

U.S. Department of Commerce
National Oceanic and Atmospheric Association
National Marine Fisheries Service
Council Coordination Committee (CCC) Meeting
Thursday, October 20, 2022

The Council Coordination Committee met at the Holiday Inn - Capitol Hill, 550 C Street, Southwest, Washington, D.C., at 9:00 a.m., Michael Luisi, Chairman, Mid-Atlantic Council, presiding.

Council Members:

New England Council:

Eric Reid, Chair
Rick Bellavance, Vice-Chair
Tom Nies, Executive Director

Mid-Atlantic Council:

Michael Luisi, Chair
Wes Townsend, Vice-Chair
Chris Moore, Executive Director

South Atlantic Council:

Carolyn Belcher, Chair
Trish Murphy, Vice-Chair
John Carmichael, Executive Director

Caribbean Council:

Marcos Hanke, Chair
Carlos Fauchette
Miguel Rolon, Executive Director

Gulf of Mexico Council:

Dale Diaz, Chair
Greg Stunz, Vice-Chair
Carrie Simmons, Executive Director

Western Pacific Council:

John Gourley, Vice-Chair
Kitty Simmonds, Executive Director

Pacific Council:

Marc Gorelnik, Chair
Brad Pettinger, Vice-Chair
Peter Hassemer, Vice-Chair
Merrick Burden

North Pacific Council:

Bill Tweit, Vice-Chair
David Witherell, Executive Director

NOAA Fisheries Headquarters:

Janet Coit, Assistant Administrator for

Fisheries

Sam Rauch, Deputy Assistant Administrator
for Regulatory Programs

Jim Landon, Director, Office of Law
Enforcement

Jon Hare, Science and Research Director,
Northeast Fisheries Science Center

Adam Issenberg, NOAA Office of General
Counsel

Richard Methot, Senior Scientist for Stock
Assessments

Stephanie Hunt, Branch Chief NOAA
Fisheries Office of Communications:

Rebecca Ferro, Deputy Director

NOAA Fisheries Regions:

Jon Kurland, Alaska Regional Office

Sarah Malloy, Pacific Islands Regional Office

Korie Schaefer, West Coast Regional Office

Andy Strelchek, Southeast Regional Office

Michael Pentony, Greater Atlantic Regional
Office

Other participants:

Jessica Coackley, Mid-Atlantic Fishery
Management Council

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Proceedings

(9:03 a.m.)

Chair Luisi: Good morning, everyone, I'd like to call this meeting to order. Today is Day 3 of the Council's Coordination Committee and we have a number of items on our agenda this morning. This is a half-day session.

Everyone has been really doing a great job of staying within the timeframes that we've had set up and I know the last day of the meeting is typically the most important because people have travel and flights and all types of arrangements to get home.

So, we are going to stick to a pretty strict schedule today.

I believe the check-out time for the hotel is at noon so our break that we take around 11:00 a.m., 11:15 a.m. will give everyone an opportunity to grab bags if they them in the room and get themselves checked out.

Last night was not a very good night for Philadelphia sports. The Phillies lost in an upsetting loss after being up a number of runs and then I flipped around and then I saw the Flyers game and watched that and they lost too.

It was a little bit of a disappointing night but it's all good. Let's get things kicked off this morning. We have an update on National Standard 1, the technical guidance work groups.

And I'm going to turn things over to Stephanie to give a brief background and then we have Rick Methot on the webinar.

He's getting access to be able to get through the audio right now so we kind of need to buy him in at the time but I'll turn to Stephanie to get things kicked off.

Ms. Hunt: That's a lot of pressure. I have one slide

so I'll talk really slowly. Hi, everyone, I'm Stephanie Hunt, nice to see you again this morning. I'm not Kelly Denit, Kelly couldn't make it this morning.

I've talked to everyone who's been around for a while many times about the National Standard 1 technical guidance work groups.

After we revised the guidelines in 2016 we formed a technical guidance working group and several subgroups to provide more detailed guidance on some of the topics in the new guidelines.

We have three subgroups, one is on reference points, the second one is on carryover and phase-in, and the third one is on essentially data-poor ACLs, how to manage with ACLs when you have data-poor fisheries.

We completed the tech memo on carryover and phase-in back in 2020. We recently completed the data-poor ACL tech memo and Kelly sent that around to the CCC so that's final in the form of a technical memorandum.

And the final work product that we have been working through is on reference points. Rick Methot is on and ready to go and so this is one you've been asking about a lot.

It's a complicated topic and we're trying to really keep the scope at a level that we can actually get it done and it's coming along now and Rick's going to be able to provide a good background on what's in there and then a timeframe for when you might see it.

Chair Luisi: Thank you, Stephanie, for buying us a little time. I'm going to turn things over now to Rick. Rick, do you want to check your audio with us?

Dr. Methot: I will check my audio first here, how are we doing?

Chair Luisi: You sound great, thank you.

National Standard 1 (NS1) Technical Guidance Workgroups

Dr. Methot: Very good, and I'm glad to have an opportunity to be with you all once again. It has taken us a very long time to get to this point with the reference point document.

I reflect back on the fact that our current guidelines are from 1998 but it really took us about seven years to get there. We started working on that really throughout the 1990s and they really helped us get to the points that we're at today.

But we do have a number of things that we're looking to update here and I'm glad to give you that update. Next slide, please. A quick overview of what we've been able to cover with this document.

Most of our effort has gone into clarifying what we call the Tier 1 approaches, that is to go after defining the reference points on the basis of age or like-structure population models that give us the most detail about what the population is doing and how it is affected by the fisheries.

Within this category there's both direct destination, which you identify in a number of your FMPs, as well as proxies for this and that's actually where we spend a lot of the document trying to describe our approaches for doing the proxies.

We also covered the Tier 2 or the biomass dynamics models and then spent a good bit of time on discussing the data unit approaches, which have become prominent in a number of regions in order to cover the status determination for more spots.

In addition to these topics, we have a section looking at the multi-year approach to determining over-fishing conditions. We cover over-fished and approaching an over-fished condition.

Historically, we've not had a lot of attention on the determination of approaching an over-fished condition, so we are providing some technical guidance on that topic as well.

A very important topic that we spend time on is updating reference points for prevailing conditions, as those conditions are viewed to change, and a number of other additional considerations.

The status of the document is such that we completed a full draft mid-summer. It went out for review by our science centers and regional offices, so we've had that first round of full internal review and at this point we're working on responding to comments.

We have a bit of work to do to respond to those comments and we are looking for to getting a document available for you within a few months. Next slide, please.

What we see here is really this alphabet soup that's really at the heart of National Standard 1 guidance for reference points. Certainly, we all live and breathe that the harder you fish the lower the biomass, and it's not linear.

So, there is a fishing mortality rate, or an F that gives you maximum yield at an intermediate biomass level. This is what we're searching for, getting to that point but not past that point.

Fishing harder than that point is overfishing because you're not getting any more yield for that extra fishing. There is a lower biomass threshold termed minimum stock size threshold or MSST that is the trigger for over-fished determinations.

In between, the biomass that gives you maximum yield and this MSST is a caution zone in yellow on where over-fishing is occurring but the stock is not necessarily as low as over-fished.

It is possible to have sustainable over-fishing. All

points along this curve are in theory sustainable. The curve will still have fluctuations around it but there will be potential for the stock to be sustained at that level.

So, we're looking to sustain somewhat to the right of the peak and we have a lower level, the MSST, that we've certainly looked to avoid.

We do recognize and want to clarify that there is possibility for there to be essentially sustainable over-fishing and that certainly has happened in the history of some stocks.

Next point. Within our Tier 1 approach or the age-structured methods, again we have the direct estimation where we typically would have a spawn-recruit relationship, or SRR, and we spend a lot of time discussing the great regional differences we have in the tentacle manners of this.

It was one of our major hurdles to try to get a good grasp on what are the differences we see across the country in approaches to doing this.

Estimation of the parameters of that curve is an issue as well as trying to share information across stocks to use things that we've learned from well-studied stocks and create what we call a prior from that so that we can then use that to help us guide the estimation for more data-moderate stocks.

We also recognize that there's a range of proxies that are in use today. These have been put in place in FMPs as early as around 1990. And these have been in place and have been consistent for a number of years in most cases.

They aren't all the same, they cover a range of fishing stock down to about 30 percent of the unfished level up to maybe only 50 or 60 percent, and we see FMPs covering that range.

We recognize that range is in the vicinity of the biomass that would give you MSY, we don't

recommend that any of these need to be changed but we do recommend that if a change is considered the Council take an opportunity to Commission a full MSE to really understand the impact of fishing mortality rate on all of their objectives that they are trying to get from that fishery management plan.

So, MSE, or a management strategy evaluation, is basically historically what was used to create these proxies and if they're to be updated, a new MSE using water techniques is what we recommend.

Next slide, please.

For the biomass dynamics models, they aren't used as much today but they do provide a good conceptual basis for how sustainable fisheries work. A couple slides ago, that diagram basically was a biomass dynamics model.

There is a development in their methods to make them more flexible like age-structured methods, but nevertheless, we see a lot more work on using age-structured methods to be used in biomass dynamic situations as well as data-limited situations, which I'll get to.

So, the model of the system can be age-structured even when the data are not, and that's an important point.

We can model a system to have all of the characteristics of age-structured population that has time lags in it, that has variable impact of fisheries, but we don't necessarily have to have data that is as detailed as that.

Our modeling today is able to deal with those situations.

Next slide, please.

For approaches to calculating MSY-related quantities and data-limited methods, it can take three forms. One form looks at basically a recent snapshot, a

recent sample of the age composition or length composition of the population.

When we do that, the fewer large fish we see, the inference is that the stock has been experiencing more fishing in order to have reduced that proportion of older or larger fish.

All of these data-limited methods rely on more assumptions because they have less data. It's hard to characterize the uncertainty in the various assumptions that are made.

So, we can use this sample in order to give us inference about how hard of fishing has happened, but we don't have detailed data about that so there are assumptions in the model in order to get to that point of being able to make conclusions on the basis of limited data.

So, we don't have a direct input or direct output in terms of trends and stock biomass but what we do get is an estimate of the ratio of the current biomass to the biomass that would have occurred in an unfished condition.

We call this ratio SPR or spawn-potential ratio. It's basically the percentage of spawning biomass that we have today compared to what we would have had if we hadn't been fishing.

This means we can compare the current measure of SPR to the SPR that would have occurred if we were fishing right at FMSY to determine if over-fishing is occurring.

We also can compare is to the SPR that would correspond to the biomass as low as SST. So, these are all ratios, we're looking at not outputs that are in terms of biomass, they're in terms of relative biomass, relative to what they would have been if we hadn't been fishing.

So, in this diagram fishing down to the blue line means we have fishing hard enough to get to the

over-fishing level. But if we fish SPR down further to the red vertical line, then we're at the over-fished point.

So, we're measuring the same thing, one looking at it as the current rate, and the other is the impact of that rate on relative biomass. Our working group believes this is sufficient to determine whether or not a stock is approaching an over-fished condition.

We've not gotten to that point of using the logic as it extends through to get to that point. We now believe the evolution of our models allows us to make that support.

Next slide, please.

We spent several months this spring deliberating on this issue of changing prevailing conditions.

What we find is that we already are routinely updating our reference points for changing fishery characteristics like selectivity and fleet allocations.

We also are routinely updating for changing biology like growth and natural mortality rate, which are factors related to how everything happening in the ecosystem and environment is affecting the fish.

However, changing expectations for recruitment, which is what you see in this diagram and recruitment sets the scale of the population, it's how many young fish are coming in, it's been harder for us to address this.

Because basically, our paradigm has been that changes in the mean level of recruitment is something that's going to happen as we fish harder or less hard, and so there's external factors also changing it.

Then we have a challenge because now it's hard to separate the changes that are happening because of fishing from the changes that are happening because of the changes in the environment and

ecosystem.

We recognize that we really should move towards more of a trailing average approach that could shift the baseline so that fishing is far, but we also -- excuse me, let me do that one again.

We also recognize that simply following a trailing average approach for everything doesn't have enough history to it, it doesn't continue a perspective of what's the long-term for this stock.

So, we could just shift the baseline continually, constantly changing the mean recruitment, the mean biology, the mean fishing characteristics as things evolve but that doesn't allow us to continue a long-term perspective of what's the cumulative impact on this stock over time?

What we're trying to avoid is continuing to fish harder, harder on a declining stock and that easily can happen if you were simply following a trailing average shifting baseline approach.

So, we need to find a way to build flexibility into our approach so that we do not automatically go into just a trailing average approach.

We need to figure out a way, and we don't yet have this, we put this out in the technical guidance as something that is going to need some concerted work of thinking about how do we go about taking a long-term perspective?

It might well mean tell the truth we need to come forward with two sets of calculations, one is a set that is based upon very prevailing conditions that that is what the stock is doing today, this is what we're likely to see happening in the near term, it's how fast it could rebuild if we found we needed that stock to rebuild.

But also to do a set of calculations that's based upon as long and broad a history as we can so that we have that perspective, so that we can reduce

fishing mortality rate as needed if we find the stock has much declined below long-term levels even though currently, it doesn't show the evidence of being able to get back to that level.

It's an important point and something we are continuing to work on. Next slide.

I just want to briefly mention there's a number of other things that come up that we have covered in the document.

We look into the multi-species considerations to a brief degree, we have a section on fleet dynamics on how the complexity of having multiple fleets, some with disoccurring, and others targeting young fish versus old fish, how all that plays out, the complication that it gives.

We talk about spatial complexity, density dependence and other life fishery factors beyond spawn of recruitment.

The impact of size-selective fishing, which is a real phenomenon such that the effective size-selective fishing means that fast-growing fish don't survive as easily as slower-growing fish, and this has some impact.

And finally, units of reproductive potential is something we're getting better at measuring but we haven't updated our reference points to use the new units of reproductive potential.

And that's a technical fix that we believe is feasible and a wise idea to proceed with. That completes my presentation and I'd be glad for any questions or comments.

Chair Luisi: Thank you very much for the presentation. Before we go to comments, and I may have missed it as I stepped out of the room right at the end to get some coffee, is there an expectation at this point from the CCC?

Is there a need for action in any way or was this more just of an update?

Dr. Methot: This is an update, this is giving you more of the meat of what's in our document and our approach.

We've not been able to provide that to you previously and it is also letting you know we are to the point of having a full draft and we are looking towards getting something to you for your feedback.

Chair Luisi: Perfect, thank you very much. Let me look around the table to see if there's anybody that has any questions or any comments at this time. Tom Nies?

Mr. Nies: Thank you, Mr. Chair.

Thanks, Dr. Methot, for the presentation, I'd like to express appreciation for the fact that this document is addressing at least in some measure the stationarity idea, an issue that has come up a number of times in New England.

But I do have a couple questions. The first, it seems like all of the methods that you've talked about, and maybe I'm not accurately characterizing them, need some age growth information, including the SPR approach.

Is that accurate? We have a number of stocks that we manage that are fairly important but we don't have accurate age and growth information and we cannot calculate some of those biological parameters.

Dr. Methot: Thanks for your question, Tom, I appreciate that. You're absolutely right that there's a number of things that are difficult to measure and we don't have complete measures of them.

We do recognize that everything we measure is measured with some degree of uncertainty and by taking that into account, we're able to share

information across stocks. We routinely find that in other regions we'd had to share information for the stocks.

Even looking at taxonomically, what does that species' growth rate look like at other regions?

So, it's a cascading approach that allows us to use detailed information for that stock where we have it and to borrow information from other stocks where we don't.

Mr. Nies: My second question relates to something you touched on in special considerations and that's the spatial complexity. I suspect that you're familiar with our management of the scallop fishery where we apply different F rates in different areas, taking into account that some areas can't be accessed.

Does the tech memo discuss the implications of that sort of management approaches on the overall over-fishing limits?

Dr. Methot: Not explicitly. That is a good, detailed question, Tom. We've not touched upon the particulars of a highly sessile stock, like scallops.

It's a great example of how extreme things can be when you essentially are doing that kind of a rotational harvest and it gets to the heart of the issue of what is the managed stock versus what is the impact of fishing on a segment of the biological stock?

There's a great continuum of degree to which stocks are local versus global, by global I mean coast-wide globally. We see a wide range and we see a lot of that happening on the West Coast where stocks are spread out over a wide area.

They seem to be the same genetic stock but they don't mix freely all along the coast, so scallops are extreme with that. We do touch upon that, there's a tremendous amount of research today going into how best to deal with spatial situations like that.

But something as particular as, essentially, the rotational harvest of scallops, no, we do not touch upon that because that's more of a control rule issue and not a reference point issue, and we have focused this document on the reference points.

Mr. Nies: Thank you.

Chair Luisi: Thanks, Tom, for those questions, thanks for the answers, Rick.

Mr. Burden: Thank you, Mr. Chairman, and Thank you, Rick, for the helpful presentation. I'm looking at your slide titled updating reference points for prevailing conditions.

There's this first recommendation, track changes within empirical trailing averages. And during this meeting we've talked a lot about climate change and as I think about the effects of climate change on species, one of them will be a change in productivity.

And what's running through my mind as I look through this recommendation is if we're using empirical trailing averages, we're always going to be behind the curve on what the productivity is of a given stock if it's being affected by climate change.

I'm sure that's not a new thought for you and your colleagues but I'd be appreciative if you could reflect on that observation and how it nests in with these recommendations.

Dr. Methot: Thanks for that and very much that was on our mind.

We addressed that more in the second dart bullet where if environmental drivers are identified, explore ways to directly incorporate them into the assessment model.

Essentially, that means that if we can we would forecast what the reference point will be in the future given the trends that we see. That's the ideal

to get to that point and so that's the ideal.

The fallback is the trailing average approach which is basically what you've seen recently is probably pretty close to what you're going to see in the near future.

But if you could actually project the future, that's where we want to be. However, in both of those cases, we still have the caution of you could end up recommending continued fishing for a full rate, a full FMSY rate, on a stock that was declining.

And that's counter-intuitive that we would be doing that and so we try to find a way to build into the approach a pause button when we see that situation arising.

Chair Luisi: Thank you for that. Bill?

Mr. Tweit: Dr. Methot, a follow-up to that, particularly to the last point, which you've also captured in that second-to-last bullet. Isn't it in a way a words matter sort of thing?

If it is a stock that is simply declining versus a shifting productivity situation, they both can look the same on a graph and yet they contain, when you think about them, very different risk levels in terms of F.

And so that choice of terminology about it's a declining stock implies a strong conservative necessity.

If instead you were to say, well, it's simply shifting productivity regimes, that implies, all right, we simply need to reframe our logic, as you imply in your final bullet.

So, I guess in a way I'm almost re-asking Merrick's question, just from the other end of your answer, which is what are the tools we're going to using to avoid having every single situation be labeled a declining stock when many of them appear to be

simply shifting productivity regimes?

Dr. Methot: Yes, I agree that is essentially the question trying to separate the effect of historical fishing on stock decline, because we expect some degree of stock decline to occur because of fishing and we're looking for an equilibrium point, or quasi-equilibrium point, that would be just the right amount of fishing.

That's happening at the same time that the environment is affecting fish stocks.

We now have several more decades of monitoring stocks and we find that patterns like I show on this slide are all too common, that things shift up and things shift back down.

And that doesn't mean that we know what the ultimate long-term average is, that there are fluctuations that occur and that we should be responsive to them.

But we also want to, now that we're fully fishing these stocks, not prevent them from being able to attain their full potential.

So, being mindful of the fact that stocks that once had been more productive means that we shouldn't necessarily just shift to fishing at the full FMSY level on a stock that is now at a lower productivity regime than what it was previously able to sustain.

Because there is the potential that we don't have the complete picture, that the decline has indeed had a larger constitution from fishing and we need to provide that potential for the stock to achieve its MSY.

It's a very difficult question, trying to separate these effects and we only have one history to look at. We only have one history that is several decades of looking at how this fish stock has responded to past fishing.

And unfortunately, that's not enough. Ask me again in 100 years and we will have a clearer picture on how fish stocks respond to fishing.

But the few decades that we have built is better than it was when we created the guidelines in the 1990s, but it still is showing that there are regime shifts like this as well as long-term changes that are more difficult to deal with.

We look at declining stocks from both a sustainable fisheries perspective to have as much productivity as we can but we're also mindful of holistic ecosystem impacts as well as stocks being considered from a protected species perspective if they were to decline further.

And so those additional considerations are there to be considered as well.

Chair Luisi: Thanks for that. We'll have Kitty ask that question in 100 years.

Ms. Simonds: Thanks, if this doesn't help our over-fishing and over-fished fisheries in the territories for now.

Chair Luisi: Are there any other questions for Rick, any other comments? John?

Mr. Gourley: Thank you, Chair and Rick. I had a comment that I wanted to back up on.

Stock assessments is something that I'm not going to claim I'm an expert on but every stock assessment is based on data and the data-poor fisheries that we have in the Western Pacific are driving us crazy.

Each data set we use for our stock assessments has to go and be BSIA.

And you really need to look at this I think a little bit more closely, maybe give it a little bit more effort because BSIA, keep in mind, is only two letters away from BS.

And if you look at the data quality as well as the data amount, and then you look at some of the reference points that Tom mentioned that he doesn't have, what you're doing is you're starting off with one foot in the grave and you're building uncertainty upon uncertainty upon uncertainty.

And it seems there should be some sort of threshold where BSIA could be evaluated and where we would throw our hands up and say, okay, no stock assessment. Is it really going to be valid?

I remember in college there was a sign up in the computer lab, crap in equals crap out, and we have a feeling that is what happened in the Western Pacific with our American Samoan bottom fish.

This fishery is nothing, it's a nothing burger, small boats, hand lines, but yet, it's experienced in over-fishing and was determined to be over-fished.

There's no big commercial activity, it's mostly sold locally so we just don't understand the stock assessment determinations based on the real life.

So, that was basically the end of my comment is that we really need to look at the data that goes into these stock assessments. Because the outcome, guys, has a very real possibility of negatively affecting our fishing communities.

And we don't want to overstate the importance of, oh, we've got to have a stock assessment and yet we'll get a stock assessment that really is questionable, and then we hurt our fishing communities unnecessarily.

That's just a comment on the basis of the stock assessments. Second comment has to do with the h2 flexibility provisions. It seems like this doesn't quite go far enough with some of our data-poor stocks.

And perhaps the Councils can come together and discuss a legislative fix that would exempt some

data-poor stocks from requiring an ACL. That would be open for additional discussion.

And with that, I stop.

Chair Luisi: Thank you for your comment.

Anyone else, questions or comments for Rick? Seeing none, Rick, thank you very much for your presentation and Stephanie, thank you for the opening remarks.

We're going to go ahead and turn to our next item on the agenda, which is a FishWatch update. We have Rebecca Ferro with us.

FishWatch Update

Ms. Ferro: Good morning from the back of the room, happy National Seafood Month, everyone.

I'm here to give you an update on FishWatch.gov and talk to you about our plans for migrating the site. I am going to do a demonstration for you and I will just start by showing you our old or current FishWatch.gov site.

This is still live but it's on an old platform or content management system that's about to sunset. We are working on migrating the content from this old site over to the national NOAA Fisheries website.

And we already have content on the Fisheries site from FishWatch. It automatically imports into our fish profiles and we have a content area for sustainable seafood.

So, we are just going to be fleshing this out and adding the remaining content from FishWatch.gov to NOAA Fisheries website.

The NOAA Fisheries site is much more user-friendly, it gives you a better user experience, it's better for search engine optimization so that when users go in and search on Google they can get to our site and not be confused by two different websites.

And it's also more efficient for us to just manage the content in one platform. FishWatch is going to retain all of the functionality that we have now: the content is all going to be there.

It's under the sustainable seafood umbrella here on the site so I'm just scrolling down here for you to see. We have tabs that go across that gives an overview of sustainable seafood, we talk about what is sustainable seafood.

This is all content that will come from FishWatch.gov answering some of the key questions that users tend to ask on search engines.

This is also going to help us with our search engine optimization. I'm not going to spend too much time on this content.

We have content directed for seafood consumers and seafood industry, health, recipes, buying and handling, inspection, fraud, and then more about the global picture.

And then for the seafood industry we of course have some links here to our seafood inspection information, our ecosystem data, international competitiveness links, financial support, and certification programs.

It's all there. This last tab for communities won't be live at first.

This is something we want to add later on, so there's no content here at the moment, but we would like to do something that's more geared towards human interest, maybe something like tide to table, the faces of U.S. seafood.

That's what we are thinking about but that will come in the next phase.

The seafood profiles, we already have fish profiles on the national site but we are going to add seafood content to these profiles. When you land and click

on seafood profiles, you see some curated profiles.

We curated this for aqua-culture week, which was at the end of September. But you can come in here and view all of the profiles: you can search by region, you can search by type, whether you're looking for farm seafood or wild caught seafood.

And then you can also filter again by a specific species name, there are more filters: farmed, wild-caught, and then the category of species as well. I'm going to click on the Alaska pollack profile.

This is a test site, and it's one that we've been able to update some content for this demonstration. All the fish profiles are going to have a seafood tab, and this is the content that we're migrating from FishWatch.

Our top message: is Alaska pollack sustainable? And then we're going to capture some of the other stats for that particular species of fish: the availability, the taste, texture, health benefits, and then nutrition, and recipes.

That is all content that would come from FishWatch. The rest of these fish profiles is content already coming from FishWatch.gov. In tech terms it's called an API, and it just connects FishWatch.gov with our current website.

So, this is already there and live for users to get to. We talk about population status, appearance, biology, where they live, fishery management data, harvest information - it's all there right now.

In terms of timeline, we did reach out to industry back in 2021 to get feedback for input on the migration of FishWatch and what we should include on the new site.

We've talked to educators and other partners about how we prioritize content on the new site and what users are going to be looking for. That is there.

If anyone here has thoughts for us we're happy to take those into consideration as we do this migration. We are going to shoot for January, February, to fix the bugs.

We're starting the migration now and some of these features are already starting to come in existence probably by December or January.

In January we'll cut the connection. The old FishWatch site will still exist, but it will no longer be feeding content into the national fishery site.

And then in early March we're going to do a redirect from www.fishwatch.gov to sustainable seafood on the Fisheries site. It's going to land here. If users are looking for FishWatch, it'll direct them here.

My colleague, Laura Diederich, our External Affairs lead in the Communications Office is leading this migration and working with industry partners and getting their feedback.

I'm happy to take questions today and then if there's anything more specific, Laura will be happy to get back to you. Does anyone have any questions?

Chair Luisi: Yes, let's see if anyone around the table has any questions for Rebecca, or any comments.

Mr. Tweit: Rebecca, any chance you could put the pollack one back up?

Ms. Ferro: Sure.

Mr. Tweit: It leads to a question that I think is much more general but it seemed to be illustrated by the -- I thought what I read under harvest trends, those little thumbnail things right near the top.

Harvest impacts. Where did it go?

Ms. Ferro: Right here? Oh, that's habitat impacts.

Mr. Tweit: There you go, population, the population

level and below target level for Eastern Bering Sea. It's not, and it probably was for a year or two, if my memory is correct.

There was one brief productivity dip but the long-term average is above target level, often considerably so. So, the question I have is how often do these get updated?

Because if they're based on just an assessment from one or two years, for most ground fish species, everything occasionally goes below target level and then comes back up again.

And if they're based on the wrong target years, that's the picture the world has of the Eastern Bering Sea pollack, that's problematic.

Ms. Ferro: These get updated on a quarterly basis with the stock assessments. We work with the Sustainable Fisheries Office to help get these profiles updated.

And also within the regional offices, the folks that work on these particular species: they help to update this content.

I cannot tell you but I can get back to you in terms of timeline for this specific example, Alaska pollack, when it was last updated.

Chair Luisi: Thank you, anyone else? Chris Moore?

Dr. Moore: Thank you, Rebecca.

I think you may know this but I used to work for NOAA and when I worked for NOAA 12 years ago, 13 years ago, I was a Division Chief and my division was responsible for the first iteration of FishWatch.

And when my folks were working on it, our focus was primarily on the consumer, the seafood consumer.

And we did a lot of marketing to folks to get increased awareness of FishWatch and tried to pull

them away from other sites that were offering advice that we thought was incorrect relative to whether or not there should be particular seafood.

So, one of the questions I have for you is, is any of that continuing? Do you continue to try to market FishWatch as a site that you want the public, specifically the seafood consumer, to go to?

Or has it become more of a fish encyclopedia that basically just describes these individual species that are being managed actively by us?

Ms. Ferro: Good question.

Yes, we are still targeting seafood consumers and that's one of the reasons we are still giving some basic information about taste, texture, health benefits, nutrition information, providing recipes.

That's all content that's really geared towards the seafood consumer. And also, when you click into overview of sustainable seafood, seafood consumers want to know just the basic information.

At a very high level, what is sustainable seafood?

This is all high-level information geared towards seafood consumers. We talk about the role of aquaculture, and then of course, we have a whole tab dedicated to seafood consumers.

So, health information, more recipe buying and handling, inspection, fraud, and then diving into the global picture and more of our numbers information. Does that help?

Dr. Moore: Thank you, just as a follow-up, are you continuing to put together outreach products? I remember that we were going into stores with recipe cards, FishWatch logos, we worked with industry folks.

We get into discussions with lawyers relative to whether or not this could be used as an index for folks like red, yellow, green and that didn't happen.

But certainly, we had folks in the scallop industry who were putting a FishWatch logo on their packaging to basically direct folks to this site.

And I'm just curious, I haven't seen that, I'm wondering if that's ongoing or if that's something you all stopped doing?

Ms. Ferro: We do retain some FishWatch partners who do use the logo for education purposes.

It's not used for endorsement of products and Laura Dietrich is very closely working with industry such as the Seafood Nutrition Partnership to really help promote seafood messages.

And then of course, this is a special month for us, we put a lot of effort into talking about seafood for National Seafood Month and at other times of the year. And we try to put out a lot of content throughout the month.

We have a great new podcast coming out and lots of features, and all across Fisheries, all of our regional offices, they offer content specific to seafood in their region too.

Chair Luisi: Thanks, Chris. Anyone else? Seeing no hands at this time, and I hate to speak to someone sitting behind me, but Rebecca, thank you very much for your presentation.

I was watching you on the screen up there so I can see you. But thank you for your presentation, thanks for being here today with us.

Okay, we're going to jump in to our third item on today's agenda and then we'll take a break so people can check out.

The next item is the Endangered Species Act, the Magnuson-Stevenson Act integration and Kitty is going to be giving us an update and recommendations from the CCC working group addressing the policy directives 01-117.

So, Kitty, whenever you're ready.

Endangered Species Act - Magnuson-Stevens Act
(ESA - MSA) Integration

Ms. Simonds: Thank you, Mr. Chairman, this is my favorite topic. Do we have the slideshow?

At that May CCC meeting this year, we formed a working group to consider potential changes to the ESA policy directive in addressing issues identified by the CCC through the May 2021 and January 2022 meetings.

Next slide.

The working group was co-chaired by the Mid-Atlantic and Western Pacific Councils with one Staff Member from each Council.

So, the group met twice and developed a red line version of the ESA policy directive addressing the main issues that the CCC identified this year.

The group members met with NMFS Headquarters liaisons, Marian Macpherson of OSF and Marla Hamilton of OPR to receive feedback on the potential changes. Next slide.

So, the working group's red-line changes are included with their report, which you have and have had for a week or so.

Based on the issues identified by you all over the past year, the red line changes focus on these components.

One, adding an overarching policy statement that NMFS will work in close coordination with the Councils through the MSA Council process to address fishery impacts on ESA-listed species rather than relying exclusively on RPMs and RPAs resulting from consultations.

This would be an extension of the recognition of the Council's unique role already included in the policy

directive and addresses the issue that prescriptive RPMs and RPAs do not provide the Councils with the opportunity to develop measures through the normal Council process.

This also reflects the approach taken in successful examples of coordination.

Two, strengthen language for NMFS to involve Councils early in the consultation process and agreeing to a coordinated schedule for Council involvement as well as removing some of the discretion from provisions that have a lot of NMFS to limit Council involvement.

This addresses the issue of lack of communication and coordination from NMFS. Three, add language for involving Councils in development of RPMs in addition to RPAs.

This addresses the issue that Councils have been told that NMFS did not need to coordinate because there were no RPAs and the biop, which is the existing policy directive, focuses on working with Councils on RPAs in jeopardy situations.

Four, add language for resolving disputes during the coordination process in the event that disagreements arise on the Council's role and involvement.

And five, the working group also included a placeholder in the red line version for NOAA GC facilitating and sharing of early draft biops with Council Staff as a mechanism for early NMFS Council coordination.

This was an issue that we brought up during the January CCC, we flagged it at the January 2022 meeting and actually, we have been waiting for NMFS to provide a response on the feasibility.

I think that, Adam, you mentioned you were going to have a discussion with the GCs for all of the regions and I probably should have reminded you

about this before but I didn't.

So, anyway, ultimately, these changes recognize that early Council involvement and coordination for developing any mitigation measures necessary as part of RPMs and RPAs will ensure development of practical and effective measures through a transparent, stakeholder-based process that takes into account MSA national standards.

The Councils have demonstrated time and time again the ability to develop successful management measures that benefit ESA-listed species. I have an example for us and I'm sure that other Councils have examples.

But several years ago, the oceanic white tips were added to the list and so are industry decided to work on this and so they changed their long-line operations.

What they did was change the leaders from wire to monofilament, which makes it easier for sharks to bite themselves out of getting hooked. So, the Council adopted this change.

However, we're still waiting for the biop and we're not going to get the biop until next year so it's been three years in the making. So, what I'm saying is the Council can go ahead and work on measurements with the industry even before the consultation begins.

So, this is why we are asking for some of these changes.

We have been successful because the Council process ensures the voices of those who will be at the receiving end of these management measures to be built into the decision-making process.

So, obviously, we want to continue and build upon these successes. Next slide.

The working group reps met with NMFS liaisons in

late September to review the red-line version.

And so during the discussion we flagged a couple of specific items for further feedback, one of the dispute resolution section and the other about the potential for NOAA GC to facilitate the sharing of biops.

The MFS liaison indicated that the red-line version helps to provide a better understanding of the Council issues and they plan to feed that information into the region-specific discussions that they are planning.

So, we'll hear more about this from Sam following my presentation but I will note that the liaisons did not have a timeline when these discussions would take place, nor a deadline to complete the ESA policy review.

I want to add that in the meantime, we received a questionnaire from Marla and you'll recall that we had a questionnaire as well for how to May meeting.

So, there are some duplications but I think what we should do is have the working group review the NMFS questionnaire.

There's a deadline of November 4th and then get back to us, the Executive Directors, and we'll get on a phone call and review what they come up with so we can try to meet that deadline.

Thank you, Mr. Chair.

Chair Luisi: Thank you, Kitty. I think what I'd like to do is turn things over to Sam for Sam's update and then we'll discuss this all as a big package under this agenda.

Sam?

Mr. Rauch: Thank you, Mr. Chair. I do not have a PowerPoint but I have a couple of updates on this. One, as we look at this, let me just go back in time. The existing policy has been a very beneficial

document for all of us.

It does recognize the unique roles the Councils play in this system and recognizes that some of the things that we do under the ESA implicates at minimum Council workload processes and other interests as well and the Councils do have expertise on certain subjects that are beneficial in the process.

I think we've learned a lot collectively since that policy was updated. And as I have discussed in May, I think there are two overarching situations in which we do consultations on Council actions.

The one is where the Council is proposing a rule and we need to look at the effect of the rule.

That either comes out with it's not an ESA rule or when the Councils are engaging with us collectively in the very beneficial process of being proactive.

We're looking ahead, the Council is looking ahead, like that leader issue you talked about or others, other Councils do this as well, to try to anticipate what may be needed.

Because the Councils, like all of us, are also concerned about endangered species, nobody wants to put endangered species at inordinate risk. And so the Councils often are looking at ways, even unasked, where they can take the conservation matters.

And so these are measures that are to go into place in the future, they're not in place yet and we have plenty of time to work on cross-coordination issues and those kinds of things.

That is the easy concept and I think when we were doing this strategy, we originally thought that was the model. And I don't think that's the difficult model.

The difficult model is where we've got the

regulations that are in place and the regulated fishery has tripped some measure or there is some measure for which we need to re-initiate consultation.

So, either we've exceeded some take level, taking too many of the species or there's new information indicating that the impacts of fishing on the stocks are more than we thought or some other measure that has triggered re-initiation.

Now we have to re-initiate consultation and in that situation there's not a Council action in front of us but there is a deadline, there's a time-driver.

And that time-driver limits the ability of consultations and things we can do. And so we want to strive to engage the Council in that situation but we can't guarantee it because it's a time-driver.

What caused that? Can we continue to allow the fishery to operate as it's operating while we go through a series of coordination with the Councils or others?

Sometimes we can and we would like to do that and sometimes we can't. So, one of the things that I advised us to look at is looking at those two things, particularly in the policy because I think the answer to those two things are very different.

The current red lines do not do that yet and I still think it would be beneficial to do some of that. When we heard from the Councils back over the winter about their concerns, it did seem to fall into two pots, two issues.

One is there are a number of sheer implementation issues with the way people are looking at the existing policy.

I will remind the Councils that when we did this, there was a spectrum of views across the Councils as to how involved they wanted be in this.

One thing is if we mandate the Councils to give us comments on it, the Council has to put that on the agenda.

We only have 135 days under the ESA to do these things and there was a significant concern about the workload on the Councils from involvement in this, which is why some of these decisions were more discretionary.

There's also a concern on our part that we cannot necessarily always guarantee that we're going to take the time. We don't always have the time to involve the Councils so there was discretion on our part as well.

That being said, I think we've learned a lot about that and there is different approaches that different regions have taken with the Councils on how to do this. Some work well, some work not well and there's a spectrum.

Even within a region where people are complaining, there's some things that work well and some things that don't work well, and so there's an issue of just can we work better together under the existing policy?

That's one step. The other step was are there things about the policy that we'd like to see changed? And so on the policy issue, that working group where you guys helpfully looked at the policy, I was encouraged by the fact that it wasn't covered in red.

There were a few isolated things so I think that's encouraging. That means the policy in general is good and there's a few things you want to look at.

I want to get into some of the details of that in a minute but I also want to talk about the other part, which is just working on how we work better with the Councils under the existing policy, which in the main is going to stay, because there's not that many things that you even want to change.

So, in that, the Council did do a summary review from the Council's perspective of things and our question, maybe it is a little bit repetitive on the Council's part, but it also looks at our Office of Sustainable Fisheries, which is the action agency in our program of protected resources, including the Council Staff, which is the additional aspect that was not there.

So, we put out that questionnaire on October 13th. The response date, Kitty, as you mentioned, is November 4th.

We intend then to go Council by Council, look at these things and see which of these things are really policy level, national policy issues and which of these are more isolated, region-specific, Council-specific implementation issues, and can we learn from that?

One of the things I do not want to do is change the policy until we figure out are there other issues that have bubbled up through that process that we might want to address in the policy?

Because with some of these things as we get to differences of interpretation, can we be clearer in the policy? So, we are intentionally keeping the policies open until we've done that.

That process, the question is in or on November 4th, we are going to be, as soon as we get those back, scheduling the individual meetings.

My hope is to be done early in 2023 and if we're not done before the CCC meeting, we will give you a report out of the CCC meeting.

But we haven't scheduled those yet and that's not just us, that's you all, and so we want to be mindful of not imposing a workload requirement on the Councils that the Councils don't agree to.

I'm always cautious about setting deadlines for the Councils but my hope is that we're done with those

early in 2023. We've not scheduled those meetings yet, we don't have the response back yet.

On the policy, as I said, I do think the policy so far would benefit from looking at these two different scenarios differently and it does not yet do that.

I do think there is merit in adding RPMs to the list because currently, the policy recognizes that when we do an RPA that envisions Council action, we need to talk to the Councils about that.

It does not say that about RPMs and it has been the practice at times or it has occurred at times where we've issued a Section 7 opinion, which has included -- an RPM for those of you not steeped in ESA is a reasonable prudent measure.

So, if the underlying action doesn't jeopardize the species, we still have to put out a statement authorizing the take of however many species of going to be taken by the fishery.

And we are under independent obligation to minimize that take using reasonable improved measures, that's an RPM.

So, where we have an RPM that also implicates Council action, currently the policy does not indicate that it is of the same level but it could be a similar workload that we are asking the Council to undertake.

So, I am sympathetic to the idea that we would look to treat those more similarly.

The impact is the same, the significance of it may be different because an RPA is more significant than an RPM but if we're asking the Council to undertake an amendment process to implement it, the effect on the Council workload may be very similar and we should, I think, be looking at the Council on how to do that.

We have to be mindful, though, and the current

working-group-recommended changes do not seem to be mindful, that there is a time component. We are mandated by a statute to get these out in a certain amount of time and we are struggling with that.

But everything the President has come out with in terms of permitting efficiencies and everything else talked about streamlining and accelerating making these shorter rather than longer.

And so we need to retain our discretion to do this quickly, which may mean in certain circumstances that we cannot include the Council, and that is a discretion that I cannot give up.

But the desire is to include the Council and to try to include them when we're working on that.

So, there's a lot of things in the things we can agree to and I certainly think we want to be supportive where the Council is doing things like Kitty talked about, which is being proactive, looking ahead, trying to facilitate ways that the industry can have less of an impact on species before we are in a consultation.

Once we're in the consultation some of our procedural options are limited. So, we clearly want to do that. I'm trying to pull up -- my computer shut off. Hold on a second, I'm going to get Kitty's list up again.

The policy statement, I think we can work on that, I think that we've got to be somewhat cautious about combining those two situations together. We have a great deal of flexibility in the policy before we initiate Section 7 consultation.

Once Section 7 consultation is initiated are re-initiated, some of our flexibility goes away and the policy needs to reflect that.

I think we can work with the Council on early coordination.

There are certain circumstances in which we can agree to a schedule and I'm unlikely to agree that it's mandatory because as I said, there's situations where the statutory deadline dictates that I cannot give away the discretion to do that.

But we do want to work with the Councils. We're trying to balance our desire to work with the Councils, the critical role the Councils have, versus meeting these statutory requirements.

I talked about RPMs and RPAs, that was your third one, I'm a little bit -- I don't really know how to deal with the elevation requirement. The way it's written now is that Councils and NMFS will both elevate.

My understanding is there is no one of the Councils to elevate to so it kind of seems to me it's one-way elevation.

I don't think that really reflects well because I would love to be able to elevate Council's decisions to maybe this group but I don't think that's what you want.

Ms. Simonds: Only when we want it.

Mr. Rauch: I also think we have delegated these decisions down to the regional administrators and I foresee that is going to stay that way.

We continue to talk about overarching things but I do not envision that we will undelegate these issues to the regional administrator.

And then there's this whole issue of sharing drafts and I just wanted to take a moment to talk about that.

We think that there are plenty of instances in which it is useful to share a draft document. We get a lot of public input. The Council process is incredibly transparent.

One of the great benefits of the Council process is

the transparency, we can go to anybody and talk about the transparency.

There are a lot of diverse viewpoints on the Council process and the way that we avoid this implication that it is biased in one way is that it is very open, everything is on the record.

When we go to other countries, we talked about the U.S. system, everything is on the record. That is not the case in other countries. We gain a lot from that. I am a little bit concerned about the issue.

I don't necessarily see what the benefit is for trying to craft a way that it would not be on the record. I do not know this is a problem to date with that.

So, we want to separate out the idea of sharing drafts when appropriate with what seems to me a provision that you're trying to figure out a way to do it in secret, which I am not sure that solves any particular problem and it does create the appearance of --

It does allow people to argue for bias in the process. We struggle with this with Applicants and I can see we struggle with this with the Councils if we were to do this.

Our current policy does not allow for this, it does allow for sharing drafts in coordination, it does not allow for it to done in secret.

That being said, that's in general, but there are circumstances that reflect that there are particular expertise on certain issues like data collection and other things where it may be appropriate for us to engage with Council Staff on a particular issue and to do it confidentially.

That is something we may be able to deal with on a case-by-case basis. We do do that now sometimes when we develop an FNP.

We do do that now sometimes under the

circumstances and so that is one of the things that is very complex as we deal with it, how we would do it.

So, I'm not suggesting we would never do that but our current policy does not allow for the broad-based private review of a biological opinion and the way I read the comments right now is it would be a pre-draft, then a public draft, then the final, which also lengthens the process.

I do not mind having more, where the time allows, Council input into the drafts. We've always been open to that if the timing worked on that.

If there is a need for an isolated instance where the sharing of confidential information and keeping it confidential is necessary, I think that is something we want to talk about how to do that.

I think we are unlikely still to change that portion of the policy, which just says the Councils are entitled to a private-review draft. I'm not sure what problem that truly solves.

As opposed to the Council input on the record on a draft and there's a very good reason for that.

So, we haven't made a final decision on that but I've been very open throughout this entire process that is not currently in the policy and we are unlikely to change the policy.

That is our initial reaction. But I also want to say we just got the comments at the end of September, we're working through them. I don't want to be pre-decisional on those things.

Some of these things, I think we understand the ideas and where I might not like the way it's phrased, we might be able to work with you on a better way that it's phrased that more meets our needs.

I do appreciate the spirit in which it's done and there are a great many things in there that I think

can be improved to work on our overall relationship in addition to the Council-specific discussions that we intend to have between now and the next CCC meeting.

And with that, I'm happy to take questions.

Chair Luisi: Take a deep breath after that one.

A lot of really good information. I'll be the first one to admit that because I haven't had to deal with this all that much it's all a little bit over my head.

I'm going to turn to the Committee, we'll come back Kitty, I just want to see if anyone has any questions at this time for either Kitty or Sam?

Kitty, I know we had talked earlier this morning, there might be some action you want to put up on the board. So, Tom, do you have a question?

Mr. Nies: I do have a question because I'm a little confused, Sam, about your last comment about sharing the document and us trying to find a way to keep it secret. I'm not sure I remember things in order so maybe that's why I'm going off base.

But I thought the Agency's concern was that by sharing with us, documents became public and so we were coming back with trying to figure out a way to get around your Agency concern about them.

So, this is why I'm a little confused because now you're saying the Councils are trying to find a way to keep it secret.

Well, we were trying to find a way to keep it secret because you were saying you didn't want to share because you were afraid once you shared with us, it became FOIA-able and would become available to the public.

I don't think we're the ones who had a problem with it becoming public early, I thought it was the Agency that had a problem with it becoming public too early. So, I'm struggling to figure out what I'm

misunderstanding here.

Mr. Rauch: I think I've heard different things from different people. In general, we have worked in many circumstances to allow draft opinions to be put out for comment.

The things we set does not contemplate with the release of the draft opinion, it does not say it is a public comment process. That being said, we have found that it is useful in many circumstances where we can do that.

There's a time component of that, though.

When you do that, that extends the time and that creates issues, particularly if you're in that circumstance where you have to re-initiate and you have to evaluate whether or not you can allow existing adverse effects to continue while you re-initiate.

That is the situation we're in, often where there is the most controversy and where we have litigation concerns. So, in that, if we're going to put out a draft opinion, though, it needs to have a certain quality.

It needs to be of a certain quality, it can't be just a random series of very preliminary documents. It has to be a fairly polished draft that we're putting out for comment.

So, we are somewhat concerned about putting out documents that are not yet a biological opinion or even a draft biological opinion. We do think that when we do this, it should be out for comment, so we're there.

There may be a semantic issue here in that you want a preliminary draft that is not public.

I am reluctant to do that but I am not necessarily reluctant to talk about -- if we're not talking about a draft but we're talking about certain elements of

analysis, we've put out and shared with you how you describe the action or isolated pieces that are not really the draft opinion but are parts that will go into the analysis.

There are ways to talk about that.

We have not been opposed necessarily to putting out a draft opinion for you or others to commercial non. We do believe it is public at that point and once you put it out for comment there is scheduled implications for that.

Mr. Nies: I'm thinking out loud here since it may not make any sense. Do we need to reframe what it is we're trying to do?

We're looking for early involvement that perhaps is public because the Council is discussing without necessarily having a document in front of us.

Do we need to reframe it that way? And that kind of gets at your idea about pieces of analysis or circulating ideas or things like that?

Mr. Rauch: Yes, that's exactly it. I think there may be a path forward here on some of that and we do want to involve early in varied circumstances.

We have to be mindful of the time, so I can't guarantee that we'll do it in every instance because sometimes we have other drivers that we have to deal with.

But our desire is to be involved with the Council early in these processes to work with the Council where we are looking at a Council regulatory suite or whether we think there's a Council action that could solve a problem.

I think all those examples the Council have put out as to where this has worked best, that has been one of the hallmark reasons why it did, early involvement with the Councils.

That's something we would like to work at that is

different, I think, than this idea of sharing a preliminary draft opinion, which gets into a number of very difficult issues for us.

Chair Luisi: Carrie?

Dr. Simmons: Yes, thank you, Mr. Chair and thank you for the presentation. Just a question regarding data confidentiality, especially since you're looking at these policies.

Is it different for fisheries data compared to protected species ESA, marine mammals data?

So, when our Staff sign a non-disclosure agreement, does that apply to protected species or does there need to be another type of process or agreement for that to occur so potentially we understand there's more implications with data confidentiality when we receive these drafts.

Thanks.

Mr. Rauch: The issues of data confidentiality are difficult to simplify. There is random sight data which is confidential by statute but we do work with the Councils on those issues through various mechanisms to make sure it stays confidential.

The issue with much protected species data which may not be confidential and it may be public, it depends on how it's collected. Protected species resource data collected through the Council process, through a fishery management process, you have to evaluate whether that's confidential.

Random sightings by the public of an endangered species or we see an entangled whale has come up in fishing gear somewhere, that may not be.

So, we don't have the same kind of blanket confidentiality with the ESA and whether or not those ESA data are confident in the Magnuson Act is a complicated question.

The issue here is not so much confidential data,

even if we make an opinion public we have to deal with confidential data somehow.

The issue more is if we're giving you a draft opinion, our view is we're giving that as a public document, that becomes a public document at that point.

But we can deal with the confidential data part of it either way because some of it may have to be protected or aggregated in order for us to use that analysis.

Chair Luisi: Thanks. Marcos?

Mr. Hanke: Thank you.

This discussion is getting a little bit super important, very likely for me, more into the legal sides and aspects of the process, but I won't bring this to the ground of our fisheries.

And we all want transparency, right? For me, it's not too transparent once you create the process that doesn't include the specialists and the fisherman that managed fisheries and have expertise to have a good opinion about it, educated opinion or scientific-based opinion about it.

Respect the official fishery entities, especially including it also is for me a no-brainer. We cannot exclude that from the equation and create early involvement on the process.

Before ESA come with a strong foot on the process, it's super important of problem we have had in the past.

We have to give a first seat for the Councils to recommend solutions before we engage to one and flexible situation like ESA process in many cases. I think ESA process is necessary and important but there is room to improve and to do a better job with it.

I guarantee that for many species in many instances, on the ecosystemic analysis in many

cases if we pursue the early involvement of the Councils and the fishermen to give alternatives how to do a better job protecting the species across the range will be way more effective.

And that's the only thing I want to say, thank you.

Chair Luisi: I appreciate that, Marcos. Adam?

Mr. Issenberg: I just want to address the last point in the bullets in the changes about know what you see for selecting the draft. I think the discussion between Sam and Tom was really important because I don't think ultimately this was about confidentiality.

I think this is about how to accomplish that coordination and achieve and the type of discussion that's needed and making those drafts public at the appropriate times.

But I did just want to address this point about whether there was some way to invoke the attorney-client privilege to facilitate confidential sharing and that's really not the purpose of attorney-client privilege.

That is something that protects confidential discussions in the context of where there's a need for legal advice. The purpose of sharing confidential information is obtaining legal advice, it's not a way to get an end-around for these other issues.

I think there are definitely ways to work through this but that is not really the hook there.

Chair Luisi: Thanks, Adam. Seeing no other hands, at this time I'm going to go back to Kitty.

Ms. Simonds: Just a couple of things in response to some of Sam's concerns.

Some of the things like timing and all that, I believe that we can work that out within the region with the Councils working with SF on timelines.

And in our part of the world, these timelines that you're concerned about, Sam, just hasn't happened. We're going on for years.

But I understand about timelines but I think we can work a number of those things that you brought up within the region when an issue is up for consultation.

The other concern of yours, and I'm glad Tom brought up that word, secret, because there's nothing secret about what we want, we want everything in the public.

So, if you read the red-line version, it says here if NMFS is not able to share the draft biop or preliminary draft RPAs or RPMs, NMFS will take steps to meet with Council and lower Council Staff as early as possible to discuss potential changes in impacts to fishery management actions and other relevant information.

So, we have addressed your concern about drafts. If they're not available, there's another way to deal with it but I do want to thank you very much for your presentation and I think that I look forward to us completing this draft and I think that my recommendation is that the CCC adopt this draft and send it to NMFS and continue to work, as both of us talked about, the questionnaire.

And then we'll just continue to work together.

We'll just have to find set dates for when we can get back right after you all have time to review our responses to the questionnaire and keep moving and get to where we want to be as soon as possible.

We do have a last slide, Mr. Chair.

Chair Luisi: I was just going to ask you about that. If you want to put that up, Kitty --

Ms. Simonds: You have it. It's called WG Recommendations. I think I saw it divided up there

but it means the same thing.

The working group recommends that the CCC recommend that NMFS adopt the red-line vision of ESA policy directive and implement changes as soon as possible. But I guess what I'm really thinking of is this one, this is the old one.

Move that the working group continue to coordinate on the progress of the policy directive changes and NMFS's regional coordination effort.

So, I believe that we should add that we send this forward to NMFS, the draft that we have now, so that you can be working on it at the same time. Can we add that in there?

Oh, there it is. Thank you all very much for a number of motions we have put before you. This is it.

Move that the CCC adopt the working group report and recommend that NMFS adopt a red-line version of the directive, implement changes drafted by the working group.

The proposed changes are intended to improve the overarching policy that is applicable across all regions in various consultation situations, an important step that should be taken prior to the regional coordination effort that will be led by NMFS.

Chair Luisi: Are you making that as a formal motion, Kitty? Which I'm fine with if you'd like to the maker.

Ms. Simonds: Yes, and then --

Chair Luisi: Ask for a second. We have a formal motion and we've got a second by Marcos, let's have some discussion on the motion. We'll start with opinion for favor for the motion, does anyone want to offer any thoughts?

Bill?

Mr. Tweit: I'm wondering if NMFS has any thoughts

about the word adopt there in the second line or if there's an alternate verb that might be more workable?

Ms. Simonds: Right, because I think after this discussion we've had, what we want them to do is actually to review this and then we should meet again with their responses to this.

So, this needs to be changed a little bit, somebody has to find a better verb and that is what we'd like to see after this discussion.

Chair Luisi: Go ahead, Bill, if you have another.

Mr. Tweit: Move to amend by striking the word adopt and inserting the word review.

Chair Luisi: Yes, I think we can do that without a formal motion as long as the maker and the seconder are okay with that?

Ms. Simonds: Yes.

Chair Luisi: We'll try to keep things as simple as possible here this morning. We have a formal motion, is there anyone who wants to speak in objection to the motion?

Is there any objection to the motion? Seeing no objection, the motion carries by unanimous consent. Thank you, Katie, and Thank you, Bill, for your revision.

Ms. Simonds: Thank you, everybody, especially the working group because we've been working on this for actually several years now so thank you very much.

Chair Luisi: Is there anything else, Kitty, that you wanted bring before the CCC?

Ms. Simonds: Are we at the end of the meeting?

Chair Luisi: Not yet at the end of the meeting but at the end of this agenda topic.

Ms. Simonds: Not for this agenda topic. I have some things to add at the end of the meeting, before the end of the meeting.

Chair Luisi: We have other business at the end and I'll make sure to come to you. That concludes are business under the Endangered Species Act and Magnuson Stevens Act integration.

It is 10:40 a.m., let's come back at 10:55 a.m. and we'll take a public comment.

Public Comment

If there's anyone on the webinar that would like to make public comment, if you could please raise your hand and if anyone in the audience is here that would like to make public comment, please let Morgan know, we'll take that up first.

And then we'll jump into our wrap up and other business and we'll see you back here in 15 minutes, thank you.

(Whereupon, the above-entitled matter went off the record at 10:39 a.m. and resumed at 10:59 a.m.)

Chair Luisi: Okay, welcome back from the break, everybody. We have two more topics to cover, we're going to start with public comment. I'm going to ask if anyone in the room at this point has any comment, any comment from anyone?

Seeing no hands in the room, I did get notice from Staff that we did have a hand on the webinar. Mike Waine? Mike, if you can hear us go ahead.

Mr. Waine: Mike Waine, American Sportfishing Association, I work in policy for our Association in the mid-Atlantic and New England regions. And I was really interested in this conversation about the integration of ESA and Magnuson.

And I'm wondering if that could be extended to integration to include the Marine Mammal Protection Act.

I think most of you are aware the Agency has put out a proposed vessel speed rule that would have pretty large implications, significant implications for the fisheries that operate along the Atlantic across three Councils, both New England, Atlantic, and the South Atlantic Councils.

And so some of the points that were being made for the ESA-MSA integration I think could easily be made for the Marine Mammal Protection Act.

Now, I know that there is specific parts of the Marine Mammal Protection Act through the Take Reduction Teams where there is more cooperation and collaboration across stakeholders, Councils, and the Agency.

But I do not believe this feed rule went through any of that process. And so I'm just wondering, maybe it's a question, Mr. Chairman, if that's allowed and if it's not, it's a comment.

Would integration of MMPA and Magnuson be something that could occur through the Council or Agency transparent process of allowing stakeholders to be a part of that regulatory action?

Chair Luisi: I appreciate the comment, Mike, and I'm sitting here next to the NOAA Staff and we'll certainly take that under consideration but there is no response at this time based on that question.

Thank you for your comment, though.

Let me look back to see again are there any other hands? No other hands on the webinar for public comment so that concludes our final public comment for the CCC meeting.

Wrap-up and Other Business

I'm going to turn next to our wrap up and other business, the CCC outcomes and recommendations, and Dr. Chris Moore is going to be providing a summary on items that occurred during this

meeting for all of us.

Chris?

Dr. Moore: Thank you, Mr. Chair, I don't have the clicker. No, that's not the clicker. Morgan, can you just advance the slides? Perfect.

So, like we did in May and like we've done at previous CCC meetings, we will put together a document that basically summarizes what we talked about over the last three days. That document is under review.

We've gotten the material from the EDs who are responsible for each one the sessions or each one of the agenda items.

Mary is collating that and we'll get that out to the Executive Directors for review as soon as that's complete.

Once we get done with that review, you folks will have a week once we get done with that review. We'll make it final and then post it on the appropriate website so everyone can see what we did in terms of the summary.

And of course, we'll have the meeting minutes available as well so we'll have both of those in the not too distant future. But what we typically like to do is go over the outcomes, action items before we leave to make sure we're all on the same page.

So, that's what I'm going to do now, is basically go through what we did over the last three days including today and make sure we all agree as a group that in fact that's exactly what we wanted to do.

We had a good conversation, NMFS provided us updates and talked about their 2022-2023 priorities. We had a good back and forth discussion on that particular agenda item.

There was one thing that we discussed, basically

putting the allocation review that Kelly Bennett talked about on the agenda for the May 2023 CCC meeting.

That's one agenda item, obviously, there's going to be a number of agenda items that we'll be talking about and putting on that particular agenda as we start developing that agenda, as Carrie and her folks start developing that agenda.

But that's one that we've highlighted as a result of that session. And I'm just going to pause and just look around and see if there's anything else. Not seeing anything, we're going to move on to the next one.

We had a good conversation about budget. We basically had a number of questions that we posed to NMFS relative to the slides that Brian presented to us regarding the budget.

And one of the things that we did talk about, at least that I think we should highlight, is that the CCC reiterated its request that the Inflation Reduction Act funds, some of them, be allocated to address shortfalls in data marine collection for marine fishery stocks and data collections.

Is there anything else under budget that we want to highlight there as an action item?

The next item relates to science updates, again a good conversation there. We had a presentation from Kristen. I told Kristen that I was going to tease her and say that one thing that Jennifer got to say about Kristen in talking about her bio was that she used to be my boss, for two weeks.

I chose not to tease her about it openly. Outside of that, any other science updates that we want to highlight?

Not seeing any, legislative outlook, we had Dave Whaley with some other folks including a Senate staffer, we had the Congressman on.

We had a little bit of technical difficulties but I think we got the message.

And certainly, we had good conversation there as well. Is there anything you wanted highlight in legislative outlook? Again, we're going to have a summary of these sessions but we'll just focus on action items at this point.

We had a number of conversations related to climate governance and scenario planning updates, several presentations, no real action items as a result of that discussion.

We'll be looking at that climate governance policy for NMFS at our May CCC meeting and certainly, if you remember one of the things that Kelly asked is that if you have any comments or suggestions for her as they develop that policy that you get those to her when you get a chance.

Anything there? Next slide, please.

So, we had an interesting and interactive conversation about best practices for the future of hybrid operations. And I think all the Councils participated in that discussion and talked about what they are currently doing.

There's definitely differences amongst the Councils. We had no real immediate actions that were identified but we may revisit this topic at a future meeting, so we may talk about it again.

One of the things that the Councils did encourage NMFS to consider developing best internal practices for remote participation in meetings as well as developing policies to ensure that key participants, those NMFS participants, are able to attend meetings in person.

Anything else that you want to add relative to hybrid operations?

Preventing harassment in Councils, we've had

conversations at prior CCC meetings, we've had another special meeting where we talked about this. We talked about this again at our meeting this week.

We basically concluded that Council should work with Adam and Ms. Soderstrom to incorporate harassment policies into Council policies and each one of the Councils will take that particular action up.

Also, Stephanie asked us for a list of participants with their contact info so that she could help us keep track of who is actually taking harassment training that they're going to provide.

Anything else there?

International issues, Alexis gave us a presentation, we had a good conversation there about a number of items including BBNJ, Katie's favorite, and I don't think we had any action items as a result of that conversation.

Again, good conversations.

We had a conversation and a presentation from Jose and NMFS from Sam relative equity and environmental justice, EEJ. We agreed as a group without a formal motion but we agreed formally establish the equity and environmental justice working group.

We had that conversation. We approved the proposed terms of reference for the working group and recommended they meet at least once a year, virtually or in person.

And we also said that we will convene virtually, so the CCC will convene virtually to consider the other questions that Jose raised in the working group and his presentation.

So, remember, I can't remember now but there was a number of questions that we need to really

address before we move forward with workshop and some of the other things that might come out of this.

Any questions, comments, changes, relative to that particular topic?

Seeing none, next slide, please.

We had a presentation from Eric about the America the Beautiful initiative, ATB. We talked about a press release and agreed that press release would be developed once the final report is completed and that report is publicly available.

The ABM Subcommittee report will be posted on the all-Council website, there's the address there. Once that's finalized, the communications, the working group will consider delivering in a new page for CCC Committee working group work products.

The ABM Subcommittee will discuss the best way to house the database taking into account cost-effectiveness and accessibility for use and ability to update in the future.

So, this relates to the questions about that GIS database, how big is it, where are we going to put it. We discussed the fact that that's actively going to be banished and updated every year.

It's not just a warehousing thing but active database management. Anything that we missed there or any questions? Eric?

Mr. Reid: Just to be clear that once the document is finalized by the Subcommittee, it's going to be distributed to all eight Councils for their internal review and it has to come back to the CCC for final approval?

Would that be correct?

And then once that's done it can be public?

Dr. Moore: Yes, I think that's the conversation we

had.

Does everyone agree with that? Jessica talked very quickly yesterday and presented a lot of information related to NRHA, which is the Northeast Regional Marine Fisheries Habitat Assessment.

I think that some folks were slightly overwhelmed with all the information that was in that particular presentation and they've done a lot of work, so let me just give them another plug since I'm relatively biased on this particular topic.

I think we should look forward to some other products relative to that particular effort in the near future.

One of the things I should mention too that there were some questions about is applicability to some of the other coasts.

And certainly, if folks are interested, and I think Eric had asked the question, in how that might work, we'd be glad to help you with that. Anything else there related to NHRA?

Another thing that we did was get updates from our various Committees. We had an update from Mary on the communications group. We have a new joint meeting calendar as a result of the conversations we had yesterday.

And we supported moving forward with planning an in-person meeting of the communications group in 2023. So, more details on that particular in-person meeting will follow but we did all agree that was an important meeting to have.

Anything there? Yes, Carrie?

Dr. Simmons: I don't know if we want to just add that we did provide some recommendations for priorities for that meeting.

Dr. Moore: Right, let's see if that's in the next slide but you're right, we did note that in terms of the list

that Mary provided to us, which I think had eight potential or ten potential priority things, we identified one, two, three, and six if you go back and look at that list, as a group.

So, basically, if one, two, three, and six don't fill up two or three days of agenda then maybe we'll look at some of those other items and I think there was some discussion about those as well.

But yes, we should note that. Anything else? Next slide, please.

We had a presentation from Rick Methot on National Standard 1 technical guidance working groups. No action item there. We had a FishWatch update, Rebecca presented what's going on with that particular website and what the Agency plans for that.

No action item there. Anything on those two?

Then we just recently, very recently, talked about ESA Magnuson Stevens Act integration and adopted this particular motion as a group. We moved the CCC adopt the working group report and recommend that NMFS review the red-line version of the ESA policy directive and implement the changes drafted by the working group as soon as possible.

The proposed changes are intended to improve the overarching policy as applicable across all regions in various consultation situations and is an important first step that should be taken prior to the regional coordination effort that will be led by NMFS.

Anything there? Anything that we've missed or anything that needs to be changed there? Bill?

Mr. Tweit: Thanks, Chris, really good work-up.

I don't think you exactly missed this but I suggested and I think there was some general agreement but it wasn't formal that Carrie in doing agenda

planning for the main meeting see if she can provide a significant chunk of time for a deeper dive into the results of the SES7.

So far, it sounds like that's going to be possible on the agenda but I recognize the challenges in finding enough time in agendas. But it seems like a high priority.

Dr. Moore: So, you're not referencing this particular item but you're going back?

Mr. Tweit: Going back, right.

Dr. Moore: So noted and certainly I think that's something that would be an important thing to do in May. So, Mary, if you're listening, that would be an agenda to-do that we probably should note somewhere in the document.

Where would we put that, in the climate, where we had the climate discussion?

Mr. Tweit: I think it could fit under the report from the SES7 at this meeting.

Dr. Moore: Absolutely, true, I forgot about that. Okay, anything relative to ESA-MSA integration? Kitty?

Ms. Simonds: You know what I forgot to add? That Sam Roake can never mention ever again the 135-day deadline. He mentioned it three times as a concern about what we're asking just because he knows how I really wanted to slap him when he said it.

But I kept my mouth shut and I thought I should be polite about this, but you know what, no, I'm not going to be polite.

So, remember that, he can never mention that damn 135-day deadline because we're going onto 3 years, maybe almost 4 years, when we are going to be handed our biop.

And as I said earlier, we already worked on mitigation in the Council before the consultation. So, to me it's done but anyway, never again, remember that.

Sam and I have ongoing fights about ESA all the time.

Thank you very much.

Dr. Moore: No response, Sam?

Ms. Simonds: No, he can't speak again.

Dr. Moore: I think Morgan, is there another slide or is this it? That's it, right. Okay, thank you, Mr. Chairman, and thanks everyone.

Chair Luisi: Thanks for the report, Chris, and Kitty, that's why you're always down at the far end of the table.

Ms. Simonds: And one of my favorite issues is always last.

Chair Luisi: Anything for Chris before we move on? Seeing none, the next item is a brief update on the 2023 CCC meeting. I'm going to turn things over to Carrie for any updates you may have or maybe Dale will do that.

Mr. Diaz: Thank you, Chairman.

First of all, I want to thank you and Chris Moore and the Mid-Atlantic Staff for all the work you've done in the last year. We appreciate all the hard work you've done to pull all this together.

And we thank the Mid-Atlantic Staff for already working with our Staff to try to help us get going next year. And I also want to thank Ms. Coit and Sam Roake and the NOAA Staff for all the hard work they've done to put all this stuff together.

We appreciate the cooperative nature and the good working relationship we have with you all. We have

a slide up on the board. The spring meeting is going to be May 23rd to 25th, 2023 at the Marriott Beach Side in Key West.

And we are currently working with the hotel to try to get the government rate on each side of that meeting and we'll have some more information about that as time goes on to see if that's possible for folks who have to come in early or stay late.

And our staff is already working on a few after-hour functions to try to get the CCC group together so we can socialize some and learn from each other. So, we're working really hard on that and we're looking forward to it.

There are just a couple of things I want to mention.

Ms. Coit mentioned that we need to learn from each other here and I actually did learn a lot during the meeting and I learned a lot on the breaks too, just talking to folks and seeing what they do and how to handle things.

It's my hope that we have a little bit more time inside the meeting the next time and if the agenda will allow for either the round robin that we used to do before word of Council, so we kind of talked about what's going on.

But I also hope that we've got some time for every Council to bring something they're doing that might be how they solve the problem uniquely that might help other Councils.

I think we all have creative ways that we solve problems that might help us learn from each other.

If we do something like that, it's going to be very short, just a couple minutes, somebody can talk about a problem and how they solved it, if we can work that into the agenda.

But I think learning from each other is the biggest thing we can do here. If we can go back and we can

be more efficient or engage the public better, anything we can do to do our jobs better, and we can always do a better job.

So, anything we can do there would be beneficial and this has already been beneficial.

The last thing I want to mention, and Carrie can jump in if I miss anything, is that it would be my hope for the spring meeting that we get the briefing book together just a little bit earlier.

I would like for us to try to strive to get that briefing book together a week before the meeting. Some stuff came in so late we didn't have time to engage our Staff in some of the stuff that was in that briefing book.

If we could get it just a week earlier we could engage our Staff and maybe we could do a better job at the table talking about some of these issues. Because they would certainly have some things to add that would help us prepare better.

That's all I have. Did you have anything, Dr. Simmons? Thank you all again and we appreciate everything everybody has done.

Chair Luisi: Thanks, Dale, and thanks for the recognition to the Mid-Atlantic Council for the hard work that went into planning the meetings this year.

I will say that over the last year I've really enjoyed serving as the Chairman of this group but I would be lying to say I'm not looking forward to passing it on. A little less on my plate for next year, which is going to be nice.

And again, thanks to NOAA leadership for all the work that went into developing agendas and presenting and providing information to the CCC.

We're going to move on to other business. I believe Kitty has something she'd like to mention for other business.

Ms. Simonds: Right, and while I do thank Janet for reporting on something wonderful that happened at our Council meeting, I'd like to add a few things to that report.

Right, Tom? I agree a wholeheartedly with Dale about the round robin and why you see us laughing is because I love it and Tom hates it.

And while we do think we should be reporting about our Councils ourselves, it was nice for Janet to take it on but really, we should be doing it.

Because I would not have mentioned the aqua culture amendment because it's taken ten years for that to happen in the region so it's kind of a nothing burger thing.

So, I'm just going to make two other announcements. I want to tell you all that we have finally published our 40-year history and you will all be getting a copy. Don't trash it, if you don't want it send it back.

But I think that it's a really great learning document.

It starts with President Ford signing the Magnuson Act and what it does is it describes how in our region we have had to deal with combining Western science with culture, you heard all of our issues every time we get together.

So, it's good reading, I don't think there's anything nasty in here. That's my next book, I'm going to do that one. It's going to be a story about everything and all about you for 40 years.

But we will send it to you and we're really happy we did this because I think it's important for all of us to document the work. This was an experiment in democracy which works, if everybody works together and no lectures from the guy.

So, I did want to talk about this. Thank you very

much.

And the other thing is that the Council has written to the President about going back in to the Inter-American Convention on Protection of Turtles to exempt our region or exempt the U.S. from -- the problem we have is that when the U.S. signed this convention in 2000, I guess some of us didn't pay attention.

What it does is it actually goes against our ESA, that act, because it doesn't allow for any use of the green sea turtle, even if it's recovered, which under our own laws we're allowed different options once it's recovered.

And it is recovered.

Even though Sam and I have disagreed about it, he's worried about climate change, and I wanted to tell you, Sam, that at our last meeting, the Science Center reported that the turtles are doing so well with climate change in the northwestern Hawaiian Islands.

Really. So, as we discussed during this week, there are some good things when the climate is changing. So, we need to have more discussions, Sam, about taking it off the threatened list.

And Manny, you guys all heard Manny earlier, his thing about asking the President to do this is obviously we used to eat green sea turtles and in our territories all the countries that surround them, former trust territories, they're eating them and they don't even have management measures, where we do.

Once it's recovered, we're able to look at different options. Here's the thing, we are not part of the Americas and this is for the Americas. We're not part of the Americas.

And the other thing is that we have our own distinct population. Our green sea turtles do not travel

outside the 200-mile zone. So, we've written to the President and we are having meetings with the State Department, and they are very reluctant but we are forcing these meetings. And they also include the protective resources people of NMFS and our regional administrator.

So, I thought it would be good for you folks to know some of the larger things that we're working on in our part of the region. That's important to our culture, so thank you very much for indulging me reporting on what we're doing.

With that, I say aloha.

Chair Luisi: Thanks, Kitty, I can already picture the cover of your book, a picture of Sam with an ice pack on the side of his face.

Ms. Simonds: Yes, because a slap will hurt.

Chair Luisi: Is there any other business to come before the CCC at this time? Seeing none, I know a lot of you have a long day ahead, please travel safely and stay healthy.

We'll look forward to seeing everybody in Key West in May. This meeting is adjourned, thank you.

(Whereupon, the above-entitled matter went off the record at 11:28 a.m.)