29 heard that from the last discussion, is we think we'll be able to  
30 maintain level funding in these lines, the FIN and SEAMAP and  
31 MARMAP, because we have the appropriations, basically, at the  
32 level funding.

33  
34 As I just talked about, in 2018, we're going to eliminate the  
35 practice of charging the M&A at the FMC -- FMC might be code  
36 for you guys here, but that's Financial Management Center. That's  
37 our regions and centers, and it's going to provide a more  
38 predictable source of funding for the entities that receive that.  
39 They're not struggling to estimate what is our M&A charges going  
40 to be when trying to plan for their grant activity.

41  
42 We're also doing a review of the direct charges that need to be  
43 applied to these funds, and so this is not necessarily a zero-sum  
44 game to review M&A. We want to make sure that we're able to  
45 cover the costs that we have that we need to make sure these  
46 programs run and operate. I think that was it on that item. I know,

1 Gregg, that was an issue that you wanted to discuss.  
2  
3 *John Quinn:* Thank you very much, Brian. Are there questions? Gregg Waugh.  
4  
5 *Gregg Waugh:* Thank you, Mr. Chair, and thanks, Brian, for that presentation.  
6 That certainly helps explain the process a lot more and understand  
7 it a lot better, and I'm glad to hear that, at least for 2017, we should  
8 expect similar levels of funding for SEAMAP and MARMAP,  
9 which is great news, because those are the only fishery-  
10 independent programs for the bulk of our assessments, and so  
11 that's good news, and we look forward to what happens in 2018,  
12 and thanks for -- That savings of that regional M&A will help  
13 those programs, and so thank you.  
14  
15 *Brian Pawlak:* I have to point it out, and it's not a complaint, but it's just a fact of  
16 how we do this. To address that M&A issue though, we internally,  
17 in Fisheries, will have to find sources of funding for that. Like I  
18 said, it's not a zero-sum game. We have to find how to address  
19 those costs that we've been covering within Fisheries, and there  
20 will be some work on our part to do that, and it will be an impact  
21 to our regions and centers at some level, and we've got to figure  
22 out how to address that.  
23  
24 *John Quinn:* Any other questions of Brian? Seeing none, very good.  
25  
26 *Brian Pawlak:* Thank you.  
27  
28 *John Quinn:* Thank you very much for your time. Why don't we take a fifteen-  
29 minute break, until 10:15, and then come back?  
30  
31 *(Recess)*

1 **21. FOLLOW-UP ON PREVIOUS CCC DISCUSSION**

2  
3 *John Quinn:* We will go through the items that were still open from yesterday,  
4 which are Tom Nies' issue on the workgroup organization, his  
5 edits, proposed edits, to the TORs, Gregg Waugh with the  
6 Legislative Workgroup, and we went through that yesterday, and  
7 he came back with those edits, and Kitty Simonds' letter regarding  
8 sanctuaries and monuments, and so I'm going to turn it over to  
9 Tom to start off. Tom Nies.

10  
11 *Tom Nies:* Thank you, Mr. Chairman. Yesterday, we talked about the  
12 workgroup TORs. There were some suggestions made that there  
13 be at least two edits to it. Joan has put on the board the revised  
14 version, which I circulated to the Executive Directors this morning.

15  
16 The first change is at the bottom of page 1. I made it clear that the  
17 CCC Chair will coordinate approval of in-person meetings and that  
18 he will notify other councils of conference calls planned by sub-  
19 committees, workgroups, or other informal staff collaborative  
20 efforts. That was based on suggestions made.

21  
22 The second change is down on I think the third page. It just  
23 clarified a little bit of a point that Bill brought up that has the four  
24 more or less standing workgroups will report at least annually to  
25 the CCC, either at our February or May meeting, and it could be in  
26 writing or it could be in person. It doesn't have to be specific.

27  
28 That gives us the chance to provide additional guidance to those  
29 groups when we receive the reports, and so it puts the onus on us,  
30 if they're doing something we don't like or planning something we  
31 don't like, to tell them to stop, or, if we want to direct them in a  
32 certain direction, to give them that direction at the annual meeting.  
33 Those were the two issues that I remember being brought up  
34 during the discussion.

35  
36 *John Quinn:* Thank you very much. Any questions or comments on those  
37 proposed edits to the TORs? Seeing no objection, we will adopt  
38 those changes by consensus. We will move on to the next open  
39 issue, the Legislative Workgroup, and Gregg Waugh.

40  
41 *Gregg Waugh:* Thank you, Mr. Chairman. We distributed, and you all should  
42 have, the revised document that includes the changes that you  
43 made two days ago. We're getting it projected, and what we're  
44 going to do is just walk through those changes. We're not going to  
45 go back to the other items that you all considered.  
46

1 I think we have enough wording in here to clarify and have full  
2 approval of Topics 1 through 10, and so that will be available,  
3 should we get a request for a letter. The new items, 11 through 15,  
4 certainly, if you all have any more input, we'll take that, but that is  
5 where the workgroup is going to go back and develop those items,  
6 and so we're not looking for action on those here today.

7  
8 Just a couple of things. We will go through and remove any  
9 references to particular bills. This will make it more generic, so  
10 that we don't get into a situation where you've got a bill that's  
11 been withdrawn and then we have to go through and make those  
12 changes.

13  
14 Also, I want to mention that, in terms of the regional perspectives,  
15 those are up to each individual council to develop that wording,  
16 and so I would encourage each of you to look, after this meeting,  
17 to look under each of these topics, and, if your council doesn't  
18 have a regional perspective on a particular topic, you may want to  
19 consider looking at that and adding one, and you can just send that  
20 to me and we will add it. That way, should we get a request, your  
21 regional perspective would be included.

22  
23 With that, if we just go through, and I will scroll through, and we  
24 will get to each page, where there was a change, and then we'll  
25 have that projected, so that we can get your approval. On the  
26 bottom of page 4, and carrying over to page 5, where we're talking  
27 about data-limited fisheries, the Western Pacific suggested adding  
28 the wording "or utilize ecosystem-based fishery management  
29 approaches". We just wanted to insert a little clarification that this  
30 could include seasons or area-based management.

31  
32 *John Quinn:*

33 I think the best way to -- Why don't we put that out on the floor for  
34 comment, and then we'll move on? Otherwise, it may get  
35 complicated, if we have to scroll back, and so any questions or  
36 comments or suggestions on that language? Seeing none, we will  
37 adopt those changes by consensus, without objection. Seeing no  
38 objection, Gregg.

39 *Gregg Waugh:*

40 Thank you. If we go now to Topic 1, which begins on page 9, just  
41 remove the note that was talking about the legislative group  
42 working. That is the only change there, and that's more just  
43 procedural, but I did want to point that out.

44 Topic 2, Ending Overfishing, should be on page 14. The CCC did  
45 not have a consensus position, and so we were asked to add  
46 something, and so we've got some proposed wording there, and

1 this is right under the Topic 2 heading for Ending Overfishing. It  
2 reads: The CCC believes that some flexibility in this requirement is  
3 needed to account for unusual circumstances, such as when the  
4 status of a stock changes dramatically due to a new assessment  
5 and/or inclusion of new data into an assessment.  
6

7 *John Quinn:* Any questions or comments on that? Seeing no objection, we will  
8 adopt that by consensus. Gregg.  
9

10 *Gregg Waugh:* Thank you. Topic 3, the Annual Catch Limit Discussion, in terms  
11 of the role of the SSC, we were asked to expand this a little bit, and  
12 so we've got some new text in there. If you just scroll down a little  
13 farther, right there, the suggested new wording for the role of the  
14 SSC is that the councils work with their SSCs to develop the ABC  
15 control rule, which is where uncertainty and the level of risk are  
16 addressed. The council is bound by the ABC and must set the  
17 ACL less than or equal to the ABC. While this does present a limit  
18 to the councils, if a council concludes that this is overly restrictive,  
19 they can work with their SSC to modify the ABC control rule to  
20 address unusual situations.  
21

22 *John Quinn:* Any questions or comments on that language proposed? Seeing  
23 none, any objection? Seeing none, we will adopt that by consensus  
24 as well. Gregg.  
25

26 *Gregg Waugh:* Thank you. Then Issue 2, we were asked to clarify this. This is  
27 one where it seemed out of place, and we had modified the  
28 wording and deleted one sentence talking about rebuilding plans  
29 should not be this inflexible. We removed that, and we added, at  
30 the end of the last sentence, such that it reads: Revisions to the  
31 National Standard 1 Guidelines state that rebuilding plans can be  
32 discontinued based on new assessments that show the stock is no  
33 longer overfished or was never in an overfished status.  
34

35 Then we added another paragraph: Additional flexibility to  
36 incorporate new information to inform or revise ABC  
37 recommendations in between stock assessments is also necessary.  
38 Assessment schedules do not always allow for timely incorporation  
39 of new information that may result in a revised ABC  
40 recommendations, and existing ABC control rules may not be  
41 constructed to accommodate such situations. We feel that clarifies  
42 that issue.  
43

44 *John Quinn:* Any questions or comments on that clarifying language? Seeing  
45 none, and seeing no objection, we will adopt that by consensus as  
46 well.

1  
2 *Gregg Waugh:* Thank you, Mr. Chairman. The consensus position, we modified it  
3 a little bit. Again, there was a request to clarify the wording to  
4 utilize ecosystem-based fishery management approaches, and so  
5 the conclusion was rewritten, and you can see the new wording  
6 there. It reads: The CCC believes that further consideration of  
7 exemptions or alternatives to the existing ACL requirements for  
8 data-limited species could improve the council's ability to provide  
9 stability in setting harvest limits. The ad hoc methods used to  
10 establish ACLs for data-limited species often result in quotas that  
11 are less predictable, resulting in a loss of stability and yield in  
12 some of our most important fisheries. While ACLs and AMs have  
13 been effective management tools for many fisheries, they may not  
14 be the best tools for managing incidental or small-scale data-  
15 limited fisheries. In these situations, councils should have  
16 discretion to determine alternative control mechanisms, such as  
17 ecosystem-based fishery management approaches for data-limited  
18 stocks.

19  
20 *John Quinn:* Any questions or comments on that proposed language? Seeing  
21 none, and seeing no objection, we will adopt that by consensus.

22  
23 *Gregg Waugh:* Thank you, Mr. Chairman. The next item is Topic 5. You asked  
24 us to pull the wording from page 5, and so this is wording that was  
25 previously approved by the CCC, and so I'm not going to read it.  
26 The direction was to pull that language and put it in here as the  
27 CCC consensus position.

28  
29 *John Quinn:* Any questions or comments on that previously-discussed  
30 language? Seeing none, and seeing no objection, we will adopt  
31 that by consensus.

32  
33 *Gregg Waugh:* Thank you. On Topic 6, the consensus position, Chris worked  
34 with his staff to get some language for us here. It's projected on  
35 the screen. It says: The CCC believes that climate change  
36 demands a response that is commensurate with the magnitude of  
37 the threat. The sustainability and performance of our fisheries are  
38 at stake, and, while fishery managers are unable to address the  
39 underlying cause of climate change, they are, nonetheless, tasked  
40 with meeting our conservation and management mandates in a  
41 changing environment. Climate change will impact the entire  
42 marine ecosystems, and a single-species management approach  
43 will likely not be sufficient to understand and account for these  
44 changes. Addressing climate change will require establishing the  
45 support and the political will to enable fishery managers to develop  
46 creative solutions to new challenges. Fisheries managers will also

1 need a strong scientific foundation to support climate-ready  
2 fisheries management. Managing climate-ready fisheries is a long-  
3 term endeavor that will require investing in the information needed  
4 to support informed decision-making, along with a commensurate  
5 shift in resources and attention. Successful management already  
6 depends on the availability of timely and accurate information at  
7 all points in the decision-making process and, in a changing  
8 environment, this will become even more critical. That's new  
9 wording.

10

11 *John Quinn:* Thank you. Any questions or comments on that language, the new  
12 language? John Gourley.

13

14 *John Gourley:* I am sorry for being picky, but this last sentence on the first  
15 paragraph, mentioning political will, does that seem to be a little  
16 bit out of place? Should we be focused strictly on the science  
17 aspect of fishery management, or am I just out in left field?

18

19 *John Quinn:* Fair point. I will see if Gregg or Chris want to address that.

20

21 *Chris Moore:* You may be out in left field, but I think we can delete that phrase.  
22 I don't think there's any problem, and I want to point, just for the  
23 group, that this is something that Mary Sabo did for me very  
24 quickly yesterday, and she basically pulled the language from  
25 some of the documents that we had done in the past for governance  
26 and climate change and climate change and science. I think that --  
27 If we just change the sentence to say, "Addressing climate change  
28 will require establishing the support to enable fishery managers", I  
29 think that would be fine. I think that's the point.

30

31 *John Quinn:* Can you make that change, Gregg?

32

33 *Gregg Waugh:* Yes.

34

35 *John Quinn:* Other than that topic on this language, any additional comments?  
36 Seeing no objection, we will adopt that by consensus.

37

38 *Gregg Waugh:* Thank you. Topic 7 is Forage Fish. The consensus position, we  
39 made the changes suggested and deleted that first sentence, and  
40 you all approved this, but our Vice Chair, I know, has some  
41 additional comments he would like to make.

42

43 *Charlie Phillips:* I just want to make sure that we don't put ourselves in a box on  
44 forage fish, and I've talked to some of the other folks, and they tell  
45 me that, as long as they've got a list and it's just not really broad,  
46 we're probably fine, but, because of the climate change and things

1 moving from one region to another, what you may not have one  
2 year you may have in five years, and so I would just like to keep  
3 all of those things in mind.

4  
5 *John Quinn:* Tom Nies.

6  
7 *Tom Nies:* Now that I see the changes we made yesterday, I want to make  
8 sure that I understand them, and I'm a little concerned by the  
9 deletion of the Pacific Council's first sentence. Does this mean  
10 that it's the opinion of the CCC that a well-managed, scientifically-  
11 based fishery should never develop on something that is currently  
12 an unmanaged forage species?

13  
14 To me, that's one way of reading this without the first sentence.  
15 We talk about it's appropriate to proactively protect unmanaged,  
16 unfished forage fish. I mean, is that taking a stance that we're  
17 never going to turn them into managed species that we harvest?

18  
19 *John Quinn:* Chris Moore.

20  
21 *Chris Moore:* I read it a little differently. I look at it as it just basically doesn't  
22 say anything. It just basically says we think protecting  
23 unmanaged, unfished forage fish is a good thing to do, and it  
24 doesn't say anything about when we get the science and whether or  
25 not we want to deal with a commercial fishery for some of those or  
26 not, and I think it's a consensus position. If you go down and you  
27 look at some of the things that folks have said, I think that's the  
28 best we can do.

29  
30 *John Quinn:* Anybody else on that? Any additional comments on that? Seeing  
31 none, and seeing no objection, we will adopt that language by  
32 consensus.

33  
34 *Gregg Waugh:* Thank you, Mr. Chair. That gets us through the first ten topics,  
35 and those are the changes that you asked us to bring back. Again,  
36 starting with Topic 11, Recreational Data, there is scant  
37 information there. We have incorporated some of your guidance  
38 and direction for where we should pull information from.

39  
40 In the interest of time, I would suggest to give the working group a  
41 chance to develop some of this wording, and certainly, councils,  
42 look to provide your regional perspectives on these topics, and, if  
43 you could get those to me, that would certainly help the  
44 workgroup's process.

45  
46 *John Quinn:* If I could put a proposed motion on the board that the CCC adopt

1 the changes, but, before I do that, Phil Anderson.

2

3 *Phil Anderson:* Thank you. I am maybe a little slow this morning, but I was  
4 wondering if we could go back to Issue 2 on page 16 for a  
5 moment.

6

7 *John Quinn:* Sure.

8

9 *Phil Anderson:* There is a -- I'm sorry. If we could go to Issue 3. It's the ACL  
10 Exemptions. There is language in there that we just adopted that is  
11 in quotations, and the second sentence says: The ad hoc methods  
12 used to establish ACLs for data-limited species often result, blah,  
13 blah, blah.

14

15 It seems to me that "the ad hoc methods sometimes used", because  
16 we don't -- I know we don't always use ad hoc methods to  
17 establish ACLs for data-limited species, and that flat statement that  
18 we're using ad hoc methods to establish ACLs for data-limited  
19 species, to me, is too broad, and we need to put a little bit of  
20 context to it, and so I'm suggesting inserting the word  
21 "sometimes" after methods, so it's "ad hoc methods sometimes  
22 used to establish".

23

24 *John Quinn:* Gregg.

25

26 *Gregg Waugh:* Thank you. If we just scroll down a little bit, it's in the consensus  
27 position, the wording under it, and so, yes, the second sentence that  
28 starts with "The ad hoc methods", we would insert "sometimes  
29 used to establish ACLs", and that is fine. I don't see a problem  
30 with that at all.

31

32 *Phil Anderson:* Thank you for that consideration.

33

34 *John Quinn:* Great. Without objection, we will adopt that change. Getting back  
35 to the motion then, if we adopt Items 1 through 10 and charge the  
36 Legislative Workgroup to continue to work on the remaining  
37 portions of this paper. Bill.

38

39 *Bill Tweit:* **Mr. Chair, so moved.**

40

41 *John Quinn:* Is there a second?

42

43 *Chris Moore:* Second.

44

45 *John Quinn:* Is there discussion? **The motion is that the CCC adopt Sections**  
46 **1 through 10, as amended, and charge the CCC Legislative**

1                   **Workgroup to continue working on the remaining portions of**  
2                   **the document.** It's been moved and seconded. Is there any  
3                   discussion? **Seeing none, any objections? Then we will adopt**  
4                   **that by consensus.** All set, Gregg?  
5  
6   *Gregg Waugh:*       Yes, Mr. Chairman. Thank you.  
7  
8   *John Quinn:*       Great. Tom Nies.  
9  
10   *Tom Nies:*         I just want to make sure that I understand. So, with the approved  
11                   portions of the document, should we get a request for comments on  
12                   legislation, the assumption is that we'll prepare a draft letter, based  
13                   on the approved portions of the document, and circulate it for  
14                   review, right?  
15  
16   *Gregg Waugh:*       That's correct. Items 1 through 10 will have the consensus  
17                   positions, yes.  
18  
19   *John Quinn:*       Thank you. We're going to move on to the third item that we were  
20                   going to review from the last two days, and that is Kitty Simonds'  
21                   letter. I know we had a healthy discussion yesterday, and we  
22                   charged her with going back and redrafting it and editing it, based  
23                   on our discussion, and so I'll turn it over to Kitty.  
24  
25   *Kitty Simonds:*     Thank you, Mr. Chair. Yesterday, following the discussion,  
26                   Michelle assisted in redrafting the third paragraph, and Leann did  
27                   some cleanup as well, and so let me just go through it very quickly.  
28  
29                   The first paragraph, we spelled out "Massachusetts", and the  
30                   second paragraph was okay. Then, in the third paragraph, we put a  
31                   lowercase "f" on "federal", and we dropped the "s" on "requests",  
32                   and so it goes like this.  
33  
34                   It says: Request the opportunity to consult and coordinate with the  
35                   Departments of Interior and Commerce in the development of  
36                   recommendations that will be prepared for presidential action to  
37                   carry out the policies set forth in Executive Orders 13792 and  
38                   13795.  
39  
40                   Then, in the last paragraph, we go to the fourth line, and it says:  
41                   Marine monument designations have the potential to be  
42                   counterproductive to achieving domestic fishery management  
43                   goals. Those were the changes that were made based on the -- You  
44                   said healthy discussion?  
45  
46   *John Quinn:*       Robust.

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*Kitty Simonds:* Robust. Whatever. Anyway, it was good, and thank you, everybody. Any questions or any changes? We will take them now.

*John Quinn:* We will open it up to the floor. I think we had all agreed to sign it, subject to seeing the language, and so now the final drafted language is here. Phil Anderson.

*Phil Anderson:* Thank you, Mr. Chair. I guess my first thought that I wanted to share is I am still questioning the need for the letter, given that the sixty-day comment period is open and given the comments that we received from Sam Rauch yesterday that they're welcoming the councils to comment. To the need for a letter to request our ability to comment, I question whether that's needed, but I will defer to the collective wisdom of the group if a letter is in order.

I do have a concern with the third paragraph, and my concern is around the statement that the councils are the federal entities statutorily charged. I believe that we are among the federal entities, but I don't think we are the sole entities, given that we have no regulatory authority and that that lies with National Marine Fisheries Service. We are part of the federal entities that have that responsibility, but to single us out as being the federal entities, I don't think it's accurate.

My suggestion is that I would suggest two edits to the third paragraph. I would strike the "given this mandate" and start that sentence with "The councils are among the federal entities statutorily charged". I would put a period after the word "measures", and so "conservation and management measures." Then "we request the opportunity to consult". Break that sentence up, so it isn't a paragraph. Those are the two suggestions that I have for modifications to the letter that's been presented to us this morning for consideration.

*Kitty Simonds:* That sounds fine to me.

*John Quinn:* Okay. We will make those edits. Anybody else? Terry Stockwell.

*Terry Stockwell:* Thank you, Mr. Chairman. I am comfortable with the edits. I am comfortable with the letter, and, Phil, concerning your concern about whether or not we write a letter, although we're here on a national level, there is a regional issue, and I think it's our responsibility to support the region that needs a little additional assistance, and so that is why I support sending the letter.

1  
2 *John Quinn:* Anybody else? Process-wise, Kitty, those people can sign it before  
3 they leave today?  
4  
5 *Kitty Simonds:* Right, and so we'll take care of it right away. Thank you to you  
6 and your staff.  
7  
8 *John Quinn:* Okay. Moving on to the next topic then, Kitty, you still have the  
9 floor for International Appointments and Negotiations. Before we  
10 get started, Kitty, Mike Louisi.  
11  
12 *Mike Louisi:* Thank you, Mr. Chairman. I am completely supportive of moving  
13 forward, if that's what this body wants to do, but I just think  
14 putting a period after "measures" -- Something just doesn't read  
15 right. I think we would need to get rid of the "given this mandate",  
16 unless that was mentioned.  
17  
18 *Phil Anderson:* Yes, it was.  
19  
20 *Mike Louisi:* I'm sorry. I missed that. Thank you, Mr. Chairman.  
21  
22 *John Quinn:* Okay, Kitty. The floor is yours for International Negotiations and  
23 Appointments.

1 **22. INTERNATIONAL NEGOTIATIONS AND APPOINTMENTS**

2  
3 *Kitty Simonds:* I am starting this discussion off with just showing all of the  
4 RFMOs and treaties that the U.S. is a contracting party to, and  
5 these organizations are generally formed by conventions that are  
6 consistent with the U.N. Law of the Sea and the U.N. Fish Stocks  
7 Agreement.

8  
9 The U.S. is both a coastal state and distant water fishing nation,  
10 which we always have to remind the countries in the WCPFC, and,  
11 as I said, we are a contracting party to dozens of international  
12 fisheries agreements that apply to both straddling and HMS stocks.

13  
14 In the Western and Central Pacific Fisheries Commission, 60  
15 percent of the global tuna catch comes from that part of the world,  
16 and the United States has four major tuna fisheries: the distant  
17 water purse seine fishery, the Hawaii longline fishery, the West  
18 Coast albacore troll, and the American Samoa longline fishery.

19  
20 I am showing you these limits from 2014 to 2017, and, over the  
21 years, the U.S. has agreed to reduce our quota and the number of  
22 vessel days for the U.S. purse seiners, and they have agreed to  
23 increase the quotas for other countries, particularly Indonesia, and  
24 so what we are very concerned about -- We hope that the  
25 administration will support or nominate a person for the  
26 international negotiating position, which is under NOAA, that will  
27 rigorously support U.S. fisheries in the international arena.

28  
29 We bring up China because, as we were calling the 21<sup>st</sup> century the  
30 Chinese century in our part of the world, they have increased their  
31 fleet in our commission area from -- In 2016, from twenty purse  
32 seine vessels to 450 longline vessels. Actually, they started with  
33 ten in 2007, purse seiners, and a hundred longline vessels in 2007.  
34 In 2016, they doubled the purse seine vessels, and now they have  
35 450 longline vessels.

36  
37 The Chinese vessels are heavily subsidized, compared to us, and  
38 the longline vessels are fishing the high seas adjacent to the U.S.  
39 EEZ, especially us, and they fish around Johnston Island, and they  
40 compete with our vessels supplying fish to the U.S. markets.

41  
42 This is just a shot -- Well, you can't see it very well, because of the  
43 light, but it's from Global Fish Watch, which we look at  
44 occasionally, and this one is December 2016 to May of 2017, and  
45 you can see the 200-mile zone, and this is to show you two things.  
46 One is that, since the monument was designated, our fishing boats

1 are fishing outside of the Northwestern Hawaii Islands, and so, if  
2 you look above, that's where our fishermen are fishing.

3  
4 If you look to the left, you see a group of fishing vessels there, and  
5 those are the foreign fishing vessels that fish right outside of our  
6 200-mile zone and deliver fish to the Marshall Islands, and so  
7 obviously my point here is that our fishermen are fishing on the  
8 high seas and in competition with the foreign vessels.

9  
10 The initiative that I wanted to bring to your attention is the United  
11 Nations High Seas Convention for the protection of marine  
12 biodiversity, and so this has been led by a number of NGOs that  
13 are calling for high seas MPAs, up to 40 percent of the high seas is  
14 what they're looking at, and so they've met at least every year for  
15 the last three years, in what they call preparatory meetings.

16  
17 If the United States agrees to this, they will be a new legally-  
18 binding convention in 2018 or 2019, and so our call here is that our  
19 government consult us on this before they make a decision on  
20 whether or not to agree to any kind of MPA on the high seas.

21  
22 The other point is the two new commissions, the North Pacific  
23 Fisheries Commission and the South Pacific Commission, and  
24 appointments to these commissions, and so, for the North Pacific,  
25 it says five commissioners, and two shall be an officer or employee  
26 of the Department of Commerce, Department of State, and the  
27 Coast Guard and the Chair or designees of the three Pacific  
28 Regional Fishery Management Councils, meaning North Pacific,  
29 Pacific, and Western Pacific.

30  
31 The South Pacific RFMO is three U.S. commissioners, at least one  
32 from the Department of Commerce, Department of State, or Coast  
33 Guard, and the Chairperson or designee of our council.

34  
35 I think we mentioned the other day that, in the President's press  
36 release on these commissions, there was a concern about the  
37 legislation being too prescriptive in listing the commissioner  
38 appointments, and so we sent an email to Dave Balton about it, and  
39 the three councils signed a letter to Sam about it, and we might  
40 hear from Sam when we're completed with this. What Balton said  
41 to us was that they're going to work with us on council  
42 representatives for the appointments.

43  
44 I am asking you all to consider sending a letter that says the U.S.  
45 develop proposals for international management that support U.S.  
46 fisheries when we go to these commission meetings, and we have

1 one this year in December, and there will be a new measure for the  
2 Western and Central Pacific Commission. It's a very important  
3 measure for the U.S. purse seiners and for our longliners, and the  
4 other is asking NMFS and the State Department to consult with us  
5 on the status and future development of the U.N. High Seas  
6 Biodiversity Convention.

7  
8 My last slide is just a picture showing longline catches of Chinese  
9 vessels in our area, and so you can see where they have just gone  
10 way up. In subsidizing their vessels, not just with fuel, but also,  
11 for example, some of the Chinese vessels fishing around our U.S.  
12 territory will process -- The fish will go to China and then come  
13 back to our cannery to be processed, and the government, the  
14 Chinese government, pays for all of those kinds of activities. I  
15 have before you a draft letter to consider. That's my presentation,  
16 Mr. Chair.

17  
18 *John Quinn:* Thank you very much. Before we open it for comment on the  
19 topic, I'm going to call on Sam Rauch.

20  
21 *Sam Rauch:* Thank you, Mr. Chair. I just wanted to -- On the topic of the U.S.  
22 tuna negotiator, with Kitty mentioned, the 2007 Magnuson Act  
23 called for the appointment of a singular individual to represent the  
24 government at these various tuna forums. That is a political  
25 appointee. The department, in the last administration, decided to  
26 create a position called the Deputy Assistant Secretary for  
27 Fisheries -- I think it's Negotiations, and I should know, because I  
28 am it right now.

29  
30 I am acting in that position right now, but it is a political position,  
31 and it is traditionally the person who the administration wants to be  
32 that chief negotiator, and so I am expecting, at some point in the  
33 near future, to either have the administration fill that position or to  
34 make a formal determination how those positions want to be run,  
35 but, in the meantime, I am doing it, and that means that I am the  
36 Acting WCPFC Commissioner. I am not the Acting ICCAT  
37 Commissioner. That is John Henderschedt. Nor am I the Acting  
38 IATTC Commissioner. That is Barry Thom.

39  
40 That is how we're doing that in the interim, but I expect that some  
41 or all of those positions may well change in the near future, as the  
42 administration fills out its political team. That's the only point that  
43 I wanted to make about that.

44  
45 *Kitty Simonds:* The two commissions, the President had something strange in his  
46 press release.

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*Sam Rauch:* Yes, and the issue there is does the legislation bind the President to too much. The commissioners serve at the pleasure of the President. The legislation specified certain individuals that theoretically the President does not control, but I know General Counsel has been looking at that issue, and maybe you wanted to say something.

*Adam Issenberg:* Actually, Caroline is at the table, and I'm going to turn it over to her, because she's the one who has been talking directly with DOJ.

*Caroline Park:* Kitty, you're right. It wasn't a press release. It was the Signing Statement of the President that raised the concern. Just adding on to what Sam had indicated, it's an appointment that has caused a constitutional issue, and so the issue becomes the President is the one who gets to appoint, and people serve at the pleasure of the President. The language was too prescriptive, as a generic term you could use.

I have been having conversations with both the State Department and the Department of Justice, and I think we are generally in agreement that there is a way to move forward, but, again, it's ultimately up to the White House whether they think this process is okay.

My understanding of how we're planning to proceed, but, again, this is still in discussion, is that NMFS and the State Department will consult with the councils to get ideas. Ultimately, NMFS and the State Department will be the ones providing their recommendations to the President, and then it's up to the President to make the appointment and, of course, decide if the President wants the person to serve or not, and so I think that, as a general matter, that the desire is to continue to have that engagement with the council, and we have worked through, I think, a process that will accomplish that.

*Kitty Simonds:* Okay. That's good, because I had thought the language was the same language that was in the WCPO legislation in 2006, but we understand, and I think it works the same way. Normally, the council will make some suggestions on names, and then we send it to NMFS and then they deal with it, and then it goes to the White House, and so it's pretty much the same process.

*Caroline Park:* I think, just on that point about the legislation, there are slight differences in statutory text with the WPFC implementing language. I was not involved in any discussion about interpreting

1 it, but it definitely has slightly broader language than this. This is  
2 pretty prescriptive, under the Ensuring Access Act, and so they  
3 look kind of similar, but there are nuances to that.

4  
5 *John Quinn:* Sam Rauch.

6  
7 *Sam Rauch:* I have one final, slightly-unrelated point. Just to be clear, and the  
8 CCC has taken a number of votes already, and may likely take a  
9 position on this letter, but the National Marine Fisheries Service is  
10 not a voting member, or, if we are a voting member, we are  
11 abstaining, just for the record, from all of these votes, for various  
12 reasons, and I just wanted to be clear, because it's not clear. We  
13 are not included in the consensus. We are just taking no position.

14  
15 *John Quinn:* The record will reflect that. Kitty.

16  
17 *Kitty Simonds:* You are a guest.

18  
19 *Sam Rauch:* Thank you.

20  
21 *John Quinn:* Okay. I'm going to put the discussion on the floor. Kitty, maybe  
22 you could just frame, again, before we open the discussion, what  
23 this proposed letter says. I'm told that it's been distributed, and so  
24 we should have a copy.

25  
26 *Kitty Simonds:* Yes, and so everybody should have a copy of it. The first  
27 paragraph talks about our concerns with ongoing international  
28 fisheries management negotiations, and we talk about how shared  
29 stocks require cooperation. We do say though, and some people  
30 might not like it, but it says: However, cooperation by the United  
31 States should not be to the detriment of sustainably-managed,  
32 highly-monitored U.S. fisheries.

33  
34 Then the second paragraph goes on to say that fisheries target  
35 shared stocks face strong competition from foreign fleets, and  
36 obviously we know that, because we know what we import, and  
37 we know how strictly managed our fisheries are. I just have to say  
38 that, very early on, in the 1980s, we did a limited entry program,  
39 and we limited the number of boats, and we limited the size of the  
40 boats.

41  
42 Now, thirty years later, I don't think we should have done that. I  
43 mean, really. You know, it's crazy, given China, and so, for many  
44 internationally-managed fisheries, there is not a level playing field  
45 between U.S. vessels and foreign competitors, and then we talk a  
46 little bit -- We have a sentence about China.

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Then the next paragraph is that we need to exhibit strong leadership and support U.S. fisheries while achieving international conservation objectives and that it's not acceptable for the U.S. to agree, within RFMOs, to restrict U.S. fisheries while other countries are provided exemptions.

Another concern we have, and this is about the United Nations agreement that I talked about earlier, and so you know about that. Then we say, in the last paragraph, that, in our letter to you in March, we urged the administration to support a strong partnership with the councils, and one aspect of this partnership is early and ongoing consultation between the Departments of Commerce and State with how best to support U.S. fisheries while also achieving international fisheries conservation and management objectives. That's it.

*John Quinn:* Okay. So your request is for us to consider signing this, similar to the last letter, and so I'm going to open it up for discussion or comment.

*Kitty Simonds:* We might, by the way, make a couple of changes, but, anyway, I will leave it to the body.

*John Quinn:* Terry Stockwell.

*Terry Stockwell:* Thank you, Mr. Chairman, and thank you, Kitty. While I am sympathetic to the letter we just agreed to send concerning the monument, I do have some angst about supporting a letter that was just dropped on the desk. I haven't digested it. I would at least advocate, with my Executive Director and Chair, that we abstain.

*Kitty Simonds:* Yes. Okay.

*John Quinn:* Anybody else? Phil.

*Phil Anderson:* Thank you. I have a similar perspective to Terry's, and I am not at all unsympathetic with the issue that the Western Pacific is bringing forward, and, if we can find a way to support them, I am absolutely all in favor of that.

One of my concerns is that we not use too broad of a brush. We have the International Pacific Halibut Commission, and we have the Pacific Salmon Commission, and we have a joint management committee which implements the U.S./Canada Whiting Treaty, and those are three examples where, from my perspective, we have

1 really good relationships with National Marine Fisheries and the  
2 federal government and the positions that are brought forward into  
3 those forums.

4  
5 My concern about using a broader brush is somehow implicating  
6 or suggesting that we have problems with all of our organizations  
7 that are created by treaties or international agreements, and so I  
8 would just want to make sure we put a relatively fine point on the  
9 areas that we have a concern with.

10  
11 *John Quinn:* Bill.

12  
13 *Bill Tweit:* Thanks, Mr. Chair. I'm also not ready to sign, but I thought maybe  
14 an opportunity to ask a few questions might help with a few parts  
15 of it, if we do see another draft. On the third paragraph, the second  
16 sentence, that it's not acceptable for the U.S., it's unclear to me  
17 whether that's RFMOs actually restricting fisheries in U.S. waters.  
18 The term "U.S. fisheries" is broad and unclear, and so it almost  
19 read, to me, as if it were a reference to RFMOs restricting  
20 opportunity in U.S. waters, and I don't think that's what it means,  
21 but that's sort of what it looks like. Is that actually U.S. harvesters  
22 or U.S.-flagged ships?

23  
24 *Kitty Simonds:* The issue, and obviously we haven't written it, or otherwise you  
25 would understand it, is that, when we go to these RFMO meetings  
26 and our negotiator is negotiating with all of the other countries,  
27 they have tended to agree with other countries for lowering our  
28 quotas and vessel days and yet, at the same time, agree to  
29 increasing the same bigeye quotas for countries like Indonesia,  
30 with no explanation.

31  
32 I mean, they couldn't explain it to us, and we were really angry  
33 with them, and not just us, but the whole delegation to the meeting,  
34 and so that was -- That particular negotiator continued to kind of  
35 work that way in the years, and he is gone now, of course, but  
36 those are not the kinds of things that should be done.

37  
38 I mean, I don't think we should agree to lowering our quotas and  
39 number of vessel days and agree to this other country who is --  
40 Actually, their fishing is really suspect, even though you're hearing  
41 that the prime minister is burning boats. She is burning boats of  
42 foreigners, and she's not dealing with her country, which has slave  
43 labor and those kinds of things, and so that's our concern, but we  
44 don't have to have that sentence in there.

45  
46 *Bill Tweit:* It wasn't -- I just didn't understand it, but it sounds like, from your

1 answer, that you're talking about U.S.-flagged vessels fishing in  
2 international waters and not RFMOs actually affecting how we  
3 manage our fisheries in our EEZ, but it reads -- When you say  
4 "U.S. fisheries", the first thing I think of is fisheries within the  
5 U.S. EEZ.  
6

7 Then I had another question about the term "U.S. fishing rights on  
8 the high seas", and I was wondering what that actually refers to. I  
9 didn't know really what our rights were on the high seas. It's the  
10 next paragraph down.  
11

12 *Kitty Simonds:* I think that's just another broad term of all of us have fishing  
13 rights. All of the countries have fishing rights of the high seas,  
14 unless we all decide to manage it or do something differently.  
15 That's what I think.  
16

17 *John Quinn:* Chuck Tracy.  
18

19 *Chuck Tracy:* Thank you, Mr. Chairman. I guess, to Bill's question about  
20 whether these affect domestic fisheries, I think, in some cases, they  
21 do. There are other stocks that Kitty didn't mention, like Pacific  
22 bluefin tuna, that is at 2.6 percent of its historic biomass. Our  
23 council has taken action to restrict our fisheries, based on the  
24 agreements.  
25

26 *Kitty Simonds:* Both of us, yes.  
27

28 *Chuck Tracy:* It does affect not just the high seas, but domestic fisheries as well.  
29 I guess, with regards maybe a little bit to Phil's point about these  
30 other agreements, we also have a relationship with the Department  
31 of State that lead some of the negotiations, particularly the  
32 U.S./Canada Albacore Treaty, and I am wondering if this letter  
33 should be addressed to both secretaries, the Secretary of State and  
34 the Secretary of Commerce.  
35

36 *Kitty Simonds:* Good idea, because we talk about both of them in the presentation.  
37

38 *John Quinn:* Tom Nies.  
39

40 *Tom Nies:* I guess I am a little concerned about the fourth paragraph, only  
41 because I am completely unfamiliar with what's being referenced  
42 there. I don't know that we can say whether we agree that this is a  
43 thinly-veiled vehicle to allow the establishment of MPAs or not.  
44 It's not something that I am familiar with. It may be, but I don't  
45 know that.  
46

1 *Kitty Simonds:* No, I know, and we are obviously familiar with all of these things,  
2 because our life is in the international arena for our fisheries. I  
3 mean, that is basically where we are always coming from, and so  
4 this -- I guess you all haven't been following that U.N. convention,  
5 and we are, and the reason is that there are -- The people who are  
6 pushing this, of course, are all of the five to ten NGOs who have  
7 been supporting MPAs, and that's fine, but now they're pushing  
8 for 30 to 40 percent of the high seas to be MPAs. That's the goal  
9 of this particular convention.

10  
11 Obviously I don't have a problem removing it, because that's who  
12 I was referring to with the "thinly-veiled vehicle". All right. I'm  
13 fine with removing these kinds of things, especially if you are not  
14 following this, and I believe it's a very important convention, and I  
15 would not want the United States to agree to MPAs on the high  
16 seas, frankly, and you all might think differently, but so that's why  
17 we're just asking them to consult with us before they make  
18 decisions. That's basically what this letter is about, is consulting.

19  
20 *John Quinn:* Kitty, if I could make a suggestion. Based on the comments and  
21 some concerns expressed, if you withdrew the letter for now and  
22 tried to make some edits to it, we'll go on to the next item in the  
23 agenda. I still think there is going to be, to quote Terry Stockwell,  
24 some angst about signing it, and so we'll have to make a decision  
25 that maybe this isn't quite ready for prime time for all eight  
26 councils to sign.

27  
28 *Kitty Simonds:* I understand completely. You might not even get to the same  
29 situations that we're in for twenty years, and so that's fine.

30  
31 *John Quinn:* All right. If you could withdraw the request for now, and, if you  
32 want to wordsmith the language, and maybe we can take a stab at it  
33 when we conclude the rest of our business. Okay. We are going to  
34 move on to the next section, Regulatory Review, and Alan  
35 Risenhoover.

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## 23. REGULATORY REVIEW

1  
2  
3 *Alan Risenhoover:* Thank you, Mr. Chairman, and I know everybody was waiting for  
4 this. You saved the exciting part for the end. I will try to go  
5 through this really quick and get to the end here of what the main  
6 points are, but I want to start by just outlining what I am not going  
7 to talk about today.

8  
9 As you know, this administration has issued a number of Executive  
10 Orders that deal with regulatory reform or permitting or  
11 regulations in association with specific actions. I am only going to  
12 talk about the broader regulatory reform one today, but, as we've  
13 discussed earlier at this meeting, there are the two EOs that do  
14 address monuments. I am not going to address those today.

15  
16 There is another Executive Order on expediting environmental  
17 reviews of infrastructure projects, an Executive Order on  
18 promoting energy independence and economic growth, and a  
19 couple of Presidential Memoranda regarding scheduling,  
20 streamlining, permitting, and reducing regulatory burdens for  
21 domestic management and a couple that talk about streamlining the  
22 permitting process for pipelines.

23  
24 All of those, the agency interacts with, and we're working under  
25 those, and so just the larger context, to start with, that there's a  
26 number of EOs that the agency is working under, but I think the  
27 one that most affects the council is this Executive Order on  
28 regulations in general.

29  
30 Just also to point out that all of our statutory mandates are still in  
31 place. We are still required by statute to do Section 7  
32 consultations. We're still required to meet the APA requirements  
33 for fisheries management actions. We are still required to follow  
34 the Magnuson Act processes. The Executive Orders don't affect  
35 that.

36  
37 What my goal for today is to talk to you a little bit about the two  
38 Executive Orders, and we'll run through those, what the agency is  
39 thinking about doing under those, as well as some of the others, but  
40 then also what the councils can do to help the agency. We're  
41 going to have to coordinate on this.

42  
43 The agency is required to address these streamlining Executive  
44 Orders, and we don't want to do that to the ones that affect the  
45 councils alone, and so, in general, the first Executive Order is this  
46 13771, reducing regulation and controlling regulatory costs. That

1 came out on January 30.

2  
3 I think most of you have looked at that, as well as the two, and  
4 now three, guidance documents that OMB has put out on that. I  
5 think, in your materials, my slides are there, and there is copies of  
6 some of the Executive Orders. If you need links or want to look at  
7 the others, we can certainly get that for you, and I believe that third  
8 guidance came out just about a week ago, and so we had already  
9 turned our slides in before that came out.

10  
11 The second Executive Order is 13777, which is the enforcing the  
12 regulatory reform agenda. That's the one that creates the  
13 Regulatory Reform Task Forces within each department, and so  
14 back to the first one, the reducing regulation and controlling  
15 regulatory costs. The purpose of that is to manage costs associated  
16 with government regulations to both the private sector and  
17 government agencies.

18  
19 These guidance documents that OMB have put out have tried to  
20 better explain or provide guidance to us on how to do that.  
21 They're focused on how we, the Executive, will comply with what  
22 they're calling a regulatory cap for each fiscal year, and that is a  
23 requirement that there be two deregulatory actions for every  
24 regulatory action. It's important to point out that regulatory  
25 actions are defined only as those that are declared significant by  
26 OMB under Executive Order 12866, which at least we in the  
27 agency are very familiar with. It's been around for years, and so  
28 these are those big actions, hundreds of millions of dollars of  
29 impact, or, in our case, it's more novel policy considerations that  
30 causes OMB to pull them in.

31  
32 We only have a handful of those significant actions a year, maybe  
33 six or eight, and so it's not a large number that we have to have the  
34 two-for-one for. The deregulatory actions do not have to be  
35 significant actions, and I will get into a little bit more of the  
36 guidance we've received on those.

37  
38 There are two things at play here. There are those regulatory  
39 actions, which are significant under OMB's guidance of 12866,  
40 and deregulatory actions, which I will talk about a little more  
41 specifically, I think, in a minute here, that would count for that  
42 two-for-one offset. The regulatory cap also affects costs, and so  
43 the costs of those actions have to be considered as well, and I'll get  
44 into that in a minute, but I'm getting ahead of myself.

45  
46 The Regulatory Task Force has been set up at the Department of

1 Commerce. It's chaired by a person at the departmental level.  
2 NOAA does have a representative on that from our Office of  
3 General Counsel.

4  
5 For the two-for-one EO, that's the easiest way to refer to that, until  
6 we get used to saying 13771. The goal, as I mentioned, is to  
7 eliminate two existing regulatory actions for each new significant  
8 regulatory action and provide a mechanism for us to identify and  
9 repeal outdated, ineffective, or unnecessary regulatory actions, and  
10 I think the last part of that is very important. That unnecessary,  
11 outdated, or ineffective actions, we'll come back to that at the end.

12  
13 The new regulations that are significant impose costs. You all do  
14 economic analyses, and so we have those costs associated with  
15 those significant actions. Deregulatory actions are ones that, when  
16 you add it up, they provide a benefit, and so they are positive  
17 economic generators, or they do not cost, and the problem with  
18 that is that we do have some regulations that go through where you  
19 can't estimate the costs, and we'll talk a little bit about that.

20  
21 We're required to put together some record-keeping at our level,  
22 and so we're going to have kind of the account of deregulatory  
23 actions that we'll use as two-for-ones to pay for or offset our  
24 significant actions, and then we also have to have kind of the bank,  
25 where our benefits can be used to offset the costs of the significant  
26 actions.

27  
28 The goal of that is to reduce the cost to private and government  
29 sectors. The costs are calculated based on OMB Circular A-4, and  
30 I have spoken with our economists, who have assured us that we  
31 generally, as we do our economic analyses now, are consistent  
32 with that. If you want to sleep nights, read Circular A-4.

33  
34 This brings up the issue of, especially for councils, not every rule  
35 is purely regulatory, requiring new requirements, or deregulatory.  
36 They're often a mix of both, and they're bundled together. As part  
37 of that, it's going to require us to clearly identify the specific  
38 provisions that are counted as regulatory and deregulatory in each  
39 action, and then we'll look at the net cost impact of that to  
40 determine whether we can count it as a deregulatory action.

41  
42 A few caveats. In cases where finalizing an offsetting regulation is  
43 not possible, we should come up with a plan to do so, and so we  
44 can, in a way, deficit spend if we know we've got some other  
45 regulations coming up that will offset.

1 These actions, as I said, are applying government-wide. We're  
2 also looking at those other EOs that I mentioned and the  
3 requirements in it on how do we combine these, so we're not just  
4 doing the same thing kind of in five or six different bins and try to  
5 address them all.

6  
7 The OMB guidance we have received indicates that, in some areas  
8 where a rule qualifies for a two-for-one requirement, there still  
9 may be some issues that we need to clarify, and we're still trying to  
10 consider how exemptions may apply. There is a number of  
11 waivers in the EO, but let's talk about a few categories that were  
12 outlined in that guidance from OMB.

13  
14 The first one are expressly exempt actions, and these regulations  
15 are issued with respect to national security, the military, foreign  
16 affairs, or regulations related to agency organization, management,  
17 and personnel, and so, if it is a regulation for national security, it is  
18 exempt from the requirements of this.

19  
20 Emergency actions, such as critical health, safety, financial, and  
21 some others, may also qualify for an exemption, but we need to go  
22 to OMB and discuss those specifically with them. Even though  
23 those emergency actions may need to be implemented  
24 immediately, in most cases, we will still have to offset them with  
25 the two-for-one regulation and also with the costs, and so that's  
26 something to consider as we go forward. Again, those would need  
27 to be significant rules that are emergency actions, and so  
28 occasionally we do emergency actions in the fisheries, with the  
29 councils, and I don't think, typically, those would require the  
30 offset.

31  
32 We can issue regulations to meet statutory deadlines, even if we're  
33 not able to meet this two-for-one and cost offset at the time we  
34 issue it. However, we do need to offset those by the end of the  
35 fiscal year in which we do that, and so, again, part of this is we  
36 need to identify those deregulatory actions and build our account to  
37 offset the costs of significant actions and then move forward to  
38 work on that.

39  
40 Under Magnuson, it seems pretty clear, from the guidance, that  
41 routine regulations are exempt. We're still looking at that and  
42 trying to get some clarity on what "routine" is under the Magnuson  
43 Act, but there is a provision in one of those guidance documents  
44 that specifically addresses that fisheries actions related to setting  
45 annual harvest levels are routine, and so, yes, they're exempt from  
46 the memo. That's probably good. The bad part of that is we can't

1 use them for a two-for-one offset or the costs or benefits associated  
2 with them. A lot of our FMP actions are related to those annual  
3 catch limits, or harvest limits, and we wouldn't be able to use  
4 those.

5  
6 Real quick on the task force, as I mentioned, there is, at the  
7 Commerce level, somebody from each of the bureaus, you know  
8 BEA, EDA, and the other ones, but, in the Department of  
9 Commerce. We are really the ones that have the most regulations,  
10 and so this is going to affect us more than others, and we've been  
11 working with the task force closely to, one, educate folks. The  
12 NOAA person from GC is very familiar with what we do, but  
13 educate the new folks coming in, to make sure they understand that  
14 regulations, when it comes out of Magnuson, aren't necessarily  
15 bad. A lot of times, the industry really wants to see those  
16 regulations, because they allow them to do other things.

17  
18 The task force will be responsible for evaluating existing  
19 regulations and make recommendations to the agency head  
20 regarding the repeal, replacement, and modification of those  
21 regulations that, in particular, eliminate jobs, inhibit job creation,  
22 are outdated, unnecessary, and ineffective, impose more costs than  
23 benefits, or have a serious inconsistency with the regulatory reform  
24 agenda.

25  
26 Again, we'll be working with them. They are also going to be  
27 responsible for getting input and assistance from other entities,  
28 such as small businesses and state, local, and tribal government  
29 and consumers and non-governmental organizations and trade  
30 associations. I don't know which category the councils fall into,  
31 but I know we'll be looking for your input, whatever category you  
32 fall into.

33  
34 If you think about it, we have a pretty good existing regulatory  
35 review process. We have the council meetings, and our  
36 constituents are asking for different things to be done. We have  
37 science that shows that we may need to take a regulatory action,  
38 and so I think we have a process in place already for a lot of the  
39 public vetting. What we've seen internally with regulations  
40 moving through our system, and, yes, that has been slowed down  
41 as we get the new people onboard and get them up to speed, and so  
42 it's taking a little longer to get regulations through. You all got  
43 that email from me saying we need things, even like council  
44 meeting notices, much sooner than we have in the past, just to get  
45 them through the process, so that we can build the trust with our  
46 new leadership at the department and the NOAA level to make

1                   them understand that a lot of these are routine. When there is an  
2                   issue that they need to be aware of, that's going to be controversial  
3                   or a big policy decision, we will tell them, and so we have a lot of  
4                   this process in place already.

5  
6                   We may need to layer something on top of it to meet the demands  
7                   of this, and that gets back to what I said before about the agency is  
8                   required to do these reviews. We would like to do these reviews in  
9                   a coordinated fashion with the councils, and so I know you've been  
10                  listening patiently and you're saying this is all really fascinating,  
11                  Alan, but how can I help?

12  
13                  So, here's how you can help. One thing we want to do is continue  
14                  to let the new folks know about our existing processes and how  
15                  we're going to respond on that. We need to capture the way the  
16                  councils look at their current regulatory actions, how those are  
17                  modified over time, and what the goal of those regulations are is to  
18                  protect the resource and allow fishing, that balance that is the NS 1  
19                  balance, and so we're working with them on that.

20  
21                  I think we routinely look at our regulations, but we need to  
22                  document how we look at those regulations. We need to describe  
23                  that, and we need to, in particular, start better describing the  
24                  outcomes. If we have an amendment going through or a regulation  
25                  going through, what is the benefit of that? Why are we doing it,  
26                  and why are we not just issuing regulations that are stifling  
27                  economic opportunities, and so the sustainability part comes into  
28                  that.

29  
30                  The other thing that I think is really important is that the councils  
31                  have a lot of public input. If you read through the specific EOs  
32                  that I am talking about or the others, there is a large component for  
33                  input from the public, and I don't know what goes on in other  
34                  agencies, but there seems to be this feeling that other agencies just  
35                  do things without talking to anybody. I don't think the councils do  
36                  that, or the agency doesn't do that, because you have public  
37                  comment at your level. Whatever comes to us, we have public  
38                  comment on as well, and so I think that's a good process to outline  
39                  to folks.

40  
41                  The ask today from me is how do we design a process with the  
42                  councils to highlight our good review process and that we're not  
43                  leaving old, unnecessary regulations on the books, going back to  
44                  that we want to identify outdated, unnecessary, or ineffective  
45                  regulations. I think that's part of the normal council process, but  
46                  how do we take credit for what we're doing? How do we identify

1 these deregulatory actions, and I heard several of those. People in  
2 the opening session were talking about maybe we're going to life  
3 the rockfish conservation zones on the West Coast, because we  
4 have other measures in place that control harvest, and there are  
5 similar things elsewhere. I would like to get a little feedback from  
6 you.

7  
8 Two final things is the agency is required to do this. We did not  
9 get any additional resources to do this review, and so it's how do  
10 we integrate this into our normal processes as we go forward and  
11 identify these non-regulatory actions, our deregulatory actions,  
12 look for anything that's ineffective or outdated in your current  
13 regulations. Is it something where the councils, in your next  
14 meeting notice, you put something out that says that we're going to  
15 have an hour discussion with the public about what regulations  
16 may need to be changed, or do we do that as part of your normal  
17 process?

18  
19 With that, I am going to hear from you, because we're going to  
20 listen to you, and then we're going to keep working with DOC and  
21 OMB to clarify and support what the councils are doing, and so,  
22 Mr. Chairman, thank you.

23  
24 *John Quinn:* Thank you very much, Alan. We'll open it up for discussion, and  
25 we'll start with Chris Oliver.

26  
27 *Chris Oliver:* A couple of questions. At what agency level will the accounting  
28 aggregation occur? I guess, for example, if NMFS promulgates a  
29 significant regulation and the National Ocean Service removes  
30 two, is it that level, NOAA-wide or Commerce-wide? I guess,  
31 similarly, when you talk about your second question that you had  
32 up there, and does it make sense to do that region-by-region, just  
33 so you understand the question of at what level will the accounting  
34 take place.

35  
36 *Alan Risenhoover:* Who inputs and withdraws from the bank account, and that's going  
37 to be at the Commerce level, and it's coordinated by the  
38 Regulatory Reform Task Force. So we may deposit deregulatory  
39 actions into that. Another agency within Commerce may use those  
40 to offset their two-for-one or the costs or vice-versa, and, since we,  
41 fisheries councils, are the major regulatory producers in the  
42 Department of Commerce, I think we're going to have the biggest  
43 bank account, hopefully.

44  
45 *Chris Oliver:* My other question has to do with defining the term "imposed  
46 costs", and so a simple example is if you say did a major

1 allocation, where let's just presume that it benefitted one sector by  
2 X amount and it imposed the exact same costs on a different  
3 sector, would that be a zero-sum game?  
4

5 *Alan Risenhoover:* In talking with the economists, we have asked those questions,  
6 because most of our regulations have new regulations and it's  
7 removing old ones, or changing some, and so it is that balance.  
8 The economists are looking for -- I think the term "net present  
9 value" of the rule as a whole.

10  
11 Part of that, we're still trying to define. We are floating ideas up to  
12 DOC and OMB and trying to get some guidance on we think this  
13 one is deregulatory and we think this one is not. Part of this is, in  
14 some cases, you really can't estimate the economic effect. So the  
15 one I've been talking to folks with, and I think it was the South  
16 Atlantic or Gulf, but they allowed fishermen to use j-hooks instead  
17 of circle hooks, which may be cheaper, but we can't really predict  
18 how many circle hooks are going to be replaced by j-hooks and  
19 how much those costs are. But it is deregulatory, and so we're  
20 trying to count that as a deregulatory one without a monetary value  
21 that we could use to offset another regulation on the two-for-one  
22 side, but it has no economic value that we could offset.  
23

24 A lot of this, we're still trying to develop. When we send our first  
25 significant rule to OMB, I think we'll find out a lot about how  
26 we've built an account, both numbers of regulations and the  
27 economic.  
28

29 *John Quinn:* Anybody else? Gregg.

30  
31 *Gregg Waugh:* Thank you, Mr. Chair. Alan, we're excited to work with you, and  
32 we've gotten lots of public input, and we would like to offer up our  
33 red snapper closure, get rid of that.  
34

35 *Alan Risenhoover:* Okay.  
36

37 *Gregg Waugh:* In all seriousness, we will discuss this at our council meeting  
38 coming up in June, and I was just discussing this with Brian. We  
39 really don't have a process where we go back and look at all of our  
40 regulations, but we will certainly talk about that and look at how  
41 we come up with a process and a timeframe for doing that and get  
42 back to you.  
43

44 *Alan Risenhoover:* Yes, and I skipped over a little bit in the slide where the agency  
45 does have some regulatory review processes, this section 610  
46 review under the APA, where we look at old regulations to see if

1 they need to be updated, but the council process, to me, seems  
2 dynamic enough that you're doing that anyway.  
3

4 I am wondering if we want to have kind of a similar statement that  
5 each council would put out saying, under this Executive Order, the  
6 Fisheries Service and the council are interested in hearing the  
7 public's comments on those three things, outdated, ineffective, or  
8 necessary regulations, and please bring your ideas.  
9

10 We capture that, plus we start capturing your normal public  
11 comment that you get on different things that folks see as a need to  
12 inform this process that the regulations coming forward have been  
13 publicly-vetted. They're not ineffective, they're not unnecessary,  
14 and I don't know that we issue a lot of unnecessary regulations.  
15 We may issue a lot, but they may not be unnecessary. That would  
16 start, one, capturing that we continually -- We were doing the work  
17 of this EO before the EO was even thought of and that sort of  
18 thing, but then, also, working with the councils and our regional  
19 offices to start identifying those deregulatory actions, so we can  
20 build those accounts.  
21

22 *John Quinn:*

Bill.

23  
24 *Bill Tweit:*

Thanks, Mr. Chair. Alan, thanks very much, both for the  
25 presentation, but also for the approach to this and engaging  
26 councils at this point. I may have misunderstood some of the  
27 answers to Chris's questions, and so I wouldn't mind returning to  
28 those.  
29

30 I thought I heard you say that if the agency identifies several  
31 regulations that are no longer needed that have been implemented  
32 as part of the council process that those just simply go into a  
33 Department of Commerce bank and they're available for  
34 withdrawal or use by any other entity within the Department of  
35 Commerce, and, if I heard that correctly, I am sitting here  
36 wondering what reason we would have to identify regulations now,  
37 knowing we'll need regulations in the future. What is our impetus  
38 or why would we possibly want -- What is our interest in  
39 identifying regulations now for National Weather Service use or  
40 something like that? That doesn't make sense to me.  
41

42 *Alan Risenhoover:*

Right, and that's something we're going to have to work out.  
43 Again, this Regulatory Reform Task Force is at the department  
44 level. Most of the regulations in the department come from  
45 National Marine Fisheries. A good portion of those are from  
46 councils, but that is where the EO talks about the account being

1 made.

2  
3 Now, whether the department's Regulatory Reform Task Force  
4 would have sub-accounts, where they try and balance that, I don't  
5 know. The important thing to remember is that we only have to  
6 offset significant rules, and we have five to eight or so a year, and  
7 so I've only got to identify a dozen or regulations to offset that on  
8 the two-for-one side. I then also have to look at how do I offset the  
9 costs of those significant regulations, if there are some, as well, but  
10 it doesn't limit it to a specific set. If Census needs to issue  
11 something, they can use some of our regulations as the offset, but,  
12 again, we will continually argue us first, of course.

13  
14 *John Quinn:* Bill.

15  
16 *Bill Tweit:* Thanks. That does help some. Given then the importance of that  
17 task force and the work of that task force to the council's ability to  
18 continue to use regulations as a primary tool, I am wondering if --  
19 Should there be opportunity for the councils to have input into the  
20 Commerce task force?

21  
22 *Alan Risenhoover:* I think the task force may reach out to the councils. That is  
23 authorized under the statute. Again, I am trying to think of the last  
24 significant rule we had that was council-oriented. There is one or  
25 two every now and then, and so I don't think we're going to have  
26 problems paying for council regulations. What we want to look  
27 for, with the council regulations, is where are those deregulatory?  
28 Where are we relieving a restriction that we can use on this  
29 commerce-wide basis, but I don't know that we need to be really  
30 concerned that we keep our two-for-one regulations in a separate  
31 pot, and we'll just have to see.

32  
33 The Executive Order does talk about kind of a preference for  
34 similar types of regulations offsetting similar types of regulations,  
35 but you could then -- How far do you take that down? Do we  
36 break that out that, if it's lower than Commerce, is it NOAA?  
37 Well, if it's going to be lower than NOAA, let's make it at the  
38 Fisheries level. Do I make it at the regional level? Do I make it at  
39 the council level? We can split those as much as we could, and I  
40 don't know if we want to do that.

41  
42 I think, when it comes down to it, the issue is going to be how do  
43 you come up with the costs that you have alleviated from the  
44 public to pay for some of these significant rules.

45  
46 *John Quinn:* One more.

1  
2 *Bill Tweit:* It does seem to me then, given the nature of those kinds of  
3 questions, that it is going to be important, just relative to your first  
4 bullet, that the councils have a role in coming to those kinds of  
5 decisions, at least a consultative role in coming to and arriving at  
6 that level of decision making about the mechanics of the process,  
7 because it could set up some either very difficult dynamics or it  
8 could leave the council with a sense that there is still a fair amount  
9 of control over the process, depending upon how those decisions  
10 work.  
11  
12 *Alan Risenhoover:* There is a consultative provision in there, but there isn't a we  
13 delegate to the councils how to manage this. Again, I think what  
14 you will see is we, in Fisheries and NOAA, will advocate to make  
15 sure that Fisheries Service regulations offset Fisheries Service  
16 regulations as we need to.  
17  
18 *John Quinn:* Chuck Tracy.  
19  
20 *Chuck Tracy:* Thank you. Maybe I am a little slow here this morning, and it's  
21 still morning, but it seems like a lot of the council regulations -- It  
22 almost seems like there's an implicit assumption here that the  
23 regulations cost, but a lot of the council regulations generate  
24 economic benefit, and so how does that play into the scorecard?  
25  
26 *Alan Risenhoover:* Again, we're still feeling this out ourselves. A lot of it is what is  
27 your baseline, and so the guidance we got from OMB says we  
28 can't use setting annual harvest or catch limits as the basis for that.  
29 My initial reaction, before that guidance came out, was we just put  
30 out the specs for whatever fishery. That fishery is worth so much,  
31 and done and I can use that, but no.  
32  
33 They have said specifically that routine fisheries management  
34 actions, such as setting annual harvest limits and catch rates, don't  
35 count, but grabbing or taking credit for that full amount of that  
36 fishery, they're not going to allow it.  
37  
38 It's going to be these incremental changes, and so I think, for you  
39 all, the rockfish conservation areas, if you open those, to me, that is  
40 -- You are relieving a regulation. These people can fish where  
41 they want to. Maybe that's closer to shore, and you will have an  
42 economic analysis.  
43  
44 Again, I don't expect that to be a significant rule, and so I won't  
45 have to pay the two-for-one, but I can bank the benefits of it. I  
46 think, the council regulations in general, you try to work toward

1 having economic benefits of your regulations, either short-term or  
2 long-term, by making sure that stock are sustainable, and we need  
3 to try and capture those.  
4

5 *John Quinn:* Kitty.

6  
7 *Kitty Simonds:* Alan, as you might expect, we don't want to work too soon with  
8 you about looking at regulations, because what we're waiting for is  
9 whatever decision is going to be made on the monuments. As you  
10 well know, we have fisheries in the Northwest Hawaiian Islands  
11 that we would like to have back again, particularly bottom fish,  
12 and so these have been kept on the books, and the region and I  
13 have discussed, over the years, about removing some of these  
14 regulations, but, as I said, I am the ever-hopeful, and so maybe  
15 we'll work on ours last. You can work on everybody else's until  
16 we see what kind of decision is going to be made on our fisheries.  
17

18 What you have had to do every year, in terms of the northwestern  
19 regulations that are still on the books, but the monuments have  
20 overlaid their regulations, is, every year, you have to announce that  
21 there is no lobster quota, and that's what you all have been doing  
22 every year, is just announcing that there is no lobster quota. We  
23 are happy to assist, but don't look at us too early, okay? Just wait  
24 until the end of the year.  
25

26 *Alan Risenhoover:* Again, right now, I think I'm interested in how do we get a process  
27 that we can hold up to the new administration that says we are  
28 involving the public in our regulations going forward, but also  
29 looking back at the regulations that are currently on the books to  
30 say the public believes this regulation is outdated, ineffective, and  
31 inefficient and the council is going to address that.  
32

33 Then this accounting is going to develop over time. I do think  
34 there are some exceptions in the EO and the guidance that says, if  
35 you lose a court case and they vacate your regulation, you can't  
36 count that, and so there are a few where they have put some rules  
37 in place, and we're still trying to navigate to make sure that we're  
38 meeting the intent of the EO, but also having legitimate offsets and  
39 accounting for costs as we go forward.  
40

41 *John Quinn:* Tom Nies.

42  
43 *Tom Nies:* Thank you, Chairman. Alan, is there any hope that there might be  
44 a streamlined deregulatory process, or are we going to have to  
45 follow the normal NEPA and EPA and MSA and consider  
46 alternatives for every deregulation action?

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*Alan Risenhoover:* Right now, yes, you've got to follow the normal process, but, if you look at some of those other Executive Orders I mentioned, and, I think, in particular, some of the environmental streamlining, there are other thoughts out there about should NEPA be modified, should other statutes be modified, to streamline those, and a lot of this is really on kind of development of infrastructure.

If a bridge is going up, how do we streamline the NEPA? How do we streamline the Endangered Species Act consultation? How do we streamline all the permitting requirements associated with that bridge or that infrastructure project? Some of that is being considered, Tom, but, right now, all the mandates are still in place.

*John Quinn:* Miguel.

*Miguel Rolon:* What is your time schedule? When should we expect some guidance from the Regional Office or NMFS as to what will be the next steps to do regarding this order?

*Alan Risenhoover:* I think, hearing the discussion, and it seems you're willing to maybe address this specifically, of, hey public, we have this new EO, and the councils and the Fisheries Service are abiding by that, and please give us your comments by the next meeting or something. If that sounds doable, okay with folks, effective maybe, we can get something out.

Again, what we've got is there is some reporting requirements in the EO that the Regulatory Reform Task Force has to report up to the Secretary and the Secretary to the full administration on some forty-five or 120-day timelines, and I don't remember, but, if I can just get in there that the councils are participating and will be helping us implement the regulatory reform memo in your jurisdictions, I think that would be good, but I don't think it's something you've got to do immediately, Miguel.

*John Quinn:* Any other questions for Alan? Seeing none, thank you very much, Alan. Before we go back to Kitty's letter, we've got two more items. One is Leann Bosarge asked for a minute or two to talk about the red snapper issue. Then we've got one final council working group report of the senior staff meeting that occurred yesterday, and Chris Kellogg will be making that report. Leann, the floor is yours.

1 **24. COUNCIL FOLLOW-UP AND REPORT OF SENIOR STAFF**  
2 **MEETING**

3  
4 *Leann Bosarge:* Thanks, and, just to give you some background, I had a couple of  
5 different people approach me, people from around the table, asking  
6 me what's going on with red snapper, and I am assuming that's  
7 probably because red snapper, according to what Dave Whaley  
8 says, seems to have some creep these days into other things that  
9 affect other councils and maybe it's holding up some things that  
10 other councils might want, and so I said, well, rather than maybe  
11 addressing it individually, I will just give you a brief snippet of  
12 kind of what happened and where we're at and hopefully where  
13 we're going. If you don't care, feel free to check your email or do  
14 whatever else you want, but I will try and be brief.

15  
16 Red snapper, this has been going on for a long time in the Gulf.  
17 We were overfishing for quite some time. I think, in 1990, we  
18 were down to an SPR of about 2 percent, and so, if you can  
19 imagine, we had a pretty steep hill to climb to come out of that.

20  
21 In 2007, is really when we started to turn the corner a little bit and  
22 see a positive direction, and there were a lot of things that led up to  
23 2007, but, essentially, what we believe really helped to turn the  
24 corner is we implemented the IFQ program in the commercial  
25 fishery. We had a commercial fishery that was deemed to be  
26 overcapitalized, and we had to figure out the best way to  
27 essentially cut people out of that fishery and to try and do it as  
28 fairly as we could. That was a painful process. It was not fun, and  
29 it did take people out of commercial fishing for that particular  
30 species, my father being one of them.

31  
32 Looking back, and if you talk to him, he will tell you that it was a  
33 good thing and that it had to happen, and, if you were going to  
34 have to cut somebody out, people like him, he says, are the ones  
35 that needed to go. He did it as a sideline, and save the people that  
36 it was their mainstay that was going to make or break them.

37  
38 Anyway, the other thing we did in 2007 is we cut the quotas on the  
39 directed fishery. We went from about a nine-million-pound quota,  
40 overall, to somewhere around six-million. The next year, we cut it  
41 down to five, and so that's a pretty extreme cut in landings of those  
42 fish.

43  
44 We also implemented some pretty severe effort restrictions relative  
45 to bycatch on the shrimp fleet. The newest science, I am happy to  
46 say, shows that maybe that shrimp fleet doesn't have the impact

1 that we once thought that it did, but we're not unintelligent  
2 shrimpers, and we're going to keep our heads down and stay the  
3 hell out of it, if we can. As long as we stay under our threshold,  
4 we'll be all right.

5  
6 We kind of got that commercial side under control. Yes, it was  
7 painful, but we did it. They are surviving, and then we started to  
8 try and hone in, at the same time, on the recreational fishery, and  
9 we did what I think a lot of councils probably do to try and reign in  
10 recreational landings, and that's to cut the season. Typically, when  
11 you shorten the season, you're going to reduce your landings.

12  
13 Unfortunately, that has not been the case. It's a very, very popular  
14 fish, and we shortened the season and shortened the season, and  
15 we're just seeing an effort compression, and so they're hitting it  
16 just as hard, but in a very short period of time. They're focusing  
17 their effort during whatever window we give them. It's just a very  
18 popular fish.

19  
20 The traditional management measures on that side have not  
21 worked. The other thing that started to happen over the years is  
22 that -- I think it was the Mid-Atlantic that was talking about  
23 making sure that there weren't loopholes to have state and federal  
24 management that weren't real complementary. Well, we definitely  
25 have that in the Gulf with red snapper, and, in the states' defense,  
26 and I'm not a state representative, and I come from the commercial  
27 shrimp industry, but, in their defense, things have gotten that bad.

28  
29 Their constituents were screaming at them that you've got to do  
30 something for us, and so, whether we like it or not, they were  
31 trying to make it better for their fishermen, and so we do have state  
32 seasons that are outside of the federal season, and, as those state  
33 seasons have gotten longer and longer, on average, on each year,  
34 it's one stock of fish, and we've got to take that off the federal  
35 season, and so that's kind of exacerbating, a little bit, the  
36 shortening of the federal season.

37  
38 As that was happening, the recreational fishery, and you've got  
39 private anglers, and you have your for-hire, the charter and the  
40 headboats. The charter and the headboats, according to their  
41 permit, they can't fish in that state-water season. They have to  
42 abide by the stricter of the federal or the state rules, and it's  
43 federal.

44  
45 What was happening is -- They were on a trajectory to end up on  
46 the endangered species list, because they weren't able to fish

1 except in the federal season, and we may eventually get to the  
2 point where we have no federal season, and so what we did was we  
3 went in and we did a thing called sector separation, where pretty  
4 much what we did is take that recreational quota and look at  
5 historical landings, for-hire versus private angler, and come to  
6 some middle ground compromise and set aside a certain portion of  
7 that allocation that would be for the for-hire and a certain portion  
8 that would be for private anglers, and so that's where we're at  
9 today.

10  
11 It seems pretty clear, to me anyway, that the traditional  
12 management measures that we have used in recreational fisheries  
13 are not going to work for this species. We are going to have to  
14 find a different way to attack that management to let them catch  
15 their fish when they want to catch them.

16  
17 Some court cases have forced us to put even bigger buffers on top  
18 of the quota and on top of the scientific and management buffers  
19 that we already had for recreational anglers, and so they have a 20  
20 percent buffer on their quota, on their ABC, and so that's what  
21 they're shooting for, and so there's a lot of things that are really,  
22 really hurting the recreational fishery right now.

23  
24 Here is the positives that we have right now. We've got a couple  
25 of things going for us. It took a year-and-a-half, I guess, but we  
26 have finally been able to form a purely private angler red snapper  
27 AP, to let them look at -- Educate them that this is where we're at,  
28 these are the parameters we have to work within, and please tell us  
29 how you want your fishery managed.

30  
31 Strangely enough, it took us that long because, really, there was a  
32 lot of angst from the recreational council members to form that  
33 group, and that's understandable, because change is scary. It's  
34 going to mean change, but we've got to do that, and so that's one  
35 thing that we have going.

36  
37 They just met for the first time last week, I think it was, in New  
38 Orleans, and we're hoping to -- I went to that meeting, and the  
39 questions that they asked were so insightful. It really helped me to  
40 take a look at it, and, even though I look at it every day, right, and  
41 I'm constantly thinking it and breathing it, it made me look at it  
42 differently, like, oh, you know what, maybe we could try that.  
43 Let's see. Let's see if the science will support it.

44  
45 I have some ideas, and I'm going to bring them back to the  
46 council, and hopefully we can start to move forward with that, plus

1 any new ideas that comes out of that group. They really want to  
2 meet again and get more information, because it was a lot of  
3 people that weren't involved in the process prior to this, and so  
4 they had a big learning curve to hurdle.  
5

6 The other thing that I really think that has benefited us, and will  
7 continue to benefit us, is we have one hell of a Regional  
8 Administrator in the Gulf. If you can imagine the bills that are  
9 going through Congress right now, and then you come to that  
10 council meeting, sometimes you could cut that tension with a  
11 knife. It can get very polarized, and Dr. Crabtree has really  
12 stepped in and kept the states and the feds talking to each other and  
13 working together and even keeping the states talking amongst  
14 themselves. Believe it or not, sometimes they don't want to talk to  
15 each other, and it gets kind of strange sometimes, and the  
16 fishermen.  
17

18 It was getting to the point where the fishermen were getting jaded,  
19 right, with the system, and so he actually has -- What does he call  
20 them, roundtable sessions or question-and-answer sessions, and so  
21 we have our council meetings. After the council meeting, after  
22 hours, we publicize it and everything to come and see us. You sit  
23 down one-on-one with the Regional Administrator for the  
24 Southeast fisheries, for NOAA, for NMFS, and so he answers  
25 those questions of all those fishermen that come there, and they are  
26 not easy questions, and they are usually passionate, right?  
27

28 He is answering their questions, and that's really starting to --  
29 That's helping. They understand that it's not a glass tower  
30 somewhere and that they can come there and they can talk to the  
31 man that people say is the problem or the council is the problem  
32 and we hate you.  
33

34 He is very accessible, and I think that really is starting to make  
35 some strides, and so that's where we're at. It's certainly not going  
36 to be solved tomorrow or the next day, but we are open to  
37 suggestions, and so, if you feel that it's starting to impact you and  
38 you want to throw an idea at us, the more the merrier. We  
39 appreciate it, and that's where we are, and so thanks. Thanks for  
40 the five minutes of fame there.  
41

42 *John Quinn:*

Thank you very much, Leann. I am now going to go to the last  
official piece of work on the agenda. Chris Kellogg is going to  
give the summary of the Report of the Senior Staff Meeting.

44  
45  
46 *Chris Kellogg:*

Okay. I am going to try to get through this pretty quickly, and then

1 you can ask any questions, because a lot of these are probably  
2 things that are down in the weeds. To summarize, senior staff  
3 representatives from seven of the councils met yesterday to  
4 exchange ideas about best practices for improving council staff  
5 operations.

6  
7 The topics included, but were not limited to: improving analytical  
8 and decisional documents, including templates, document  
9 organization, project management, and technical reviews;  
10 coordination and implementation issues, and that's coordination  
11 with NMFS and the commissions; action plans; plan teams; project  
12 descriptions; and timelines.

13  
14 Also, council staff management issues, which included personnel  
15 rules, staff training, and office procedures, staff meetings and  
16 retreats, and, finally, council staff development, staff evaluations,  
17 staff motivation, development, and training.

18  
19 Understanding that there are differences in needs, processes, and  
20 resources in every region, some suggestions for improving the  
21 efficiency of council management processes in each region were  
22 discussed.

23  
24 First, developing document templates that provide standardized  
25 formats for structure and content and provide guidance to analysts  
26 on how to approach each section improves efficiency. Councils  
27 that have used templates have found that they reduce the review  
28 time, reduce the size of the documents, by focusing only on  
29 pertinent issues directly related to that particular action. Finally,  
30 they ensure that all required issues are addressed.

31  
32 Now, a key in this, developing these templates, is the council and  
33 NMFS staff and NOAA GC should have an opportunity to weigh  
34 in and agree to the templates, and that's really more than an  
35 opportunity. The councils need the input from NOAA GC to make  
36 sure that they don't have to come back and add things later on.

37  
38 Another suggestion is that a working group of Regional Office,  
39 SFD, NMFS reviewers, NOAA GC, and council staff should  
40 together develop a front-loading process, essentially action  
41 planning, that establishes a standard process for coordinating  
42 development and completion of the analyses by the deadlines. For  
43 some councils, a working group could also be helpful in tracking  
44 progress in reviewing draft documents before submission.

45  
46 Both the North Pacific and Pacific Councils have successfully used

1 programmatic EISs and NEPA tiering to reduce the amount of  
2 paperwork and time needed to develop specifications. Other  
3 councils who routinely prepare specifications could possibly  
4 improve their work flow by exploring the use of programmatic  
5 EISs and supplemental information reports.  
6

7 Finally, a suggestion for improving coordination is to improve  
8 communications by scheduling meetings between council staff and  
9 NMFS SFD staff to discuss common issues and coordinate  
10 projects. Some councils do this through plan teams, but, in  
11 addition, meetings between council staff and NMFS Science  
12 Center staff can result in more robust analyses and can streamline  
13 the final review.  
14

15 Findings concerning staff management and administrative issues  
16 where council staffs could benefit from each other by exchanging  
17 information on analytical methods, technological knowledge, and  
18 other issues, an online folder could be set up for council staff  
19 members to share information and documents.  
20

21 Having a single comprehensive dataset for as many types of data  
22 as possible greatly improves the efficiency of management  
23 analyses. The North Pacific and Pacific Councils have benefited  
24 from having centralized sources for commercial fisheries data.  
25 These are known as PacFIN and AKFIN.  
26

27 Additionally, some council staffs have found having the in-house  
28 capability to pull data from these resources routinely has improved  
29 overall efficiency. Staffs and the public could also benefit from  
30 updating the information on the CCC website, which describes  
31 each council process for developing management actions. For  
32 example, the structure and process varies in each region, and  
33 summary materials could be posted to help translate council  
34 processes to the public.  
35

36 Having regular staff meetings unrelated to council agendas are  
37 beneficial for generating new ideas for office operations and  
38 initiatives for communications. Staff operation handbooks are  
39 useful for sharing best practices.  
40

41 Some council staff evaluations use numerical criteria, while others  
42 are qualitative and are issued as either verbal or written  
43 evaluations. The group discussed the pros and cons of the different  
44 approaches. Formal evaluation frequencies range from annually to  
45 every two years. One finding was self-evaluation by employees  
46 were found to be valuable for staff members and supervisors, as

1 part of that process. Evaluations can be an effective time to look  
2 ahead to identify goals and objectives for the upcoming year and  
3 update position descriptions. Finally, the value of including  
4 professional development and performance plans, subject to budget  
5 and work constraints, was recognized.  
6

7 In summary, the working group found the meeting very useful. I  
8 personally think it provided the best opportunity, to date, to  
9 exchange information broadly about staff operations. Finally, the  
10 group is optimistic that it will establish a strong basis for  
11 exchanging ideas in the future, and, with that, the group didn't  
12 have any specific recommendations about future meetings, but  
13 thought that settings like the one outside were definitely conducive  
14 to information exchange.  
15

16 *John Quinn:* We will have the record reflect that, Chris. Thank you very much  
17 for your presentation. Any questions of Chris? Seeing none, thank  
18 you very much.  
19

20 *Chris Kellogg:* I would like to thank the rest of the group for contributing, and it  
21 was largely their work product.  
22

23 *John Quinn:* Thank you. I am going to go back to Kitty on an update on the  
24 letter.  
25

26 *Kitty Simonds:* I have conferred with the usual suspects, and so we need a little  
27 more time. Given the comments, and we understand everybody's  
28 comments, and we still think that we should write to the two  
29 secretaries, in terms of international aspects and issues, but not  
30 concentrating on ours.  
31

32 This is a new administration, and Secretary Ross has talked about  
33 balancing the trade deficit and importing less fish and for all of us  
34 to be -- I don't want to say fishing more, but sustainable fisheries  
35 and increase our production, and so, if you will allow me to do this  
36 and get back to you all next week, and then you can all review it,  
37 and we either do it or we drop it.  
38

39 *John Quinn:* Sounds good. Thank you. That concludes our formal agenda. In  
40 wrapping up, I am going to ask Tom Nies to share a few words and  
41 then Sam Rauch. Then I'm going to go to next year's host, the  
42 North Pacific, for coming attractions. Tom Nies.

1 **25. MEETING WRAP-UP/NEXT MEETING PLANNING**

2  
3 *Tom Nies:* I've got a few follow-ups that we're going to put on the board. I  
4 just want to go over these to make sure we've got everything and  
5 that we know what's going on.

6  
7 *John Quinn:* Why don't we do this, Tom? Chris Moore had one thing to add.  
8 Chris.

9  
10 *Chris Moore:* Thank you, Mr. Chairman. Just quickly, the other day, when Dave  
11 Whaley was talking to the CCC, he mentioned that it might be a  
12 good idea for us to develop a document, a one-pager or a two-  
13 pager, documenting the importance of the councils and why  
14 they're important to our nation's fisheries, and I think that's a good  
15 idea. We really didn't talk about it. He said it, and no one really  
16 picked up on it, but I think that would be a good task for our CCC  
17 Communications Workgroup, and so, if everyone else agrees, I  
18 think that would be a good charge for them.

19  
20 *John Quinn:* Any comment or discussion on that? Seeing no objection, it's  
21 adopted.

22  
23 *Tom Nies:* So that's not on the list. Just real quickly, this is one that was  
24 brought up, and I just wanted to highlight this for the agency,  
25 because I am not sure that we clearly said this the other day, but  
26 we were hoping that, with respect to the MRIP weight  
27 conversation issue, that we might receive an update, or perhaps a  
28 final report, at the February meeting next year on that.

29  
30 We will send a letter on the monuments, and you all signed it here  
31 this afternoon, and we'll get that out right away to the secretaries.  
32 As I mentioned the other day, NMFS was going to track down a  
33 letter on tax-exempt status, or figure out how to get that started,  
34 and NOAA GC was going to provide us a copy of an opinion on  
35 inherent governmental functions.

36  
37 The next slide highlights that we're going to post the revised  
38 Terms of Reference on the RFMC webpage. The Legislative  
39 Workgroup will continue to work on Topics 11 through 15, and the  
40 councils are supposed to provide additional information on  
41 regional perspectives to the Legislative Workgroup, and the other  
42 item that we will add is the council communications group will  
43 prepare a one, or no more than two, page document summarizing  
44 the importance of the councils, and Janice will get them started on  
45 that, and we'll circulate it later. Those are all the follow-ups that I  
46 had, and I don't know if there is any others that I missed.

1  
2 It doesn't seem like there are, and so I would like to take just a  
3 short moment and -- Sam and Alan, I want to make sure that you  
4 know that we thank your staff, particularly Hannah, for helping us  
5 plan the meeting. It was very nice having a single point of contact,  
6 so we didn't have to run around and chase down either  
7 presentations or checks for the social events. It made it easier, and  
8 I would also like to thank all of the other Executive Directors for  
9 helping to put the agenda together, and, once more, I would like to  
10 acknowledge Joan's efforts in putting together all of the details,  
11 assisted by Won and Sherry, who didn't make it over to the  
12 meeting today, and a couple of other staff worked on this as well.

13  
14 *(Applause)*

15  
16 *John Quinn:* Now we're going to call on Sam Rauch.

17  
18 *Sam Rauch:* Thank you, Mr. Chair. I just wanted to join in the thanks, from the  
19 Fisheries Service perspective. I know a lot of work goes into these  
20 meetings, and we appreciate it all. I think this was an excellent  
21 meeting. The social events were good, and thank you to the  
22 sponsors for those, and this is an important relationship that the  
23 Fisheries Service has with the councils. This meeting helps  
24 strengthen that, from a national perspective, and I think it's very  
25 valuable, and I appreciate all the time and attention that everybody  
26 gave to this meeting, and so thank you.

27  
28 *John Quinn:* I will open the floor, if anybody wanted to make any comments.  
29 Seeing none, I am now going to call on Kitty for one minute.

30  
31 *Kitty Simonds:* Mr. Chairman, we heard a rumor a week ago about someone in our  
32 special group of Executive Directors who has been offered a  
33 position and has conditionally accepted it, and so we have a little  
34 gift for him, but it's not to be opened until he has been vetted by  
35 the White House.

36  
37 *(Applause)*

38  
39 *Kitty Simonds:* I do have a suggestion that I expect you to hang that in your office,  
40 and I expect the other councils to send you something from their  
41 council so that you never forget where you came from.

42  
43 *Chris Oliver:* I am not at liberty to say anything, other than I appreciate it, Kitty.  
44 In one way or another, I will continue to work with all of you, and  
45 so I look forward to that.

46

1 With regard to next year's meeting, that's going to be in Sitka,  
2 Alaska, the week of May 21 to 25. I think we would probably plan  
3 a similar format. The councils would meet Monday afternoon, and  
4 our formal meeting would take place on Tuesday, Wednesday, and  
5 into Thursday.

6  
7 For those of you who have not been to Sitka, or even to Alaska,  
8 you will love it. For those of you who like to fish, there are lots of  
9 charters available. Late May is not only good fishing for halibut  
10 and rockfish and lingcod, but it's approaching prime time for the  
11 mighty king salmon, and so it's an excellent time for fishing, for  
12 those of you who are into that, and so May 21 to 25. I or someone  
13 will be getting back to you with more details on that.

14  
15 *John Quinn:* Sounds great. Thank you very much, Chris. Again, on behalf of  
16 the New England Council, we hope you enjoyed your time here.  
17 We really appreciate it, and we're looking forward to seeing you in  
18 Alaska.

19  
20 I felt so guilty about working through lunch that we've brought in  
21 a lunch of hot pretzels for you, and so, on the way out, have your  
22 free lunch of hot pretzels, but, again, thank you very much, and we  
23 stand adjourned.

24  
25 *(Adjourn)*