



**WESTERN
PACIFIC
REGIONAL
FISHERY
MANAGEMENT
COUNCIL**

**MINUTES OF THE
149th MEETING of the
WESTERN PACIFIC REGIONAL
FISHERY MANAGEMENT COUNCIL**

October 12-14, 2010

Held in Honolulu, Hawaii

Western Pacific Regional Fishery Management Council

1164 Bishop Street, Suite 1400
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APPROVED BY COUNCIL:

Manuel Duenas, Chair

Western Pacific Regional Fishery Management Council

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1. Introductions

The following Council Members, National Oceanic and Atmospheric Administration (NOAA) General Counsel, Council's Executive Director, and Scientific and Statistical Committee (SSC) Chair were in attendance:

- CDR. Jay Caputo, U.S. Coast Guard (USCG)
- Ignacio Dela Cruz, CNMI Department of Lands and Natural Resources (DLNR)
- Manuel Duenas, Vice Chair, Guam Council Member
- Fred Duerr, Hawaii Council Member
- Bill Gibbons-Fly, U.S. Department of State
- Stephen Haleck, Chair, American Samoa Council Member
- David Itano, Vice Chair, Hawaii Council Member
- Julie Leialoha, Hawaii Council Member
- Sean Martin, Hawaii Council Member
- Don Palawski, U.S. Fish and Wildlife Service (USFWS)
- Ben Sablan, Vice Chair, CNMI Council Member
- William Sword, Vice Chair, American Samoa Council Member
- Laura Thielen, State of Hawaii Department of Land and Natural Resources (DLNR)
- Joseph Torres, Guam Department of Agriculture
- Mike Tosatto, Acting Regional Administrator, National Marine Fisheries Service (NMFS), Pacific Islands Regional Office (PIRO)
- Ray Tulafono, American Samoa Department of Marine and Wildlife Resources (DMWR)
- Fred Tucher, NOAA General Counsel, PIRO
- Kitty Simonds, Council Executive Director
- Craig Severance, Council Statistical and Science Committee (SSC) Member

Eric Schwaab, NMFS Assistant Administrator, administered the oath for newly appointed Council Members Leialoha and Sword and presented a Special Certificate of Membership for Duenas.

2. Guest Speaker

Schwaab acknowledged the Western Pacific Region's unique and specific challenges. He highlighted three current topics of importance to the Council, which included the National Ocean Policy, Coastal and Marine Spatial Planning (CMSP), and catch shares and annual catch limits (ACLs). He acknowledged Russell Smith, the new Deputy Assistant Secretary for International Affairs, as well as the military relocation and buildup in Guam.

Duenas pointed out that a large percentage of the fishing sectors in the Region occur in remote areas and requested funding be provided to collect better stock assessment data and to deal with Endangered Species Act (ESA) issues. Schwaab stressed that these are particularly difficult budgetary times.

Itano encouraged Schwaab to travel to all of the Region's island areas and urged him to support funding for identification of basic biological life parameters of fish for stock assessments, as well as for collection of fisheries data.

Martin emphasized the impact of the creation of a 400,000 square mile Marine National Monument (MNM) on small island communities and the importance of ensuring the needs of the communities are taken into consideration. Schwaab said he appreciated the concerns about the historical evolution of the monuments and agreed about the importance of using the collective capacity to generate biological, social and economic data in decision-making going forward.

3. Approval of Agenda

Moved by Sablan; seconded by Martin.
Motion passed.

4. Approval of the 148th Meeting Minutes

Moved by Sablan; seconded by Tulafono.
Motion passed.

5. Executive Director's Report

Simonds presented the Executive Director's report to the Council. Marine Education and Training Program (MET) coordination and planning of future funding are expected to include capacity building, grant training, and coaching centers. Mini-grants are expected to be increased to \$15,000.

Staff continued efforts to increase education and outreach collaboration with NOAA, further developed the ACL process, held meetings to gather community input on catch shares, and worked on the development of a comprehensive database for the Essential Fish Habitat (EFH) Data Review. A timeline was developed for a Western Pacific Stock Assessment Review (WPSAR). Work is ongoing for CMSP. Staff continued to make progress on Council amendments, including modifications to the American Samoa Longline Limited Entry Program, Large Vessel Closed Area Options, and American Samoa sea turtle mitigation efforts. Staff also worked on the sea turtle nesting beach management program and management of the Turtle Research and Monitoring Database System (TREDS).

Staff traveled this past summer to hold meetings in the Marianas, including Guam, and also held puwalu meetings throughout Hawaii.

6. Agency Reports

A. NMFS

1. Pacific Islands Regional Office

Tosatto, PIRO Acting Regional Administrator, reported updates on fisheries and protected resources. International work and the monument updates were covered in other sections of the meeting.

He noted two primary issues receiving focus. The first is the upcoming military buildup on Guam; NMFS' intends to continue working to ensure the marine resources are protected and fishing remains healthy to meet the needs of the communities. The second issue was the American Samoa Longline Observer Program; efforts are continuing to increase coverage to 40 percent to better assess fishery impacts on protected resources.

Discussion

Simonds asked what action will be taken with regard to the 2009 longline bigeye catch limits for the Western and Central Pacific Fisheries Commission (WCPFC) members, noting China's catch limit was 9,314 metric tons, but reported catch was 11,565 metric tons. Tosatto replied that the U.S. maintaining its quota will provide negotiating strength in developing a follow-on to Conservation and Management Measure (CMM) 2008-01. Simonds stated the U.S. should be developing a resolution and gathering support in anticipation of the upcoming December meeting. Tosatto agreed the WCPFC's capability of monitoring compliance should stay high on the list of issues to be addressed at the December meeting.

Duenas said he was in attendance at the recent Technical and Compliance Committee (TCC) meeting in Pohnpei and was disappointed that there was no mention of the U.S.' concern for ensuring fishing gear identification be clearly marked, as well as no mention of the ineffectiveness of the purse seine fish aggregating device (FAD) closures, the large disparity in catch limits between the U.S. purse seine and longline fisheries, and the level of effectiveness of the conservation benefits of the Vessel Day Scheme. Tosatto acknowledged there are loopholes in the regulations that need to be addressed and noted that complications can arise when seeking agreement amongst 20 to 30 countries. The purse seine fishery impact to the bigeye stock is a bycatch problem, which is an added layer of difficulty in the management, as well as management of the quota regime. He reiterated the importance and difficulty of structuring the most effective bigeye CMM to follow on to 2008-01. Simonds encouraged PIRO to conduct a catch limit study for purse seine fisheries in the Western and Central Pacific.

Martin said no one should be under the illusion that the current longline quotas are conservation measures, as it includes unlimited quota for small island developing countries. The Hawaii longline fishery, which consists of approximately 120 boats, is the most responsible, well-managed longline fishery in the world and provides 87 percent of the observed information

that the WCPFC utilizes. He noted he had the same frustrations regarding the TCC meeting as Duenas did.

Itano said the Secretariat of the Pacific Community (SPC) papers presented at the TCC pointed out numerous violations during the FAD closure. He appreciated that setting on whale sharks is finally being acknowledged and addressed and hopes this will lead to developing more effective measures, better enforcement, and a reduction in bigeye fishing mortality. He cautioned that care should be taken to avoid putting the U.S. purse seine fishery at a disadvantage in the global fishery arena.

Itano added he would like to hear an update regarding the bumphead parrotfish. Tosatto replied the bumphead parrotfish update would be presented in the Protected Resources section of the agenda.

Thielen noted that regardless of whether fisheries are commercial, subsistence or recreational, if everybody is racing to fulfill a catch limit such that there is no longer a sustainable fishery, there are long-term disadvantages to the management strategy. She said making regulations simpler may lead to more successful management.

2. Pacific Islands Fisheries Science Center

Sam Pooley, Director of the Pacific Islands Fisheries Science Center (PIFSC), reported on activities that have occurred over the last period, which included mesophotic video transects for EFH; placement of a lock box for logbooks at Pier 38; a number of ongoing recreational fisheries initiatives; a report from the summer internship program, one of which tracked movements of loggerhead turtles in the South Pacific; the Kona Integrated Ecosystem Assessment Project, which looks at ecosystem dynamics of a particular area; publication of a paper covering terrestrial influences on the fibropapilloma disease in green sea turtles; hiring of a new staff person to age fish using radioactive isotopes, the results of which will have an impact on stock assessments and require collaborative work with the University of Hawaii (UH) and others; ongoing research on coral and coral disease; monk seal critical habitat and surface movements; and an economic survey of commercial and recreational bottomfish fishermen regarding implementation of the Bottomfish total allowable catch (TAC) and Bottomfish Restricted Fishing Areas (BRFAs).

He also reported about a member of the Hawaii Longline Association (HLA) who participated in the recent R/V SETTE cetacean assessment, efforts of PIFSC personnel in the Gulf oil spill, PIFSC's internal review and annual review, and the Coral Reef Ecosystem Report.

Discussion

Martin asked if there was any opportunity for PIFSC to acquire a smaller research boat. He thanked Pooley for accommodating the visiting scientists on the cetacean population assessment. Pooley replied that a small research vessel would be optimal, especially for nearshore areas. NOAA is re-assessing how it allocates its funding for the research cruises and the number of days at sea. Chartering smaller vessels is being considered.

Itano agreed with Martin's support of using smaller vessels where appropriate as a more cost-effective way to conduct research. He asked about the impact to opakapaka exploitation with regards to radioisotope methods used to determine their age. Pooley replied the impact is worse as the removal rate of fishing is interrelated with natural mortality; implications can be followed up on as the data develops.

Duenas inquired about the monitoring program for coral bleaching and sedimentation throughout Micronesia. Pooley replied PIFSC is not funding that work and he is not familiar with it, but he will pass on Duenas' concerns to the Coral Reef Conservation Program. He added PIFSC is always happy to collaborate with people who are doing coral work.

SSC Comments

Severance presented the SSC comment related to Pooley's report on PIFSC's ongoing scientific activities:

The SSC noted with interest the recent results from radioisotope methods used to improve age determinations of opakapaka that suggests the age at maximum size may be as much as two times greater than previously calculated based on sampling of larger specimens from the Northwestern Hawaiian Islands. These data certainly will lead to a re-assessment of the resilience of this species to fishing pressure.

Itano pointed out the data from the radioisotope methods could have significant impacts on the estimation of maximum sustainable yield (MSY). He added the results should be verified through other studies but recommended the Council stay abreast of these developments.

Duenas asked if there was any discussion on the size frequency of species currently being harvested. He recommended the isotope method be used in more place-based research. He noted the warm waters of the equatorial Pacific are more productive area than the northern Pacific. Severance replied he would pass Duenas' concerns along to the SSC and Gerard DiNardo (PIFSC).

Council Aside

A closed session was held to discuss litigation matters.

B. NOAA Regional Counsel

Tucher reported that, during the last period, legal assistance was provided regarding Amendment 1 to the Fishery Ecosystem Plan (FEP) that describes the Community Development Plan Process (CDPP), the main Hawaiian Islands (MHI) TAC, the amendment for rebuilding armorhead at Hancock Seamounts, and the proposed rule to modify procedures to apply for licenses under the South Pacific Tuna Treaty (SPTT). Counsel was also involved with the Corals, Bumphead Parrotfish and False Killer Whale (FKW) Biological Review Teams (BRTs) and the FKW Take Reduction Team (TRT). Counsel consulted on Biological Opinions (BiOps) relating to interactions between the American Samoa longline fishery and sea turtles and relating to the dredging of Apra Harbor.

There were no comments or questions.

C. State Department

Gibbons-Fly provided the following updates:

- Three sessions held to negotiate an extension of the SPTT and discussions at the recent TCC meeting have resulted in slow progress, with success of the negotiation still in question. The next formal negotiation session is scheduled for March. The SPTT provides access for up to 40 U.S. purse seine vessels to operate in the waters of the Pacific Island States of the Forum Fisheries Agency (FFA). The current treaty is scheduled to run through 2013.
- A copy of testimony given before the House Foreign Affairs Subcommittee on Asia Pacific and the Global Environment, which was chaired by Congressman Faleomavaega, was provided to Council Members. It can also be viewed on the 'Committee's website.
- Negotiations are ongoing to establish a new Regional Fisheries Management Organization (RFMO) to manage all fisheries currently not subject to an international management regime. This initiative started in 2006 as an effort by four countries (the U.S., Korea, Russia, and Japan) to address the issue of bottomfish fishing in the Northwest Pacific Ocean, e.g., on the Emperor Seamount Chain. Two pelagic stocks of interest to the Council that would be subject to this management are the North Pacific squid and the North Pacific saury.

Gibbons-Fly noted that Council participation is always welcome by the U.S. Delegation to any of its negotiations.

Discussion

Simonds noted her appreciation for Gibbons-Fly's remarks at the Committee hearing regarding the Vessel Day Scheme, which is a big concern of the Council.

Itano expressed hope that access can be a unifying situation rather than vessels and companies seeking bilateral agreements. He voiced support for the U.S. purse seine fleet and said he believed the data quality provided by that fishery has been the gold standard for observer programs set up through the FFA and often the only data available. He urged the State Department to continue to push for accountability of other fleets in upholding the WCPFC CMMs. Itano also urged Council members to read the testimony of Russell Smith, as it provides a good summary of the purse seine fleet. Gibbons-Fly agreed that there are key points to be made by the U.S. Delegation at the upcoming December meeting and agreed the SPTT has set the standard in terms of compliance, observer coverage, and (Vessel Monitoring System (VMS) reporting. Further, it has managed fisheries with one set of rules that provides unity. There was hope and anticipation that a similar multilateral approach would be taken throughout the region, but that has not happened. There is evidence of growing interest among Pacific Island States in

seeking bilateral arrangements with the U.S., but the goal is to ensure that any extension of the treaty beyond 2013 is with all 16 states and will not include bilateral agreements.

Tosatto said any questions regarding the testimony of Smith should be directed to PIRO. He agreed that the SPTT maintains a strong negotiating position for the U.S. in the WCPFC and, in conjunction with the strong record of enforcement, will hopefully move toward better monitoring and compliance in the near future.

Martin encouraged the State and Commerce Departments to continue to advocate for local fisheries, such as the longline fishery, which is important to the local communities. Gibbons-Fly replied the State Department takes the obligation to represent all U.S. fishermen very seriously. The SPTT is a unique arrangement with the purse seine vessels because they require access to waters under the jurisdiction of the Pacific Island States to survive. In the past, requests have been received from the Council to look at the possibility of promoting similar arrangements for the longline fleet that the purse seine fishers now utilize. The State Department is open to a dialogue as to how that might be pursued. He noted there is record of two exchanges of letters with the Council, but as yet no one from the longline industry has expressed any interest in fishing the waters of any Pacific Island States. The State Department's record of representing the interest of the U.S. longline fishery is strong, and those efforts will continue.

Martin stressed the need for diligence and attentiveness by the U.S. Delegation regarding WCPFC activities. He noted the discussion at the recent TCC meeting on limiting access to areas of the high seas to the purse seine fishery. The areas are economically important and consistently within the range of the Hawaii longline fleet (specifically, 10 North to 20 South, and from 170 East to 145 West).

Duenas expressed concern about the quantity of fish being harvested and discarded by the large industrial fisheries, the impacts of setting on FADs, and evidence of the rapid decline of skipjack tuna around the islands. He asked the State Department to be cognitive of the fact that islands are dependent on the migratory fish. Duenas voiced disappointment that some issues were not discussed at the TCC meeting, such as the use of the purse seiners themselves as FADs by putting a light on at night and then setting between 4 and 6 a.m., the increasing capacity of the fleet, and placement of identifying marking on fishing equipment. Also, it seemed the conservation of bigeye was addressed by reducing the community-based Hawaii longline catch and forcing it to shut down in November.

Gibbons-Fly replied they have worked hard throughout the negotiations to ensure that the interests of the U.S. Territories were taken into account, that the Territories had independent representation, and that they are afforded all of the same protections with respect to ensuring that measures adopted by the WCPFC do not impinge on the small-scale domestic fisheries or the ability to develop their fisheries. Some of the concerns are beyond the ability of any individual country or any individual agency to address. The U.S. is one of 26 members of the WCPFC and cannot be the policeman of the Pacific. The U.S. will continue to try to advance and protect the interests of all U.S. fishermen.

Gibbons-Fly asked Duenas if there is any position or decision that the U.S. Delegation has supported within the WCPFC that he believed unfairly disadvantaged U.S. fishermen or U.S. interests. Duenas said the Council recommended items to the Delegation that were never brought before the WCPFC. He added that Guam was given an allocation for bigeye, which is not caught in Guam. He reiterated that the increasing purse seine fleet capacity and amount of discards have also not been addressed.

Gibbons-Fly said no country in the WCPFC has been a stronger advocate for capacity controls, particularly with respect to the purse seine fishery, than the U.S., not only within the WCPFC but within discussions with FFA members. The U.S. cannot control or compel the other member nations of the WCPFC to take positions if they're not willing. He directed the Council Members' attention to the testimony he addressed earlier.

Tosatto said that NMFS is seeing the first signs of a potential problem with the skipjack tuna resource in that skipjack migrate from those areas that are heavily fished. He noted that there were some problems when the WCPFC Convention was implemented related to interactions of the Commissioners. In time the Delegation should have more effective results.

Tosatto added that there are efforts to engage the Territory Governments to coordinate their efforts to achieve more consistent and effective use of all resources to avoid being marginalized.

Martin pointed out one position taken by the U.S. that was troublesome to the U.S. longline fishery was the unlimited longline quota for Developing Island Countries under CMM 2008-01, where a limit of 2,000 tons is allotted if fisheries are being developed irresponsibly, but no limit if developed responsibly. This has direct relevance to industries within the U.S. jurisdiction because of access to the markets through imports. He pointed out that the issue then becomes an allocation of opportunities to marketing.

Torres asked Gibbons-Fly to consider the interests of the various industries within the Territories as the Territories provide the U.S. with expanded fishing grounds.

Simonds noted American Samoa has an interest in Ta Veka Moana and asked if Gibbons-Fly could provide any information regarding membership. Gibbons-Fly replied that he is not familiar with the organization.

Gibbons-Fly added there is agreement collectively among the U.S. Delegation that the decision by the WCPFC to allow unlimited growth of longline vessels in the Small Island States is a problem. It is necessary to allow for development in islands with legitimate domestic fleets, but the concern is the door is being opened for large fleets from other countries to have access to unlimited fishing under this clause. The outcome is not advocated by the U.S. but was part of an overall agreement strongly favored by the Pacific Island States. Further, all of the concerns he noted were expressed, as well as the inequity of the measure. He assured the Council that these concerns will be expressed again when the measures are reconsidered, although more than half the membership supports the opposing views.

Duenas asked if the U.S. is applying for the chairmanship. Gibbons-Fly said no individual on the U.S. Delegation is currently interested in seeking the WCPFC chairmanship.

D. U.S. Fish and Wildlife Service

Palawski reported appointments to the Marianas Trench MNM Advisory Committee include Benigno Sablan, Dr. John Joiner, the Director of the CNMI Division of Fish and Wildlife (DFW), the Honolulu USCG Admiral, and the CNMI Navy Admiral. The first meeting of the Committee is being planned. He also reported the USFWS trip to Rose Atoll in August was successful, including successful turtle tagging.

Tulafono thanked USFWS for its efforts, as weather had caused a three-year delay.

Dela Cruz noted that Sylvan Igisomar, the Director of the DFW for the CNMI DLNR, resigned his position effective the 30th of September. The Governor will be nominating a replacement.

E. Enforcement

1. U.S. Coast Guard

CDR Caputo gave the following brief on activities conducted since the last Council meeting:

- The USCG Cutter (CUTT) *KUKUI* patrolled the Economic Exclusive Zone (EEZ) waters surrounding Kingman Reef and Palmyra Atoll, Jarvis Island, American Samoa, Howland, Baker, Kiribati, Cook Islands, and French Polynesia and the high seas immediately adjacent to their EEZs, where 21 boardings were completed. The USCG participated in the French Polynesian Regional Operation, Operation Tautai. During Operation Tautai, CUTT *KUKUI* exercised the Kiribati shiprider agreement, assisting Kiribati with an inspection and boarding of several foreign fishing vessels in Kiribati waters, which resulted in one vessel seizure by the Government of Kiribati.
- USCG District 14 deployed a USCG Liaison Officer (LO) aboard the USS *CURTS* in support of Operation Persistent Presence. During the two-week transit the USS *CURTS* flew 11 helicopter sorties and patrolled 4,300 nautical miles (nmi) of the EEZ around Hawaii, Johnston Atoll, the Federated States of Micronesia (FSM), and Republic of the Marshall Islands (RMI) and the adjacent high seas.
- USCG District 14 also deployed a USCG LO aboard the New Zealand Navy Frigate HMNZS TE KAHA during a transit from Hawaii to Tahiti in support of a New Zealand-led Quadrilateral Defense Force initiative entitled Operation Rhombus aimed at locating illegal fishing vessels. Over the 10-day period, 120,000 nmi² were patrolled via the ship and helicopter detachment. There were six fishing vessels sightings within the EEZ waters surrounding Kingman Reef, Palmyra Atoll and Jarvis Island.

- USCG District 14 deployed a USCG LO aboard the USS *CROMMELIN* during a transit from Hawaii to the CNMI also in support of Operation Persistent Presence. During this two-week transit, the USS *CROMMELIN* flew six helicopter sorties and sighted 11 fishing vessels.
- CUTT *SEQUOIA* departed Guam to conduct an eight-week law enforcement patrol of the Western Pacific Ocean (WPO), including the EEZ waters surrounding CNMI, Republic of Palau, RMI, and FSM and the immediately adjacent high seas and participated in the multi-national Operation Island Chief with the support of an Air Station Barbers Point C-130 aircraft. *SEQUOIA* exercised the Palau, FSM and RMI shiprider agreements for the purpose of enforcing the respective laws of those Pacific Island Countries with their respective EEZs.
- USCG Air Station Barbers Point continued to fly monthly law enforcement patrols of the Papahānaumokuākea MNM. No fishing violations were noted during these patrols.

Discussion

Duenas restated his request from the 148th Council meeting to differentiate between types of fishing vessels in Council reports, such as purse seine or longline. Caputo answered in the affirmative.

2. NMFS Office of Law Enforcement

Scott Yamashita, Deputy Special Agent in Charge, Pacific Islands Division (PID) of the Office of Law Enforcement (OLE), reported 41 incidents during the last period: 12 related to protected resources, 22 to fisheries management, and seven to sanctuaries. Several investigations were conducted involving alleged illegal deployment of FADs and repeated violations by U.S. purse seiners. The investigations were forwarded to General Counsel.

An investigation was concluded on illegal shark feeding by several shark tour companies; it was passed on to the Hawaii DLNR and set for trial. Another investigation was conducted in coordination with the U.S. Customs and Border Protection office, which resulted in the federal incarceration and then deportation of a crew member for sexually harassing a female NOAA observer.

OLE is following up on several reports of vessels fishing without proper licensing in FSM and an Ecuadorian-flagged purse seiner fishing on a school of tuna associated with a NOAA weather buoy.

PID outreach programs have started working with the Naval Criminal Investigative Service in charge of Kaneohe Marine Corp Base and the Office of Special Investigations with the Air Force regarding Marine Mammal Protection Act (MMPA) and ESA issues on base shorelines. Also, an agent participated in the FFA training program.

Discussion

Itano asked for clarification on the OLE's definitional difference between chumming and feeding, and how the case will affect the shark feeding operations. Because the case is pending trial, Yamashita could not comment.

3. NOAA General Counsel for Enforcement and Litigation

Alexa Cole, NOAA General Counsel for Enforcement and Litigation, reported that eight cases were referred to her office and nine were cases charged, which included the following:

- Six cases involved purse seine vessels that had violations from last year's FAD closure of the WCPFC and/or marine mammal take violations.
- One case involved a fishing vessel in the American Samoa large vessel prohibited area.
- Two vessels were fishing with expired longline permits.
- Penalties in the above cases totaled \$2,352,750.

Cole commented that the U.S. Government is seriously enforcing 2008-01 on U.S. vessels. OLE looked at every observer report on every vessel, which resulted in the seven cases. She stressed the compliance of all WCPFC CMMs by all countries is regarded as a top priority by NMFS.

Five cases are currently scheduled or are upcoming. Three cases settled since the last Council meeting for a total of \$142,500.

She directed Council's attention to the Federal Register (FR) Notice discussing the use of funds in the Magnuson Act Enforcement Fund. Cole welcomed comments, which are due by November 29, 2010. Another FR Notice scheduled to be published is on OLE's Draft Penalty Policy that will replace all existing penalty schedules across the nation. It will have a 60-day comment period.

Enforcement training was completed in Hawaii and American Samoa over the summer. Training is planned for Guam and CNMI for 2011.

There were no comments or questions.

4. NOAA National and Regional Enforcement Priorities

Cole pointed out the upcoming FR Notice regarding the Draft NOAA Enforcement Priority Process. She welcomed Council input on the subject, as well as suggestions for appropriate national and regional priorities. The goal is to set two national enforcement priorities.

Discussion

Itano voiced appreciation for the OLE process used to uncover the purse seine violations. He suggested the Council recommend that the U.S. Delegation at the upcoming WCPFC meeting to encourage other countries to enforce the CMMs as much as possible and to extract fines from their vessels. Cole replied that approximately 139 FAD sets were not lawful based on review of observer reports, although not all were U.S. vessels. Finding the violations in the observer reports involves interviewing captains and observers.

Haleck asked if there will be funds available for American Samoa at the next meeting. Cole replied there will be if funds are received from the American Samoa large vessel closed area violation.

F. National Marine Sanctuaries Program (NMSP)

Allen Tom provided the following update on the NMSP:

- The Papahānaumokuākea MNM will celebrate its World Heritage Designation on December 4th.
- Comments were reviewed from scoping meetings regarding the Hawaiian Islands Humpback Whale National Marine Sanctuary (HIHWNMS) Management Plan Review Process.
- The HIHWNMS Draft Environmental Impact Statement (DEIS) is expected in 2014.
- Nominations were requested for the HIHWNMS Sanctuary Advisory Council.
- The Fagatele Bay NMS Management Plan Review Process and the DEIS is expected to be released in the spring of 2011.
- Biogeographic information was reviewed for the proposed sites in American Samoa.
- The R/V *Manuma* was dedicated in July.
- A teachers' workshop was held in July for elementary and secondary level school teachers.
- A brief report was given on some ongoing coral research at Olosega.

Upcoming plans include the following:

- Renovation and creation of the NMFS Ocean Discovery and Visitor's Center. Groundbreaking scheduled for November 2010.
- Installation of the NMS kiosk at the American Samoa airport scheduled for spring 2011.

- Installation of the hyperbaric wound care chamber at LBJ scheduled for summer 2011.
- Draft New Management Plan scheduled for spring 2011.
- CNMI Visitor Center pass-through of funds, consisting of \$191,780 for the engineering assessment for the Garapan lighthouse; \$10,000 for coral reef bleaching and resiliency response; \$3,000 for coral reef activity; and \$15,000 for Marine Protected Area (MPA) workshops to examine existing CNMI MPAs to see if there is a role for the Office of National Marine Sanctuaries (ONMS).

Tom also reported on an upcoming workshop to be held on Kauai regarding plans for a consolidated Visitor Center for the Sanctuary Program; a Marine Debris Conference scheduled for March 20, 2010, in Honolulu; readvertisement for the HIHWNMS Superintendent position; and the Preserve America grants pre-proposals due by November.

Discussion

Itano asked if there are plans for including species other than whales in the HIHWNMS. Tom replied in the affirmative and acknowledged a letter from the Council regarding the Sanctuaries' education and research efforts.

Duenas said the roles of National Ocean Service (NOS) and NMFS projects need to be clarified. He noted the wide disparity between the budgets and the amount of money spent to protect an area versus to benefit the communities.

Tosatto assured Duenas that, when a sanctuary is designated within the EEZ, the Sanctuary does not remove Magnuson-Stevens Act (MSA) authority.

Simonds appreciated Tom's efforts to include the Hawaiian community in his meetings. Tom stated he would welcome any help from the Council in outreach to the communities, such as Molokai and Lanai. Simonds suggested the Marine Debris Conference being held in 2011 may be a good venue for his outreach efforts.

G. Public Comment

There was no public comment offered.

7. Mariana Archipelago

A. Arongo Flaeey

Torres reported that the Guam Department of Agriculture (DOA) completed its annual boat-based nearshore and freshwater fishing surveys and continues to sub-grant to the University of Guam (UOG) to obtain life history information for select species. A manuscript on the thumbprint emperor, *Lethrinus harak*, was recently published in the Marine Ecological Progress

Series. From January to July, six sea turtles were observed nesting in northern Guam. Two dead sea turtles were recovered; one was sent off-island for necropsy and one is a suspected shark attack.

NOAA awarded Guam DOA \$20,000 to continue conducting sea turtle surveys. Guam DOA also submitted a grant to USFWS for the maintenance and deployment of FADs and is awaiting a response.

Duenas reported there was a study conducted on the *Lethrinus harak* by UOG two years ago. He pointed out that the high incidence of sharks around Guam has been noted in prior Council meetings. Duenas also said the bottomfish season has lasted through the month of June, marlin seems to be plentiful, but tuna and wahoo seem to have declined.

There were no comments or questions.

B. Isla Informe

Dela Cruz reported on the following Fisheries Research Section (FRS) activities:

- Additions of fish species to the ‘Checklist of Fishes in the CNMI’ project, which tracks and records fish observed by researchers or caught by fishermen at all islands and banks in CNMI. Currently there are 1,261 fish species listed for CNMI.
- Completion of its annual underwater visual surveys of fishery resources in the CNMI Marine Protected Areas.
- Continuation of monthly fish samples for life history evaluation, including seasonality of spawning, length at maturity, and determination of growth parameter for select food fish species. A manuscript pertaining to life history characteristics of the spotcheek emperor, *Lethrinus rubrioperculatus*, has been accepted for publication in the *Journal of Pacific Science*.
- In conjunction with the Fisheries Data Section (FDS), FRS has received a grant through PIFSC Data Monitoring and Evaluation Program to supplement future life history work.
- A manuscript detailing strandings in CNMI has been submitted to the *Journal of Micronesia*.
- The manuscript evaluating the current status of sea cucumber populations, which were harvested 1996-1997 on Saipan, is in the final review for the *Journal of Asian Fisheries Science*.

Dela Cruz also reported a contract was secured for the deployment and replacement of 11 FAD systems around the Southern Islands, Saipan, Tinian, Aguijan and Rota. Three FAD systems were successfully replaced during the month of September. Plans have been set to deploy or replace the remaining eight systems by the end of November. Surveys were performed

to verify the presence of the FAD at each site. Currently there are seven active FAD systems around Saipan, Tinian and Rota. They hope to have all 11 systems active by the end of November.

Oceanographic sensors and telemetry systems have been delivered to the CNMI DFW. A representative from Falmouth Scientific, Inc., was on island to assist and train DFW staff with the newly-acquired sensor equipment.

Discussion

Itano asked for clarification on the kinds of information the sensors will collect. Dela Cruz replied that temperature and current direction could be transmitted directly to his office from the FADs.

C. Legislative Report

Torres reported that the Limits of Acceptable Change (LAC) and the Indigenous Fishing Rules and Regulations are near completion.

Dela Cruz reported:

- On August 24 Governor Fitial signed into law Public Law 17-13, which allows the use of thrownets, which are known locally as talaya. The regulation provided a net mesh size of no larger than 2 inches for drag nets (chenchulun lagua), surround nets (chenchulun umesugon), and trap nets (managam) in Rota for noncommercial purposes. The law amended Section 3 of Public Law 12-14 to take into account the economic and social realities of CNMI and the need for noncommercial net fishing as a source of food for people of CNMI who have traditionally relied on such fishing methods to support themselves and their families.
- On July 22, 2010, House Bill 17-94 was introduced to prohibit any person from possessing, selling, offering for sale, trading, or distributing shark fins in CNMI.
- Public Law 15-124 was signed into law, which prohibits any person within the Commonwealth to take; possess; sell; purchase; barter; offer to sell, purchase or barter; transport; export; or import at any time or in any manner any shark alive or dead, and criminalizes shark feeding.

Torres reported that a proposed bill regarding scuba spear fishing is scheduled to be debated soon. The Indigenous Fishing Bill is being discussed, and a bill was recently sponsored to assign jurisdiction over coral to the Guam Department of Agriculture.

There were no comments or questions.

D. Enforcement Issues

Torres said one report of turtle poaching is currently under investigation in Guam.

Dela Cruz reported the following:

- A case involving harvesting of sea shells with the use of scuba at night in the Tanapag Lagoon by three fishermen is pending. The fine for using scuba for collecting sea shells and other marine life is \$1,000 and/or imprisonment for not more than six months.
- A case of night fishing inside the Forbidden Island Sanctuary, or Tank Beach, involving five local fishermen (two adults and three juveniles), is pending. The penalty for fishing in the Sanctuary is \$500 and/or imprisonment for not more than one year.

Two cases of abandoned fishing nets found in the waters adjacent to Puerto Rico and Fishing Base in Garapan measuring 500 feet and 100 feet in length. Enforcement Officers conducted a workshop for the staff of two tour companies, Tasi Tours, Inc. and Pacific Development, Inc, with a total of 23 participants. The workshop covered topics such as endangered species and Sanctuary activities. Another workshop was held on August 26th regarding prohibited activities in the Sanctuary, including fishing and taking of corals. A third workshop was held at Marianas Resort on July 23rd for students and their instructors from Northern Mariana College. In addition, the enforcement officers also talked to 12 fishermen about illegal fishing in the sanctuaries and illegal fishing activities.

- One case of turtle poaching resulted in the arrest of four local fishermen who captured a green sea turtle in Garapan Lagoon. Following the operation, the turtle was retrieved and released back into the water. This case is now pending in the local court.

There were no comments or questions.

E. Monument Activities

Palawski reported USFWS is working with NMFS to establish the first meeting date for the Marianas Trench MNM Advisory Council. Tosatto added that NOAA is working to determine information needs and how to obtain the information and to identify management issues.

Dela Cruz stated the CNMI DLNR was awarded \$219,780 from the U.S. Congress to implement educational programs on marine sanctuaries. DLNR plans to use the bulk of these funds to assess and begin the process of turning the old Japanese Lighthouse on Navy Hill into a Visitor's Center associated with the Marianas Trench MNM.

There were no comments or questions.

F. Report on Bottomfish Scoping Meetings

Council staff Mark Mitsuyasu reported on the scoping meetings held in the Mariana Islands related to the bottomfish fishery management regime that was put in place in 2009. The regime created a 50-nmi closure for vessels greater than 40 feet in length around the southern

island area and a 10-nmi closure around Alamagan in the north and established VMS, commercial Federal permit and reporting requirements. After a brief history of the bottomfish fishery, he reviewed the following comments received during the meetings:

- Modifications to distance, primarily because of the fuel cost.
- The need for shark culling.
- Concerns related to illegal fishing and enforcement in the northern areas.
- Concerns related to the monument.

Two follow-up meetings in Saipan and Guam provided suggested alternatives to the community, such as a reduction from 50 nmi to 30 nmi and requirements related to Bottomfish Management Unit Species (BMUS) caught by spearfishing. There was good attendance at the meetings with very similar comments to those from prior meetings. The feedback from the Guam meeting was to see what further action is taken in CNMI with regards to spearfishing.

There were no comments or questions.

G. Update on Military Activities

Dela Cruz reported that Governor Benigno Fitial received a copy of the Record of Decision (ROD) for the Guam and CNMI military buildup from the Joint Guam Program Office. The ROD is the final step in the EIS process needed to begin construction of the four live-fire training ranges in CNMI. The Governor looks forward to the opportunity for economic growth and development.

Torres reported:

- The ROD was signed in September 2010.
- The Department of the Navy (DON) and the Army are proceeding with the Guam and CNMI Military Relocation.
- Construction projects can now move forward to provide the required facilities and infrastructure. Implementation of the military relocation has several components:
 - Development and construction of facilities and infrastructure to support roughly 8,600 marines and their 9,000 dependents being relocated from Okinawa to Guam.
 - Development and construction of facilities and infrastructure to support training and operations on Guam and Tinian.
 - Pending completion of the Section 106 Consultation process under the National Historic and Preservation Act (NHPA), the DON deferred selection of a specific site

for the live firing and training range complex located next to Andersen Air Force Base.

- Navy construction of the new deep wharf with shoreline infrastructure improvements creating the capacity in Apra Harbor to support a transient nuclear-powered aircraft carrier. The DON feels that the analysis in the Final EIS is sufficient to consider the direct, indirect and cumulative impacts of locating a transient aircraft carrier. However, the DON will voluntarily collect additional data on marine resources developed cooperatively with the EPA, NOAA and Department of the Interior (DOI) in Apra Harbor at the alternative transient aircraft carrier berth sites still under consideration.
- The Army Corp of Engineers (ACE) come to Guam to establish an Air and Missile Defense Task Force (AMDTF) that will aid development of facilities and infrastructure to support the relocation of 600 army military personnel and 900 dependents.
- DOD has not made a decision about whether to construct or operate an AMDTF on Guam. The decision is pending the results of the regional and global ballistic missile defense architecture and capabilities studies and on the EIS for this proposed action. Guam and other are sites being considered.
- Renovation and development of additional capacity for power, water and wastewater systems, both on and off base to support the increased demand from the new Marine Corp Base associated with the growth for the civilian and military population relocation.

Duenas reported the DON is going to build its own coral research lab in Apra Harbor. Andersen Air Force Base is constructing its own water wells, which are connected to the Guam water well system; there is concern for toxin contamination of Guam's aquifer. He voiced grave concern also about plans for the DON desalination plant, the increased wastewater disposal, freshwater intrusion into saltwater areas, impacts of the multiple firing ranges on Guam's resources and increased pressure on the limited number of recreational sites available on Guam.

Torres added that the great majority of all of the proposed construction lies on the water or within half a mile of the water.

Discussion

Duerr asked if there is potential for the gunnery ranges to be periodically opened up for fishing. Torres replied the small caliber firing range will not be opened because of conflict with foot traffic. He added the current larger caliber practice schedule is not likely to accommodate periods for fishing activities.

Duenas clarified the Surface Danger Zones (SDZ) is closed for up to 12 miles from the shoreline and the community has concerns regarding the impacts that the small arm firing range will have to the coastal environment. He added the area of concern includes up to 14,000 square miles as the military has jurisdiction over Territorial and Federal waters.

1. Mariana Island Range Complex (MIRC)

Ed Lynch reported the MIRC Final EIS is completed and the record of decision (ROD) was signed in July 2010. The ESA Terrestrial BiOp was completed by the USFWS in February 2010. The five-year ESA Marine Programmatic BiOp was completed in June 2010. The MMPA Final Rule was signed in July and became effective August 2010. The Annual ESA Incidental Take Statement was issued in August 2010. The annual permit is based on an adaptive management program agreed upon between the Department of Navy (DON) and NMFS. Each year reports are submitted to NMFS and used to prepare the Annual Incidental Take Statement.

The Terrestrial BiOp from the USFWS has an adaptive management report requirement. The report was due at the end of September; the Marine Resources Management Adaptive Report will be due in 2011.

Discussion

Leialoha asked for clarification on the passive acoustic monitoring. Lynch replied the DON uses passive acoustic monitoring buoys and passive acoustic systems on ships, which will send out information, and also such things as the Portable Underwater Tracking Range, or permanent tracking range, which collects information. Because of security issues involved, the data collected regarding marine species is then declassified before it can be released for scientific review and analysis.

Duenas asked for clarification as to whether fishing is allowed in the W-517 area during operation. Lynch replied W-517 is an International Warning Area. Tucher further clarified that it is a warning that says operations are ongoing and proceed with caution.

Duenas asked for a response to community comments submitted during the EIS comment period regarding relocation of the W-517 area further eastward, the request for internet notification of area trainings, and mitigation to the incidental take of turtles. Lynch replied comments were considered as part of the Final EIS and are contained within the EIS. He added there are arrangements to run banners on the television and any additional outreach will be passed on to the local command.

2. Guam Buildup

This topic was reported under Agenda Item H.1, Cumulative Impacts to Guam Fisheries and Fishermen.

H. Community Activities and Issues

1. Cumulative Impacts to Guam Fisheries and Fishermen

Duenas reported on the following agenda topics for the upcoming island-wide fishermen's meetings in the Marianas:

- Proposed scuba spearfishing ban.

- Micronesian Challenge, 10 more MPAs.
- GovGuam Mitigation Policy, nothing for fishing.
- MPA issues, talaya, beach raking, spearfishing competitions, kid's derbies.
- Sports fish restoration funds, DOA.
- Federal ban on the sale of billfish in the U.S.
- Proposed listing of Tangison and Atuhong under the ESA.
- Federalization of Guam's five marine preserves.
- CNMI bottomfish federal regulations and permits.
- Ocean dredged material disposal site, one million cubic yards a year.
- YLIG Bridge expansion, no boat ramp.
- Military ocean training area W-517, range complex.
- Pagat Marine Firing Range, 24 square mile closure.
- Military buildup impacts, military ranges, new fishery.
- Current military restricted access of marine water areas, Cabras Island, Orote Point, Double Reef.

Discussion

Tulafono voiced concern on the impact that the potential ESA listing of the bumphead parrotfish and 82 species of corals will have on the American Samoan community, which will be compounded by the impending closure of the second and last cannery. He asked NMFS to take into consideration the livelihood of the American Samoa people. Simonds commented on a meeting scheduled with NMFS to discuss how to better deal with the issues.

Paul Dalzell, Council Senior Scientist, added that the Council drafted a response to the petition. That response, which was based on an extensive literature review, pointed out that there were 50,000 islands between the Indian Ocean and the Pacific of which a large number of those islands would be suitable habitat for the bumphead parrotfish and very few have been comprehensively surveyed, as well as information on age and growth from New Caledonia. He met with the BRT to review the letter and directed them to different data sources, such as the Secretariat of the Pacific Community (SPC).

Itano requested that NMFS provide a breakdown of the list of corals recommended for ESA listing so the community can have a better understanding of the impact to their livelihood. Tosatto replied he will supply the listing of corals. He added that the core questions for the BRT are the status of the species, what the extent of their range is, and the risk of extinction, and then to arrive at some sense of risk of extinction on an ecosystem level using the best available scientific information. He noted it would probably not be done on an individual species-by-species basis.

Thielen stated that she understood the Micronesian Challenge is not a top-down Federal effort, but there was support voiced from the local people of the various regions, as well as the Governors' full support in asking NOAA to fund the local effort.

2. Community Monitoring Workshop Report

Mitsuyasu reported on the Community Workshops held in CNMI in August 2010, which were part of an ongoing effort to engage the communities in the Council process, improve data collection via tagging and biosampling programs, promote use of traditional ecological knowledge, discuss deployment of community FADs to better understand the impact to the resources, and describe FishBox.org (a website used to log information collected through the different community projects and programs). FishBox.org has an ecosystem monitoring component where communities can record information and generate reports. This can be used in conjunction with community FADs that may be deployed.

Workshops were also held for high school teachers, the Guam Mayor's Council, and Saipan. Workshops are planned for Hawaii.

Discussion

Duerr stressed the need for sufficient public notification of the meetings to generate more attendance. Mitsuyasu agreed and noted that this is the beginning of a great opportunity.

Caputo asked for clarification on the involvement of the USCG in the community FAD initiative. Mitsuyasu replied that the Council is currently working on setting up a meeting with the USCG, State of Hawaii Division of Conservation and Resource Enforcement (DOCARE) and the community to address topics such as proper marking and location notification.

3. MPA Impacts on Fishermen Drowning

This item was deferred.

4. Economic Development

A. Fisheries and Aquaculture

Joshua DeMello, Council staff, reported on the upcoming offshore aquaculture workshop to be held in the Marianas in January 2011, which was requested by the Northern Marianas College-Cooperative Research Extension and Education Services (NMC CREES). The workshop was initiated during discussion of the aquaculture amendment the Council approved at the 148th Council meeting. Council staff has been developing the agenda and organizing the workshop. The workshop will allow participants to discuss opportunities and hear about experiences from elsewhere, gather information for Council FEPs, and determine needs that will be applied to development plans in other areas of the Western Pacific Region.

Discussion

Tosatto commented that the CNMI hopefully has only a short-term problem in regards to the uncertainty of the jurisdiction of its nearshore waters. Sablan expressed his hope that CNMI will obtain jurisdiction over their 3 nmi.

I. Education and Outreach Initiatives

Torres reported that the Kids Fishing Derby was held July-August 2010. Approximately 100 kids entered, and it was a great success.

Jack Ogumuro, Council On-Site Corrdinator in the CNMI, reported on two events in which Council outreach activities were conducted: the Annual Saipan International Fishing Derby held in July and the Coral Reef Task Force Meeting held in September. Council newsletters, posters, and brochures were distributed, and children played fish games at the fishing derby.

Duenas reported that the Council was well represented during the outreach activities in Guam, which included the Guam Organization of Saltwater Anglers (GOSA) Shoreline Tournament, the Council scoping meeting, the Fishermen's Festival, Trolling Derby, Guam Marianas International Fishing Derby, the Guam Fisherman's Cooperative Association (GFCA) banquet and the Marianas Underwater Fishing Federation Spear Fishing Tournament. He noted the need for more education and outreach initiatives.

Discussion

Sword complimented CNMI on the Smiling Cove Harbor as a great facility for sports recreational activities.

J. SSC Recommendations

Severance reported the SSC comment regarding the Community Fishery Monitoring:

- The SSC commends Council staff for these efforts.

K. Public Comment

No public comment was offered.

L. Council Discussion and Action

Regarding the Mariana Archipelago:

- 1. The Council supports an aquaculture workshop for the Mariana Archipelago in January of next year, which involves the NMC CREES as a workshop partner.**

Moved by Sablan; seconded by Martin.
Motion passed.

- 2. The Council supports funding for the staff to conduct a study to determine the impacts of the impending military buildup with respect to fisheries and fishermen.**

Moved by Sablan; seconded by Duenas.
Motion passed, with one vote of abstention by Leialoha.

Duerr commented that the military should be responsible for funding the study. Simonds commented that the funding source can be determined during the process of structuring the study parameters.

Leialoha asked for clarification regarding whether the study would be conducted within three miles from shore. Sablan clarified that, at present time, there are no State waters in CNMI.

8. American Samoa Archipelago

A. Motu Lipoti

Sword reported on the recent installation of three new FADs and a series of lectures being sponsored by Department of Marine and Wildlife Resources (DMWR). The most recent lecture was about the importance of whales in American Samoa.

Tulafono reported that contracts were recently awarded for the replacement of two launching ramps destroyed in the 2009 tsunami, an advertisement was published for the construction of two piers, 80 percent of the projects have been completed for 2010 despite the difficulties created by the tsunami destruction, and marine debris is still a problem while FEMA continues to deny assistance in its removal. There has been assistance from NOAA, but the problem remains. He noted the high cost of FAD deployment.

Discussion

Simonds asked for clarification on the next step in the Disaster Relief Package. Tosatto replied that none of the disaster applications will progress until the new set of regulations on Fisheries Disaster is finalized. Requests are issued, and he will keep the Council updated on its progress.

Duenas stressed the importance of FADs to islanders because they offer an opportunity for nearshore harvest of pelagic fish and greatly assist subsistence fishing. Tosatto voiced agreement with the benefits FADs to community development and supported NMFS involvement in FAD programs. However, Duerr noted FADs attract small fish, which is not a good thing for fishery resources.

Itano suggested using a NOAA research vessel to deploy FADs when the ships are on research cruises in the region to help minimize costs of deployment. Duenas suggested one option for FAD deployment is conversion of the vessels involved in buyout programs (from the Northwestern Hawaiian Islands and Pacific Coast) from fishing vessels to FAD deployment vessels in the Western Pacific Region.

Duenas also commended the DMWR on the report regarding the humphead wrasse that is contained in the report documents.

B. Fono Report

Tulafono reported the Fono passed a resolution to form a StarKist American Samoa Government Task Force to look into ways that the government can assist StarKist to stay competitive and continue to operate out of American Samoa. After much lobbying, the Fono also passed a bill banning the use of non-biodegradable plastic shopping bags, which has been signed by the Governor.

Discussion

Simonds asked for the latest information on the ASPIRE bill related to delivery of catch to the cannery in American Samoa. Martin asked for clarification about the status regarding information of a potential new arrangement between the Government of American Samoa and Tri-Marine that would transfer assets and about the suspension of the next wage hike for some period of time. Tulafono replied that the Governor recently signed an agreement with Tri-Marine for a site visit of the facility in American Samoa. One option for Tri-Marine is to operate a loining process plant. In regard to the minimum wage, the 50 cent raise was prohibited in September and he is unsure about future incremental raises.

Itano commended American Samoa for banning plastic bags and said he hopes it will set an example to other Pacific countries.

C. Enforcement Issues

Tulafono reported that four fishermen were cited for violating the drift gillnet law under American Samoa law. The cases are currently pending in court. He also thanked OLE for the enforcement training of their officers.

There were no comments or questions.

D. Community Activities and Issues

Tulafono reported that the major negative impact on the American Samoa community was the laying off of 300 people due to the closing of the last existing cannery, as well as the minimum wage increase. StarKist and the Western Samoa Government had talks about the possibility of setting up a loading operation on the Island of Savai'i, but infrastructure issues need to be resolved.

There were no comments or questions.

E. Education and Outreach Initiatives

Tulafono reported that, during the National Fishing and Boating Week in June, the DMWR held a family fishing derby, safety lessons, and boat rides, with 100 students participating in the activities. One highlight was that the DMWR won the Director's Trophy for the fourth year. He also reported that, in September, the local nonprofit organization "Agency for

Better Living Endeavors” held several workshops for people who have been laid off from the canneries and other industries, with 50 to 60 attendees participating.

There were no comments or questions.

F. SSC Recommendations

Severance reported the SSC comment:

- The SSC commends PIFSC staff for its Bio-sampling Program and Capacity Building efforts in American Samoa and the Mariana Archipelagos.

G. Public Comment

There was no public comment offered.

H. Council Discussion and Action

- 1. The Council recommends that staff work with American Samoa DMWR to submit application for a community-based marine debris removal grant through NOAA’s Marine Debris Program for cleanup and to remove debris that resulted from the 2009 tsunami and persists in the nearshore areas in American Samoa.**

Moved by Sword; seconded by Sablan.
Motion passed.

9. Public Comment on Non-Agenda Items

There were no public comments.

10. Hawaii Archipelago

A. Moku Pepa

Duerr reported that Kona has seen several big marlin and fishing tournaments have provided opportunities for the charter industry in the slow economy.

Thielen reported on efforts in aquatic resource enforcement, such as education and outreach, decriminalizing minor violations, and Joint Enforcement Agreement (JEA) activities. DOCARE has embarked upon an effort to receive accreditation and plans to set new policies to improve efficiency, training, and operations.

Martin reported that the longline fishery has experienced good fishing in the Western Pacific and is experiencing a stable market.

Itano reported that some of the islands have noted a strong recruitment of yellowfin and a lot of marlin around the buoys. The mahi season was weak, and small boat fishing has expanded on the Cross Seamount with more guys entering the short longline fishery in hopes of taking advantage of the bigeye restrictions in place for the longline fishery. The Hawaii FEP amendment pertaining to rebuilding of the pelagic armorhead stock at Hancock Seamount is complete for transmittal for Secretarial review in August.

There were no comments or questions.

B. Commercial Marine License Compliance

Ben Li, Administrative Proceedings Coordinator for DLNR, with Reginald Kokubun, Chief Statistician at the Division of Aquatic Resources (DAR), provided an outline of the newly created Civil Resource Violation System (CRVS), which is an administrative process to provide a legal, fair, fast, simple, and cost-effective method to handle DLNR's civil and minor violation cases. The CRVS is modeled after the State Traffic Violation Bill, which allows respondents to pay a small fine without a court appearance or a criminal record. The CRVS includes due process to handle mitigation requests, contest cases, and step-up fines for repeat offenders.

One of the primary reasons for development of the CRVS process was to increase compliance in the commercial marine license (CML) monthly reporting requirements. At the beginning of the enforcement action in February 2009, there was an average of 1300 violations per month. As of June 2010, there are less than 300 violations per month. Kokubun noted the success of the program is improved compliance of CML regulations, more accurate data, near-real-time reporting, improved communication, positive interactions, less error, and better education and outreach, and all of this leads to improved science-based decision-making.

Discussion

Itano expressed appreciation for the improvements but noted the mechanism for filing the no-fish report could be improved. Kokubun replied that it is still a work in progress; improvements are ongoing.

Martin asked for clarification on the timeliness of the processing of reports. Kokubun replied that currently bottomfish information is transmitted the same day it is received at NOAA, while the other fisheries data processing takes one to two weeks.

Thielen pointed out the greatest success of the CRVS is larger-scale compliance.

C. Hawaii Shark Fin Law

Tucher reported that there has been no preliminary determination of any conflict between the Hawaii State law and Federal law related to shark finning and there is currently no process initiated for an evaluation.

Discussion

Thielen stated that, based on a request at the 148th Council meeting, the State of Hawaii discussed Act 184 with the Attorney General (AG). She clarified the Act addresses the practice of catching and cutting the fin off and discarding the shark back into the water while retaining the fin. After consulting with the AG, the advice was to address the matter through the rule-making process. She noted the Council received a letter seeking input on options being considered, as well as any new options, to move the process forward. Thielen expressed preference for retention of the whole shark for ease of enforcement. Meetings are ongoing with the longline fleet and the AG's office.

Martin pointed out a concern for the longline industry is the definition of the word "whole" in the Act and that a shark is useless for marketing if it is retained whole.

Sablan pointed out the same situation with regards to retention of sharks exists in CNMI and invited the GC's opinion on the subject. Tucher replied that states are encouraged to fulfill the overall objectives of the FEPs and for laws to be interpreted consistently. He added the MSA, Section 306, holds there is no outright prohibition on states to regulate the fisheries. The first step is to find common ground and avoid conflict. If there is conflict, then the 306 and/or preemption procedures would begin. He is encouraged by the State's interpretation of its own law. If there is a concern over the CNMI law, it should be pursued in the same manner.

Thielen said she did not feel there is a preemption issue in the law. She reiterated that the law is on the books and it is preventing the finning of sharks; it is not just a fishery issue but is also an anti-cruelty issue. She welcomed input to provide some greater clarity to the text.

Simonds pointed out that the State law goes further than prohibiting finning because it prohibits retention of sharks that are edible and marketable. Thielen disagreed, stating that the law does not ban the take of sharks, only the possession of fins.

Simonds asked for clarification as to whether the Federal law also prevents the finning of sharks. Tucher replied in the affirmative and added that the purpose of the Shark Finning Prohibition Act (SFPA) is to prevent the finning of sharks, which by definition involves retaining the fins and discarding the carcass with the 5 percent ratio rule. He added that there is a provision in the prohibition act that allows the States to enact their own provisions, which in some cases can be more rigorous in State waters.

Simonds reiterated the point that the Federal law prohibits finning but still allows for the retention of the shark for sale. She asked for clarification as to whether the State law prohibits the shark from being brought in for sale.

Tosatto clarified that the SFPA prevents dumping of the carcass over the side and requires a 5 percent requisite number of fins for the shark to be brought to market. Prior to the law the longliner could actually land that shark, fin that shark, sell the fins into the commerce, and dispose of the carcass, which can still happen in the Territories, unless the CNMI, Guam, or American Samoa law prohibits it. He added that the State law would not allow the processing of the fins into commerce in the State of Hawaii. The shark can be landed, but its fins cannot be

detached. He noted a reasonable interpretation of the State law would be that a shark could be landed, processed for its meat but not its fins, and entered into commerce.

Itano noted the significance of the bill and the importance of the authors of the bill to consult on such issues.

Duenas pointed out that it is not practical to retain the whole carcass due to limited space and ice, but Tosatto raised the issue of bycatch created by discarding the shark, which is often part of fisheries management.

Simonds recommended further discussion on options and to meet with industry and the State to offer input.

D. Action Items

1. Bottomfish Stock Assessment

Gerard DiNardo, PIFSC, provided an update on the bottomfish stock assessment activities. The new stock assessment will focus on the Deep 7, as well as BMUS, catch per unit effort (CPUE) standardization, fishing gear technology, and ways to account for recreational landings. If time permits, alternative indicators of overfishing based on recently published journal articles will also be considered. PIFSC expects to complete the assessment and the Center for Independent Experts (CIE) Review before the March 2011 SSC meeting.

Discussion

Martin asked how the bottomfish restricted fishing areas (BRFAs) will be accounted for in the stock assessment. DiNardo replied that they will not be included in the assessment; the assessment will be relying on available catch data.

Duenas asked if a fishery independent survey would be useful in the stock assessment. There is evidence with the spear fishermen in Guam that such things as weather affect CPUE data.

DiNardo replied that a fishery independent survey could potentially provide a baseline, but the entire BRFA needs to be taken into consideration. He agreed weather is important, especially wind.

Simonds reiterated the various past requests to the State to share information on the management and modification of the BRFAs with no success. She said the Council's understanding was area or seasonal closures would not be necessary once the TAC was established. The lack of information from the BRFAs has caused confusion among fishermen as to which regulations to follow for BRFAs in Federal waters.

Itano told of his experience with a fishing experiment in the Niihau BRFA with Chris Kelley. He has never seen any of the information in any subsequent reports. DiNardo stated

information regarding the benefit of the BRFA's would be beneficial. The TAC was set in the Federal areas without any BRFA data and in such a way that it disregards that the BRFA's exist. It would be useful to have a sampling program put in place. He added that such a monitoring program is not a simple endeavor and is expensive.

Tosatto stated the State's management scheme is consistent with the Federal management. BRFA's are enforceable and are obviously having a positive benefit to the health of the stocks. The TAC is for the commercial and recreational fishery in Federal waters. He acknowledged the need to know as much as possible about the benefits of the BRFA's and to continue to improve on the status of the stock around the MHI.

Itano pointed out an ongoing project of acoustic tagging and monitoring of bottomfish in the Niihau zone to look at the spillover effects. The project is scheduled to conclude in 2011.

Thielen noted that there is a lot of information on the positive impact of MPAs in fishery management. The State has BotCam survey information from 2007 and is also collecting data. She welcomed assistance in examining and assessing the data.

DiNardo added that research is being done regarding nonextractive gears, including BotCam and automated underwater vehicles (AUV), and noted the importance of calibrating the gear in the estimate. PIFSC has plans to do gear calibration work in 2011.

2. Community Development Program (CDP) Application

Charles Ka'ai'ai, Council staff, reported on the request received from Leo Ohai, a long-time commercial Native Hawaiian fisherman, for an exemption under the CDP to teach native Hawaiians how to commercially fish using traditional methods and gears inside the 25-nmi longline closed area. Ohai practices a multi-species fishery activity for such species such as akule, white crab, Kona crab, ahi, and aku, using seasons, weather, tides, moon phase, specific locations, and multiple gears. Preparation of product for the Hawaii market and value-added seafood products will be included in his teachings.

Discussion

Duerr asked for clarification as to whether Ohai's students will also request to fish within the longline area closure. Ka'ai'ai did not know the answer, but stated there are no other such requests.

Duenas asked for clarification as to the process to determine the parameters of his request, such as how close to shore he can fish. Tosatto replied that while the CDP amendment was approved, the regulations and implementation remains yet to be effective. Work is ongoing with the Council and the applicant. The applicant will present their parameters and then the Council will need to deliberate on what is acceptable. Once it is transmitted to NMFS, the appropriate National Environmental Policy Act (NEPA) analysis will be conducted.

Martin stressed the need for more consideration to be given to community concerns that

had been expressed when a similar request was previously considered.

E. Permitting Issues

1. MHI Research Permits

Thielen reported that, due to the recent rulings of the State of Hawaii Supreme Court on cases relating to the State Environmental Assessment Law, the AG's office has been conducting a review of the permitting and activities taking place in the state to ensure compliance. There is work ongoing to set up a joint permit process, and comments are welcome.

There were no comments or questions.

2. Northwestern Hawaiian Islands Monument Permits

Polhemus outlined the Papahānaumokuākea MNM Joint Permitting Process in the Northwestern Hawaiian Islands. After a brief background, he noted the following Proclamation mandates:

- A joint agency permit process
- VMS for all vessels holding Papahānaumokuākea MNM permits
- The phase-out of commercial fishing by June 2011
- Notification for innocent passage, entry, and exit of Papahānaumokuākea MNM

All activities within the monument are regulated and require a permit with the exception of law enforcement, emergency response, innocent passage, and armed forces activities. Notification is required for vessels passing through monument waters without interruption. Research permits are the most common permit issued. The six categories of permits include:

- Conservation and Management
- Education
- Native Hawaiian Practices
- Research
- Special Ocean Use
- Recreation, within the Midway Atoll Special Management Area (SMA)
- Protection zones, including SMAs, Ecological Reserves, and Special Preservation Areas (SPAs)

The permit application process requires the application to be filled out and submitted by the deadline. The deadlines are February 1 for permits starting June 1 through August 31, May 1 for permits starting September 1 through December 31, and September 1 for permits January 1 through May 31.

An initial review of the permit by the Monument Agency Permit Coordinators is conducted in a Permits Working Group, which consists of representatives from all three principal entities: the State, NOAA, and USFWS. When applications are deemed complete, they are posted to the website for a 40-day public comment period. Polhemus displayed a graphical overview of the joint permit process.

Once the permit is issued, the permitted entity may enter the monument and conduct the permitted activities. A report of activities must be submitted within 30 days. Data from the permit reports are entered into the Papahānaumokuākea MNM database and are included in the annual Papahānaumokuākea MNM Permit Activities Report.

Prior to issuance, the permit applicant must be compliant with the following requirements:

- A VMS must be installed and working properly.
- Hull, ballast water, gear and tender vessel must be inspected and certified all are free of alien species.
- Luggage must be inspected for alien species if arriving via aircraft.
- Rat inspection must be performed.
- Notification of entry into Papahānaumokuākea MNM.
- Office of Hawaiian Affairs (OHA) briefing.
- Briefing by lead permit coordinator on contents of permit and all special conditions.

Permittees must abide by a suite of Papahānaumokuākea MNM Best Management Practices and Protocols, including but not limited to:

- Dive gear and equipment disinfection
- PMNM collection transport
- Wildlife viewing guidelines and practices
- Land quarantine
- Anchoring and small boat operations
- Training on human hazards to seabirds
- Minimization of the use of artificial light on sea turtles

Discussion

Dela Cruz asked if the Monument Board ever denied any Native Hawaiian Practices permit. Polhemus replied in the negative.

Tulafono asked for clarification as to the length of the permit process and if a similar permit process would be used in the American Samoa MNM or CNMI MNM. Polhemus replied that the process is a maximum of 90 days, and the permit process is unique to the Papahānaumokuākea MNM.

Sablan asked USFWS if the information from the Papahānaumokuākea MNM can be applied to the Mariana Trench MNM management. Palawski replied in the affirmative; as the planning process progresses, what may be applicable will be considered.

Tosatto pointed out that much of the Papahānaumokuākea MNM was proscribed in the Proclamation that created the monument, but agreed it would be a joint management process.

Itano appreciated the efforts to streamline the permit process.

Duenas asked for clarification about whether the requirements and prohibitions regarding the cultural practices are part of the Proclamation or the management regime. Polhemus replied that they are in the Proclamation.

F. Sustenance Fishing in the Monument

Palawski reported, in response to a request for information made at the 148th Council meeting, on sustenance fishing of pelagic species in the Northwestern Hawaiian Islands caught under the management provisions of the Papahānaumokuākea MNM. He noted the Monument Management Board will also respond in writing to the Executive Director. He suggested any written inquiry should include a cc copy to the co-trustees.

The Proclamation that created the Papahānaumokuākea MNM provides for sustenance fishing within the monument. It defines sustenance fishing as fishing for bottomfish or pelagic species that are consumed within the monument and is incidental to an activity permitted under the Proclamation. The Secretaries may not permit sustenance fishing in the Midway Atoll SMA unless the activity has been determined by the Director of the USFWS or his or her designee to be compatible with the purposes for which the Midway Atoll National Wildlife Refuge (NWR) was established.

For Midway, residents are allowed to catch fish for sustenance purposes. The residents eat what they catch and only catch what they need. The fishing techniques are rod and reel or handline and trolling. The catch is predominantly ahi and ono. The catch for 2010 is 42 fish total, four ahi and 38 ono.

Discussion

Simonds pointed out the request was prompted when a report stated the estimated amount to catch was 6 metric tons. Palawski said it may have been estimated in the Sustenance Policy and Compatibility Determination, which is an estimate of use in an emergency situation.

G. Community Activities and Issues

1. Hawaii Bottomfish Restricted Fishing Areas

A. Monitoring

Thielen passed out a short chronology and background information in response to questions which arose regarding the monitoring of BRFA's. After a brief history of the creation of the BRFA's established to prohibit fishing for bottomfish, she commented that the State's program, among other measures, prohibits fishing for bottomfish in 19 areas off the MHI, some of which overlap into or are fully within the EEZ.

Thielen reviewed information sent to her recently that pointed out differences in the intent for the use of a TAC within an MPA and TACs designed to protect target fish biomass. Thielen expressed the importance the BRFAs may serve in fish conservation in view of the fact the Council has no annual catch limit (ACL) in place.

Discussion

Martin noted that one point of contention and frustration for the industry is when the BRFAs were created, there was no baseline information. Additional frustration comes from the failure of the State of Hawaii to adhere to the requirement to provide information on the effectiveness of the closed areas, as well as the difficulty it has caused in trying to provide an accurate stock assessment for decision-making. Thielen replied that DAR staff shared, in a series of public meetings, the basis for further revision of the rules. DAR is working to compile a written report of the meeting presentations and discussions as a more convenient reference for people.

Itano stressed that reporting, as well as the mechanisms of research used to investigate the realized benefits, is necessary.

Simonds recalled a color chart presented at the series of public meetings and reiterated that the Council requests the State of Hawaii to fulfill the responsibility of reporting annually to the Council on the status of the bottomfish stocks of the MHI and that is what the Council has asked for since 2007 for use in the stock assessment. Thielen clarified the requests asked for the State to report annually to the Council on the status of the bottomfish stocks off the MHI, which is done on a regular basis, not a report on the status of the BRFAs. The State utilizes a suite of tools that is used for the management and noted the State may not agree with the Council's preference to take the maximum risk allowed under Federal law in setting the acceptable limit of catch. She added that the State would continue to work on areas where the Council and State agree on bottomfish management and the stock assessment.

Simonds stated that the Council is not disagreeing. The Council would like to have the information incorporated in the stock assessment for the entire MHI that DAR staff has been required to monitor for the last 10 years. Thielen noted the Council request is asking for annual reports on the status of bottomfish stocks off the MHI, which the State is continuing to do.

Itano suggested that the Council make a request for the specific information on BRFAs. He added that he would be interested in the BotCam data analysis, tagging work, and data from the fishing surveys.

B. State and Federal Enforcement

Mark Young, State of Hawaii DOCARE, reported on the following enforcement activities that occurred since the last Council meeting:

- State of Hawaii DOCARE partnered with NOAA OLE through a Joint Enforcement Agreement (JEA) to facilitate the operations, administration, and funding of DLNR's

DOCARE to enforce federal laws and regulations under the MSA, ESA, Lacey Act, National Marine Sanctuaries Act (NMSA), and the MMPA.

- NOAA OLE and DOCARE developed an Enforcement Plan for 2009 to 2010 that identified certain living marine resourced and conservation priorities targeted for increased enforcement under the JEA. These targeted enforcement activities include protected species, federally permitted longline fishing vessels, and federally regulated bottomfish species.
- JEA DOCARE officers also provided specific directive and targeted enforcement activities in support of the HIHWNMS.

During the period of June through August 2010, DOCARE officers across the State provided the following support for mutual State and Federal interest as outlined within the JEA:

- For Protected Species, 24 vessel at-sea hours and 364 dockside hours
- For longline fishing, 105 dockside hours
- For MHI bottomfish, 22 vessel at-sea hours and 386 dockside hours

DOCARE officers responded to two whale stranding incidents and one dolphin stranding; initiated 33 investigations involving protected species, six of which were forwarded to NOAA OLE for further action; and issued 13 warnings for MMPA violations. During dockside inspections of federally permitted longliners, DOCARE officers noted no violations of federal regulations but did issue 23 citations for crew members failing to carry Hawaii CMLs.

Between June and August 2010, DOCARE officers within the Oahu, Hawaii and Maui branches also participated in JEA training coordinated and conducted by Cole, NOAA's Regional Enforcement and Litigation Attorney.

The 2009-2010 JEA ended on August 31, 2009, with DOCARE officers documenting nearly 4,000 hours to Federal interests as identified in the JEA, almost double the amount of hours of originally agreed upon support. The State of Hawaii DLNR entered into a JEA with NOAA for 2010-2011, which reflects a 39 percent increase of agreed upon support from DOCARE officers.

Discussion

Cole clarified that, regarding enforcement of the BRFA's, the Federal government does not have any official responsibility to enforce State laws, meaning that the Federal government does not have responsibility for ensuring compliance with, investigating, or prosecuting violations of the BRFA's. The NOAA OLE would never deliberately investigate BRFA violations. If there was observation of a violation of the BRFA, they would pass the information on to the State law enforcement officials, as would the USCG.

Young reiterated that the State enforces the BRFA's.

Caputo clarified that the inquiry arose out of a miscommunication regarding the enforcement of the closed season on the Deep 7, as opposed to a violation of fishing in a closed area.

2. Hawaii Community Fisheries Workshop Report

Roy Morioka reported on the results of community meetings held throughout Hawaii to address topics such as catch shares, the National Saltwater Angler Registry requirements, and an introduction to ACLs and marine spatial planning (MSP). Morioka reported the following positive responses to catch shares:

- Minimizes and eliminates the rush to fish
- Optimizes prices, market timing and high-grading
- Provides flexibility and allows for downtime, such as vessel or equipment failure
- Assures participant a share
- Offers another management option to be utilized
- It is only a policy, not a mandate

He also reported the following negative responses to catch shares:

- Culturally offensive
- Privatizes a public resource
- May replace culture and tradition
- May displace small business
- May create animosity between communities, sectors and entities
- Complicates enforcement
- May be interpreted as a mandate
- May disadvantage sectors without catch history
- Potential for high cost for permits
- Potential to high-grade may be detrimental because not much is known about the survival of deepwater species

Additional concerns raised included the existing local depletion in two fisheries and the need for adequate time to develop permitting and eligibility criteria, consider allocation options, and determine the effects of the bottomfish TAC.

Discussion

Thielen commented that the problems noted in Morioka's report were good points and felt confident the issues could be resolved.

Itano asked what the community's comments were regarding the bottomfish TAC. Morioka said they feel more time is needed to see the effects of the TAC implementation; there was also a concern that crew members do not have a catch history.

Duenas pointed out disadvantages of some of the other regions' fisheries that have gone the way of catch shares where it turned into one big commercial fishery and did little to conserve the stock.

3. Puwalu and Moku Meetings

Ka`ai`ai presented a brief history of the Puwalu meetings that have taken place since 2006 to generate greater participation by the native Hawaiian community in the Council process and the creation of the Aha Kiole Advisory Committee to operate until 2011 to encourage a system of best practices for traditional resource management, a code of conduct, an educational program, and eligibility criteria.

Moku meetings have continued to be held. A series of one-day puwalu have been held through Hawaii, which were integrated with the recent fishery workshop meetings. A statewide puwalu at the Convention Center is scheduled for November 19th and 20th to gather support for the Aha Kiole Advisory Committee's recommendations and to find common ground with the community to support the Council's FEPs, increase public outreach and education, improve participation by the native Hawaiian community, and improve fishery conservation and management.

There were no comments or questions.

H. SSC Recommendations

Severance reported the recommendations from the SSC.

- The PIFSC expects to complete the assessment, as well as an independent CIE Review before the March SSC meeting. The SSC looks forward to reviewing this stock assessment.

I. Public Hearing

Layne Nakagawa, commercial bottomfish fisherman, expressed the desire for an accurate Main Hawaiian Island stock assessment that includes the information on the BRFA's. Fishermen want the fishing grounds back. Fishermen should be educated to become more responsible. He pointed out the value of knowing where the bottomfish species' spawning areas are so there can be effective protection.

Ron Tam stated a need for an improved understanding of the enforcement aspect of the BRFA's, as some are located in shared jurisdictional waters.

Ed Watamura, president of Waialua Boat Club, suggested that, since there is a growing number of small-boat fishermen receiving CMLs, there should be an option for the captain or owner of the boat to purchase additional license for use for guests or visitors.

John Meston, commercial bottomfish fisherman, commented that limited access privilege programs (LAPPs) and catch shares seem better suited for large fisheries, such as purse

seine fisheries, and the 254,000 pound TAC will not go far if allocated. Information from the BRFA's could be added to the stock assessment so the amount of TAC could increase.

Roy Morioka, a registered Main Hawaiian Island bottomfish fisherman, stated that regarding onaga and ehu, National Standards 3 and 4 apply in reference to equality between the State and Federal governments and that the 20 percent conservation of the stock is doubled to 40 percent, which is a disadvantage for the fishermen. He pointed out the State informational meetings is not the same as consultation, adding that the requirement for consultation was eliminated at the last Land Board meeting. He asked for clarification as to what authority the State has to close Federal waters.

Council Aside

Haleck recognized Jarad Makaiau, PIRO, sitting in for Tosatto.

Martin noted that the industry suggested PIFSC evaluate island-by-island allocations if the Council chooses to manage the Hawaiian Island bottomfish fishery in such a way in the future. He added that it would not be a short-term process, but it could be beneficial if PIFSC analyzed the historical catches of the different island areas as the stock assessment is conducted.

Thielen noted that, after discussion with staff, DAR shares all data on the bottomfish stocks with NOAA in the fish reports, including the BotCam analysis information. The only thing that has not been shared is the raw data, and DAR will happily share that as well. She added that there has been some consideration of a bag and size limit based on island area. Itano said he does not believe anyone is interested in raw data, but the compiled reports and updates.

J. Council Discussion and Action

With regard to the Hawaii Archipelago:

- 1. Final Motion: The Council directs staff to work with the fishing and seafood industry and NMFS on providing comments to the State of Hawaii regarding its options to further define the State's Shark Fin Law under DLNR Administrative Rules.**

Original Motion: The Council directs staff to work with the fishing and seafood industry and NMFS on providing comments to the State of Hawaii regarding their options to implement the State's Shark Fin Law under DLNR Administrative Rules.

Moved by Itano; seconded by Duenas.
Final motion passed with no abstentions.

Thielen noted that the law is already effective and requested a friendly amendment to change "to implement" to "further define" after "...regarding their options..." There was no objection to the amendment.

- 2. The Council recommends that NMFS re-evaluate the State's bottomfish**

management regime for consistency with Federal regulations under the Hawaii Archipelago FEP because:

- a. The State has not implemented noncommercial bottomfish permit and reporting requirements as once agreed,**
- b. The BRFA's are not factored into the MHI bottomfish stock assessment, and**
- c. The existing TAC management regime under the Hawaii Archipelago FEP is preventing overfishing of MHI bottomfish.**

Moved by Itano; seconded by Duenas.

Motion passed, with three nay votes by Thielen, Duerr and Leialoha, and one abstention by Makaiau.

Thielen requested to end the recommendation after the first paragraph and then make a separate recommendation for a re-evaluation of the State bottomfish management regime, as she does not agree with the statement "the BRFA's are not being factored into the MHI bottomfish stock assessment" or the statement that "the existing TAC management regime ... is preventing overfishing of MHI bottomfish." Itano favored more definition and clarity and preferred the recommendation as stated.

- 3. The Council recommends that PIFSC provide an evaluation of potential island-by-island MHI bottomfish catch allocations for Council consideration.**

Moved by Itano; seconded by Martin.

Motion passed, Makaiau abstained.

- 4. Final Motion: The Council requests that the State of Hawaii evaluate the performance of the BRFA management regime which represents 20 percent of the available bottomfish fishing areas in the MHI. Specifically, the evaluation should:**
 - a. Assess if there are spillover effects of the closures on bottomfish catch rates in waters adjacent to the BRFA's.**
 - b. Investigate whether the BRFA's actually protect bottomfish spawning areas or spawning aggregations.**
 - c. Determine to what extent the BRFA's contributed to the reduction of fishing mortality.**
 - d. Evaluate if the reduction of fishing within the BRFA's can be used to generate natural mortality rates for bottomfish to be used in stock assessments.**

Original Motion: The Council reiterates its request for the State of Hawaii to evaluate the performance of the BRFA management regime which represents 20 percent of the

available bottomfish fishing areas in the MHI. Specifically, the evaluation should:

- a. Assess if there are spillover effects of the closures on bottomfish catch rates in waters adjacent to the BRFA's.
- b. Investigate whether the BRFA's actually protect bottomfish spawning areas or spawning aggregations.
- c. Determine to what extent the BRFA's contributed to the reduction of fishing mortality.
- d. Evaluate if the reduction of fishing within the BRFA's can be used to generate natural mortality rates for bottomfish to be used in stock assessments.

Moved by Itano; seconded by Duenas.

Motion passed, with three nay votes by Thielen, Leialoha, and one abstention by Makaiau.

Thielen requested to be provided with the prior request for the State of Hawaii evaluation of the BRFA management regime or to have the word "reiterate" replaced with "request" in the opening sentence. Itano asked Council staff for clarification. Council staff clarified there was a recommendation at the 148th Council meeting regarding a report on the BRFA's and the Northwestern Hawaiian Islands, which is included in the Council documents.

Thielen replied that the verbal report requested was provided in the community meetings; the written report is currently being crafted. She asked for clarification as to when the Council made the request for the information. Council staff replied the request did not contain the specific items in the recommendation, which was added for clarification and discussion. Thielen again requested to remove the word "reiterate." There was no objection to the amendment.

Duenas acknowledged he has requested this information for five or six years, as well as requested the results of the BotCam work, and still has not received any information for use in assessment of the condition of the stock.

- 5. Final Motion: Regarding the Hawaii longline area closure exemption request under the Community Development Program, the Council directs staff to work with PIRO and the applicant to provide a Community Development Plan to be submitted and reviewed by the Council.**

Original Motion: Regarding the Hawaii longline area closure application for exemption under the Community Development Program, the Council directs staff to work with PIRO to provide the appropriate information as required under the CDP amendment.

Moved by Itano; seconded by Duenas.

Motion passed, no abstentions.

Martin suggested including "to the applicant" for clarification. There was no objection to the amendment.

Makaiau clarified there is no application form under the CDP, but development of a Community Development Plan is required in the regulation.

Council Aside

Guest Speaker Kiran Ahuja was deferred because of nonattendance

11. Program Planning and Research

A. Annual Catch Limits (ACLs)

1. Recommendations on a Process for Establishing ACLs (Final Action)

Sarah Pautzke, Council staff, presented the ACL amendment, which contained alternatives regarding the ACL determination methodology, use of accountability measures (AMs), utilization of statutory exceptions, administrative process, and Acceptable Biological Catch (ABC) control rule options. At the 148th Council meeting, the Council took initial action on the ABC control rule, use of a suite of AMs and ecosystem component categorization, and utilization of statutory exceptions.

Council staff and PIRO staff determined the amendment will address:

- A mechanism for determining ACLs
- An assignment of stocks receiving statutory exceptions

The actions included:

- Action 1, establish the range of a risk of scientific uncertainty
- Action 2, a process for ACLs, including the ABC control rules and AMs
- Action 3, Ecosystem Component classification
- Action 4, utilization of the statutory exceptions

Pautzke reviewed the ACL terminology, general reference points, the basic methodology for determining an ACL, the Action alternatives and methods, including the Preliminarily Preferred Alternative for each action, explanation of international exemptions, and overfishing definitions and guidelines.

The Council's tasks included:

- To determine an acceptable risk range
- To choose which method of determining a risk of overfishing, or P*, that the SSC should use when determining ABC for tiers 1-3
- To take action on Actions 2 through 4, the ACL mechanism, ecosystem components, and statutory exceptions
- To approve or disapprove the change to Tier 4 language suggested by the SSC
- To decide whether to use the overfishing limit or the MFMT as the overfishing definition

Discussion

Itano was curious why the Inter-American Tropical Tuna Commission (IATTC) was consulted for clarification on the statutory exceptions, as the WCPFC has its own language. Pautzke clarified that while the WCPFC has its own language, it did not capture all the commercially fished pelagic species contained in the Pelagic MUS.

Thielen asked for clarification as to where Maximum Fishing Mortality Threshold (MFMT) is in relation to the Overfishing Limit (OFL). Pautzke replied they two are very similar: MFMT is the historical level and the OFL is projected.

Makaiau reiterated the P* concept can only be applied to Tiers 1 through 3 stocks, which are stocks with a stock assessment. Stocks with no stock assessment would default to the NMFS Technical Guidance, the secondary control rule. Pautzke clarified P* would be used in Tiers 1 through 3, the long-term median catch would be used in Tier 4, and the 91 percent of MSY, which was voted on prior by the Council, would be used for Tier 5 stocks, which basically acknowledges there is no history of harvest.

Itano asked whether the percentages of .67 and .33 were arbitrarily chosen. Makaiau replied in the negative; the rationale of the multiplier was tied to probability, which is explained in the Restrepo et al. publication.

Dalzell pointed out the OFL can be higher than MSY, particularly in situations where the stock is in extremely good condition, and that could apply currently in the North Pacific swordfish stock.

ABC and the Risk of Overfishing

Pierre Kleiber, SSC Member, presented the following brief outline addressing the process of calculating an ABC value as a function of the risk of overfishing.

- Once a P*, or risk of overfishing, is determined, the SSC is tasked with calculating the ABC to establish an estimate of an OFL, which can be the same as the MFMT and should be related to MSY.
- It is important to set the ABC at a level less than the OFL and to have a full understanding of the uncertainty associated with the level of the OFL.
- The uncertainty can be measured using a method called a Probability Distribution Function through which the P* and OFL is linked.

Kleiber's presentation illustrated various calculations of percentages of the catch related to the MSY and differing levels of uncertainty which resulted in a table of P*s and their associated ABCs.

Discussion

Dela Cruz asked for clarification of the period of time to which the ABC applies. Kleiber

replied it applies for a one-year period.

2. Reef Fisheries Data Analysis

Dalzell summarized the Western Pacific Region's reef fishery catch and ecological data in support of ACL implementation. The topics addressed the MSA requirement, NOAA Coral Reef Ecosystem Division (CRED) Reef Assessment and Monitoring Program (RAMP) data, biomass ecological data, reef fishery catch data, biomass/catch relationship, species frequencies, significance of the recreational and commercial catch, and regression analyses and trends.

Dalzell noted that given the variability, ABC/ACLs would be difficult to monitor and near impossible to accurately know when it has been exceeded. Family-level ABC/ACLs would require more funding for improved data collection.

A single ABC could be set on an ecosystem level for all species defined as one aggregate complex, as is done for the Bering Sea groundfish fishery in Alaska which has a 2 million metric ton TAC for all species from which elements of that TAC are allocated to different fisheries. There would need to be protections for charismatic and/or endangered species and monitoring would need to be for total catch by year. ABC would need to take into account catch proportions and size structure and employ the use of an average reef fish trophic score of biomass. Examples of monitoring metrics were illustrated.

There were no questions or comments.

B. Fisheries Monitoring and Compliance

1. VMS Policy

Eric Kingma, Council staff, presented a brief review of the Draft VMS policy. He discussed the background of the Council VMS policy, which began in the 1990s and is now used globally, and the need to keep up with technology and other applications such as safety at sea, data collection, communication and research. Some elements of the Draft VMS Policy include the following:

- *Enforcement:* consider VMS when establishing annual or seasonal spatial management zones under the Council's FEPs, while cognizant of the various scales of fisheries and sizes of fishing vessels that operate in the region
- *Use of VMS data:* maintain that information be treated as confidential and consistent with applicable law and promote that domestic and international VMS management measures be compatible
- *Catch reporting:* provide logbook information in near real-time to support monitoring of fisheries subject to annual or seasonal catch limits
- *Ownership, maintenance, and replacement:* maintain that VMS hardware be the property

of the Federal Government and that fishermen shall not be required to purchase, maintain or replace VMS units

- *Communication:* encourage the development of clearer procedures for notifying fishermen if their VMS unit is not working
- *Safety at sea:* support the development of technology to further enhance VMS applications for safety at sea while being cognizant that VMS should not be solely relied on to indicate a vessel's identity or position for emergency purposes
- *Research and development:* promote the research and development of VMS technology to further the potential applications of VMS in fisheries management, promote the development of VMS units that are tamper-proof, and consult with the fishing community regarding the possibility that VMS information may be used for purposes other than enforcement
- Applications regarding foreign fishing and international coordination

Kingma sought approval for the new Council VMS policy.

Discussion

Eric Roberts, USCG representative, noted that while the USCG fully supports any additional technology to enhance safety at sea, any safety developments relating to VMS continue to be viewed as a supplement to existing requirements and not as a replacement.

Duenas asked if there are any downloads available for setting accurate monument boundaries to ensure compliance. Martin commented that violations have resulted from inaccurate inputs regarding closed areas. Gibbons-Fly replied the same issue arises often in the international context where the charts are from 20 to 30 years ago. The advice given to the fishing vessels is to always allow a buffer of about a half mile to avoid a violation.

C. Coastal and Marine Spatial Planning (CMSP)

Sylvia Spalding, Council staff, presented a brief overview of CMSP. The Ocean Policy Task Force was created by Obama in 2009. The National Ocean Policy Interim Report was published in September 2009. In December 2009, a framework for effective CMSP was released. July 19, 2010, the Final Recommendations of the Interagency Ocean Policy Task Force was released and President Obama issued an Executive Order adopting the recommendations as the National Ocean Policy. Elements of the National Ocean Policy include:

- Formation of the National Ocean Council, whose members are bound by the limit of their authority
- National priority objectives
- Framework for CMSP
- Regional planning bodies
- National CMSP Workshop

Steps are being taken to create a Governance Coordinating Committee consisting of 18 members, including one member from the U.S. Pacific Islands.

CMSP is defined as a comprehensive, adaptive, integrated, ecosystem-based, and transparent spatial planning process based on sound science used for analyzing current and anticipated uses of ocean, coastal and Great Lakes waters. CMSP identifies areas most suitable for various types of classes of activities to reduce conflicts among uses, reduce environmental impacts, facilitate compatible uses, and preserve critical ecosystem services to meet economic, environmental, security and social objectives for the following sectors:

- Energy uses
- Conservation
- Shipping
- Aquaculture
- Recreation

Spalding noted the absence of fishing in the list of sectors.

CMSP has been driven by energy and conservation. There are seven national goals for CMSP, including:

- Promoting compatibility among uses and reducing user conflicts
- Streamlining and improving the rigor and consistency of decision-making and regulatory processes
- Increasing certainty and predictability in planning

There are 12 guiding principles for CMSP, some of which include:

- Ecosystem-based management
- Stakeholder and public engagement
- Informed by best available science
- Flexibility to accommodate changing conditions, such as the environment, science, policy and technology

The National Ocean Council, with advisors, provides guidance and objectives. The Regional Planning Bodies set their objectives and are responsible for stakeholder input. The release of the framework is scheduled for spring 2010. Regional plans are to be completed in five years.

Commercial and recreational fishery interests will have the opportunity to engage in CMSP through the Regional Fishery Management Council consultations with the Regional Planning Bodies or through Regional Planning Body Stakeholder Engagement processes. Spalding pointed out the objectives are going to be set nationally and approved nationally.

A copy of the MSP stakeholder analysis is available online.

There were no comments or questions.

D. Hawaii, Regional, National and International Education and Outreach

Spalding reported on many ongoing Hawaii projects and events, including having a booth at the Marine Educators Night at the Waikiki Aquarium, a cultural tent at the Hawaii Fishing and Seafood Festival, a Fishers Forum on MSP, working as the liaison between the Hawaii Science Teachers Association (HaSTA) and the Oceania Marine Educators Association (OMEA), assisting in organizing the HaSTA conference, participating in the Native Hawaiian Conference and puwalu meetings throughout Hawaii, publishing the *Pacific Islands Fishing News*, as well as putting out numerous meeting ads, announcements, and press releases in newspapers, magazines, list serves, and print and online community calendars.

The report also included participation in the International Pacific Marine Educators Network, the National Marine Educators Association (NMEA), the Wildlife Society's Native Peoples Working Group Symposium, and the recent NOAA Hawaii/Pacific Education Roundtable, as well as co-chairing the Traditional Knowledge Committee at the NMEA conference and attempts to coordinate and collaborate with the Pacific Regional Outreach Group.

There were no comments or questions.

E. Marine Recreational Information Program (MRIP) Update

Forbes Darby, from PIRO and the Chair of the MRIP Communications and Education Team, presented a quick update on the MRIP and National Saltwater Anglers Registry (NSAR). MRIP is designed to enhance the current Hawaii Marine Recreational Fishing Survey (HMRFS) with the latest scientific methods to produce more accurate information on recreational fishing activities.

The National Research Council (NRC) review of the HMRFS methods recommended MRIP's design meet two critical needs: 1) improved estimates and 2) stakeholder confidence. This resulted in the creation of the recreational fishermen registry for ease of contact and was included in the 2006 Magnuson-Stevens Re-Authorization Act (MSRA). Only fishermen in Hawaii are required to register, as Guam, CNMI and American Samoa are exempted because of an agreement in place with NOAA to share their fisheries data.

The requirement for registering are for fishermen over 16 years old who recreationally fish or spearfish in Federal waters, and for persons who possess angling or spearfishing equipment and possess fish in Federal waters. Some exemptions include:

- Persons under the age of 16
- Persons fishing in licensed charter boats only
- Persons lawfully fishing under a valid CML
- Persons fishing exclusively in State waters
- Persons already exempted through an exempted state

Darby presented a list of Frequently Asked Questions (FAQs), which included:

- Fishermen should get the license that best fits their fishing needs
- Indigenous Hawaiians are required to register, but the registration fee is waived

- If an out-of-state fisherman is registered in another state, there is no need to re-register in Hawaii
- Federal noncommercial bottomfish permit-holders are required to register in 2011
- Beginning in 2011, the annual fee to register is approximately \$15 to \$20

There is a website available with information, as well as online registration.

Discussion

Duerr asked for clarification about the requirements for visitors who may fish while in Hawaii. Darby replied anyone who fishes in Federal waters while in Hawaii must register, as the underlying goal of MRIP is to have a registry of everyone who is fishing.

Sablan asked for clarification about whether a fisher who visits Hawaii from CNMI, where there is no registration, is exempted. Darby replied he would have to get back to him with an answer.

Simonds noted that work is ongoing to get Hawaii exempted from the registry and asked for clarification on the fee. Darby replied the fee is according to a formula that is standard across the Federal Government.

F. Report on Noncommercial Fisheries Advisory Committee

DeMello reported the second meeting of the Noncommercial Fisheries Advisory Committee (NFAC) was held in September 2010 to discuss options for collecting noncommercial bottomfish fisheries data from the MHI. The following recommendations were submitted:

1. The NFAC recommends the Council request NMFS provide a deferral to the Federal noncommercial bottomfish fishery permittees from the NSAR upcoming fee until such time that an amendment to the Registry's rule can provide an exemption.
2. The NFAC recommends the Council include the proposed expansion of the Hawaiian Islands Humpback Whale National Marine Sanctuary to its meeting agenda.

There were no comments or questions.

Council Aside

The chair offered an opportunity for public comment. There were no comments.

G. SSC Recommendations

Severance reported the SSC comments and recommendations.

SSC Task 1: Recommend Method for Determining Overfishing

Regarding the ACL Process:

- The SSC recommends that the Council use Maximum Fishing Mortality Threshold (MFMT) to make the final determination of whether overfishing is occurring.

SSC Task 2: Recommend Risk of Overfishing Range to the Council

- The SSC recommends the Council adopt Alternative 1, in which the range of the risk of overfishing is zero to less than or equal to 50 percent. Thus, P-max, the maximum risk of overfishing, is defined as 50 percent.

SSC Task 3: Recommend Mechanisms for Specifying the Risk of Overfishing

- The SSC recommends Alternative 3, a qualitative method proposed by the South Atlantic Fishery Management Council, for choosing risk of overfishing, P*. The dimensions, criteria and weightings contained in the risk ranking tables will be developed by a team.
- Further, the SSC recommends the team or teams be composed of Council and SSC members, as well as relevant experts for the stock or stock complexes being discussed. The team or teams will conduct the first assessment of P* during the establishment of the first ACL, and will review the analysis after each new stock assessment.
- Each time substantive new information is available, the analysis should be revised.

Regarding the Reef Fishery Data Analysis:

- The SSC heard with interest the report by Council staff on reef fish data on catches, catch trends and levels of exploitation with respect to establishing ACLs. The SSC encouraged further analyses of these data with respect to forming stock complexes while taking into account ecosystem considerations for ABCs for coral reef fisheries in the Western Pacific.

Discussion

Thielen asked for clarification on the numbering of the alternatives. Severance apologized for the inconsistent numbering and clarified the SSC's intent to give the Council the maximum flexibility in the range of risk of overfishing. Kleiber added that for any particular stock, the Council must choose a P* within a range of equal to or less than 50 percent.

Thielen asked if there was any discussion of recommending a P* range of less than 50 percent. Kleiber replied in the negative, pointing out the range itself will not be adjusted, it is 0-50, and the Council chooses a P* from within the range. The Council will not actually choose a range for each ACL.

Itano added the P-max of 50 is a base, and once the vulnerability and susceptibility of the stock is taken into account, then it is modified downward from there. Kleiber agreed. Duenas noted the P-Star will always be no greater than 50.

H. Public Hearing

No public comment was offered.

I. Council Discussion and Action

In regards to the recreational fisheries, the Council:

- 1. Directs staff to request NMFS to provide a deferral to the Federal Noncommercial Bottomfish Fishery Permittees from the National Saltwater Angler Registry's upcoming fee until such time an amendment to the Registry's Rules can provide an exemption.**

Moved by Martin; seconded by Sablan.
Motion passed, with one abstention by Tosatto.

In regards to the Vessel Monitoring Systems, the Council:

- 2. Adopts the revised VMS Policy presented by the staff at the 149th Council meeting.**

Moved by Martin; seconded by Sablan.
Motion passed.

In regards to MSP, the Council:

- 3. Directs Council staff to work with fishing and indigenous communities, the general public and other organizations of the Western Pacific Region on Coastal MSP, given the role of the Council in providing an opportunity for community and noncommercial fishery interests to engage in the planning consultation process.**

Moved by Martin; seconded by Sablan.
Motion passed.

In regards to Education and Outreach, the Council:

- 4. Directs Council staff to continue efforts to encourage NOAA to partner with the Western Pacific Regional Fishery Management Council in regional and national education and outreach efforts noting that such partnerships are encouraged in the NOAA Fisheries Outreach Strategic Plan, 2007, NOAA Ecosystem Goal, Fisheries Management Program, Performance Measures and Strategic Planning, 2009, and the National Research Council's Review and Critique of NOAA's Education**

Program, 2010, among others.

Moved by Martin; seconded by Duenas.

Motion passed, with one abstention by Tosatto.

In regards to Annual Catch Limits the Council:

5. Final Motion: Approves the following as specified in the ACL Omnibus Amendment:

- a. **An acceptable risk of overfishing as zero to 50 percent.**
- b. **The qualitative method of determining P*, or risk of overfishing, that will be used in determining the ABC for Tiers 1 through 3.**
- c. **The use of Tiers 1 through 5 for determining the ABC.**
- d. **Substituting text for Tier 4 as follows:**
For data-poor fisheries a multiplier of the long-term median catch history will be used. The multiplier will be determined by the biological knowledge of the stock or stock complex given consideration of the guidance provided by Restrepo et al. 1998 in Section 2.2.1 (recommended data-poor defaults).
- e. **The use of three methods to determine ACLs, including fixed percentage, qualitative, and method when using an Annual Catch Target (ACT).**
- f. **Approves of ACT determination methodology.**
- g. **Using the ecosystem component classification for stocks.**
- h. **Using the international and one-year statutory exceptions provided in the National Standard 1 Guidelines.**
- i. **Applying the international management exception to all pelagic management unit species (PMUS), except squid.**
- j. **Applying the 1-year lifespan exception to pelagic squids.**
- k. **Selects the maximum fishing mortality threshold (MFMT) as the mechanism for determining whether overfishing is occurring.**
- l. **Reaffirms the suite of accountability measures.**

Original Motion: Approves the following as specified in the ACL Omnibus Amendment:

- a. **an acceptable risk of overfishing as zero to 50 percent.**
- b. **the qualitative method of determining P*, or risk of overfishing, that will be used in determining the ABC for Tiers 1 through 3.**

- c. the use of Tiers 1 through 5 for determining the ABC.
- d. substituting text for Tier 4 as follows:
For data-poor fisheries a multiplier of the long-term median catch history will be used. The multiplier will be determined by the biological knowledge of the stock or stock complex given consideration of the guidance provided by Restrepo et al. 1998 in Section 2.2.1 (recommended data-poor defaults).
- e. the use of three methods to determine ACLs, including fixed percentage, qualitative and method when using an ACT.
- f. approves the ACT determination methodology
- g. using the ecosystem component classification for stocks.
- h. using the international and one-year statutory exceptions provided in the National Standard 1 Guidelines.
- i. applying the international management exception to all Pelagic Management Unit Species (PMUS) except squid.
- j. applying the one-year life span exception to pelagic squids.
- k. selects the Maximum Fishing Mortality Threshold, MFMT, as the mechanism for determining whether overfishing is occurring.
- l. reaffirms the suite of AMs.

Moved by Martin; seconded by Torres.

Motion passed, with two nay votes by Thielen and Leialoha, and one abstention by Tosatto.

Thielen asked to take the sections of the recommendation one-by-one. There was no objection.

Thielen commented she didn't think 50 percent was conservative enough for dealing with data-poor fisheries and ecosystem component stocks and requested to lower P^*_{MAX} or choose a different acceptable range for those stocks.

Duenas noted Thielen's concerns are addressed in Item D of the recommendation and would prefer to follow the guidelines set forth by the SSC recommendation.

Itano stated that taking each section separately is creating the problem and suggested combining A, B, C, and D to read: "An acceptable risk of overfishing range of zero to 50 percent as influenced by B, C and D."

Martin had no objection and agreed the issue is complicated by breaking the recommendation into individual components. Torres, the seconder of the motion, also had no objection.

Thielen agreed with combining A, B, C and D and clarified there are two opportunities to minimize risk, but still preferred to reduce the range of acceptable risk of overfishing for data-poor fisheries. She offered a recommendation to lump A, B and C together, and an A and D with a lower range.

Tosatto clarified that the MSA National Standard 1 (NS1) Guidance states P^* cannot be higher than 50 percent; the Council chose to provide the greatest amount of flexibility with a P^* range of zero to 50, which means the P^*_{MAX} is 50, which is acceptable per NS1 Guidance. Another element of the process is decision for the tier level for the stock. He envisions most of the risk of overfishing will be less than 50 percent for Tiers 1 through 3. For stocks in Tier 4, the qualitative method would be used to reduce down from 50 percent. He added that while he will abstain, he supports the process as noted in the recommendation. Pautzke clarified that in determining the ABC for a Tier 4 stock, only catch data will be used and P^* is not involved.

Thielen stated she still had concerns when dealing with stocks such as the bigeye tuna, where an overfishing condition presently exists and would prefer a range of acceptable risk of overfishing for those kinds of stocks to be zero to 45 percent.

Duenas asked for clarification on how stocks in the overfished or overfishing condition would be handled. Tosatto replied an ACL will still be required.

Tucher offered a clarification from Section 304(e) of the MSA, which states a rebuilding plan would be required for an overfished stock. An ACL is still required to be generated, such as a low ACL or a moratorium, and it would be applied within the process. He reiterated the text “an acceptable risk of overfishing range of zero to 50 percent” is merely a statement of law. In the instance of a data-poor stock, there will be less confidence; therefore, a lower risk of overfishing would be used.

Thielen disagreed with Tucher’s clarification in that with a data-poor fishery, catch history will be used and the result would amount to a guess. No-one knows if the stock is already overfished and thus has a problem with applying a range of up to 50 percent to everything.

Tucher clarified what he meant to explain was that Tier 4 is to be used when there is no good information to evaluate risk. Dalzell agreed, emphasizing that the P^* approach would only be used for Tiers 1, 2, and 3. For Tier 4 stocks, the long-term median catch data would be used and then application of a multiplier of 1.0, .67 or .33, depending on what the biomass is believed to be. Safeguards are already built into the system for data-poor stocks.

- **5E. The use of three methods to determine ACLs, including fixed percentage, qualitative and the method when using an ACT.**

Moved by Martin; seconded by Sablan.

Motion passed, with three abstentions by Thielen, Leialoha and Tosatto.

Thielen asked for clarification of the recommendation. Dalzell clarified the recommendation is referring to the point at which the ABC has been given to the Council. The Council then has a choice of three methods to set an ACL: 1) set the limit at a fixed percentage of the ABC, 2) use a qualitative framework to set the limit, or 3) specify an ACT.

- **5F. Approves of the Annual Catch Target determination methodology.**

Moved by Martin; seconded by Sablan.

Motion passed, with three abstentions by Thielen, Leialoha, and Tosatto.

- **5G. Using the ecosystem component classification for stocks.**

Moved by Martin, seconded by Sablan.

Motion passed, with one nay vote by Thielen and two abstentions by Leialoha and Tosatto.

Thielen requested that the staff bring the Council specific recommendations to use for groupings for approval rather than just approving this recommendation at this time and then having it presented as a done deal later.

Leialoha asked for clarification as to how this related to the earlier zero to 50 percent risk of overfishing recommendation. Dalzell clarified that this recommendation is a provision under the NS1 Guidelines for some species to be grouped as ecosystem component species for which ACLs are not required.

Leialoha asked for further clarification. Pautzke explained this is an effort to provide an option at some point in the future to assign an ecosystem component classification for species that are in the FEPs but, for example, are rarely harvested. For that reason, such a species would not require an ACL or ABC.

Itano commented he understands the intention of the use of the ecosystem component classification as one possible way to deal with a stock, but it won't be incorporated across the board and supports the option. Tosatto added that the process will be clearly and fully described as to how the Council intends to use the ecosystem component classification option.

Duenas noted there is a recommendation coming up regarding further analysis to form stock complexes taking into consideration ABCs for coral reef species.

- **5H. Using the international and one-year statutory exceptions provided in the National Standard 1 Guidelines.**

Moved by Martin; seconded by Sablan.

Motion passed, with one abstention by Tosatto.

- **5I. Applying the international management exception to all Pelagic**

Management Unit Species, PMUS, except squid.

Moved by Martin; seconded by Sablan.
Motion passed, with one abstention by Tosatto.

- **5J. Applying the one-year life span exception to pelagic squids.**

Moved by Martin; seconded by Duerr.
Motion passed, with one abstention by Tosatto.

- **5K. Selects the Maximum Fishing Mortality Threshold, MFMT as the mechanism for determining whether overfishing is occurring.**

Moved by Martin; seconded by Sablan.
Motion passed, with one vote of abstention by Tosatto.

- **5L. Reaffirms the suite of AMs.**

Moved by Martin; seconded by Sablan.
Motion passed, with one abstention by Tosatto.

Thielen asked why re-evaluation for effectiveness is only recommended if ACLs are exceeded more than once in a four-year period. Dalzell replied that is what is required in the NS1 Guidelines.

- 6. The Council deems regulations as necessary or appropriate for the purposes of implementing the mechanism for specifying Annual Catch Limits and AMs in the Omnibus Fishery Ecosystem Annual Catch Limit Amendment. These regulations include the time frame for specifying the Annual Catch Limit and procedures for implementing in-season closures and overage adjustments.**

Moved by Martin; seconded by Sword.
Motion passed, with one abstention by Tosatto.

Thielen asked for clarification about who will specify regulations. Tucher replied that for Council-proposed regulations deemed to NMFS for implementation under 304, Council staff in concert with NMFS personnel can develop regulations that are necessary, appropriate and logically flow from the Council action here for submission by the Executive Director to NMFS for promulgation.

Thielen commented she understood that the timeframe is already stated in law. Tucher replied the recommendation refers to the recurring timeframe only. He added this language is new because it is a requirement in the new final rule addressing Council SOPP procedures and since the final rule is not yet implemented, it was decided that the Council implement Paragraph 6 of the specific action memorandum.

- 7. Further moves to set up a process for reviewing and submitting proposed regulations to NMFS. Under this process prior to transmittal of the regulations to NMFS, the Executive Director will review the draft proposed regulations to determine whether the regulations are consistent with what the Council deemed necessary or appropriate.**

Moved by Martin; seconded by Sablan.

Motion passed, with three nay votes by Thielen, Duerr and Leialoha.

Thielen asked if an action item should be included such that, at the next Council meeting, staff would recommend regulatory language for the Council to deem appropriate. Tucher replied that Paragraph 6 and 7 contains the Council's authority to deem regulations that are appropriate and necessary to implement Paragraphs 1 through 5. The effect of Paragraph 6 and 7 is to allow the Executive Director and her staff, in conjunction with NMFS, to prepare regulations to implement the FEP amendment and the action being voted on today. Therefore, it is not required that the regulations go back to the Council for approval.

Thielen said she had a problem with the Council voting on authorizing the Executive Director and her staff to draft regulations and forward them to NOAA without this Council seeing them and that Council members would want to look at the draft regulations. She did not agree to delegate that down to staff level without seeing it come back before the Council and will vote against this recommendation. Thielen pointed out agreeing to the recommendation would be waiving responsibility as Council members of having some public discussion at this level before they move forward to NOAA.

Tosatto commented that it is up to the Council to make such a delegation to the Executive Director and her staff. He added while the language is new, the practice is not new – the Council has regularly delegated the ability to authorize the Executive Director to do this. NMFS retains the task of implementing through regulation the management and changes in amendments that it approves that are proposed by the Council. This is formalizing a practice that the Council has done before. There have been cases, however, where staff and NMFS have worked up a detailed set of regulations and presented those to the Council for their review before approval.

Duenas stated he has no objection to the recommendation because the Council has often done this.

In regards to establishing an Acceptable Biological Catch, ABC, for reef fish, the Council:

- 8. Final Motion: Encourages further analysis of reef fish catch data stock complexes and biological and life history information with respect to forming stock complexes while taking into account ecosystem considerations for ABCs for coral reef fisheries in the Western Pacific.**

Original Motion: Encourages further analysis of reef fish catch data with respect to forming stock complexes while taking into account ecosystem considerations for ABCs

for coral reef fisheries in the Western Pacific.

Moved by Martin; seconded by Sablan.
Motion passed.

Itano suggested a friendly amendment to add the words “and biological and life history information” after “stock complexes.” There was no objection.

12. Protected Species

A. False Killer Whale Issues

1. Take Reduction Plan (TRP) Proposed Rule

Nancy Young, Coordinator for the False Killer Whale (FKW) Take Reduction Team (TRT), presented an update on the TRT’s efforts since the last Council meeting, which included four meetings from February through July resulting in a consensus on recommendations for bycatch reduction measures. On July 19th, a draft TRP was submitted to NMFS, which is currently working on the proposed rules to implement the TRP under the MMPA. The 60-day deadline for publication has expired as the review is still ongoing. NMFS will publish a final TRP in the Federal Register.

The initial regulatory recommendations submitted by the FKW TRT for the Draft TRP included:

- For the deepset longline fishery, required use of 14 to 16/0 circle hooks with the maximum wire diameter of 4.5 millimeters with 10 degree or less offset
- For the deepset longline fishery, required minimum diameter for monofilament leaders or branchlines of 2.0 millimeters to ensure hook is weakest component of the terminal tackle
- Mandatory Protected Species Workshops expanded to include additional information on marine mammal handling and release, I.D. and best practices for avoiding interactions
- Requirement for the crew to notify the captain if there’s any hooking or entanglement
- Requirement for the captain to supervise the handling and release
- Required posting of a marine mammal handling and release placard
- Required posting of a sticker instructing crew to notify captain of marine mammal hooking and entanglement
- Establishment of a Northern Exclusion Zone that is closed to the deepset longline and shallow-set longline fisheries year-round

The regulatory recommendations contingent on other factors submitted by the FKW TRT for the Draft TRP included:

- For the deepset fishery, required use of weak circle hooks pending the results of weak circle hook experiments, which would replace the requirement for circle hooks with 4.5 millimeter wire diameter
- Establish a Southern Exclusion Zone that is closed to the deepset longline fishery for varying periods of time, when triggered by specific observed levels of FKW injury and mortality inside the U.S. EEZ surrounding the MHI, with various recommendations for length of closure

The nonregulatory recommendations submitted by the FKW TRT for the Draft TRP included:

- Conducting the weak circle hook experiments in the deepset longline fishery
- Increasing observer coverage in the deepset longline fishery from its current level of about 20 percent to 25 percent
- Notifying the TRT of any FKW or suspected FKW interactions
- Expediting the serious injury determination process
- Changes to observer training and data collection protocols
- Expediting the processing of 2010 Hawaiian Islands Cetacean and Ecosystem Assessment Survey (HICEAS) and provide preliminary results to the TRT
- Reconvening the TRT every six months for at least two years following the TRP implementation

The research recommendations submitted by the FKW TRT for the Draft TRP included:

- A list of 35 prioritized research needs and recommendations within and across four research categories, such as FKW biology, FKW assessment, longline gear, shortline and kaka line fisheries
- A list of top research activities

Discussion

Martin asked for clarification of the implementation timeline. Young replied she cannot give a time for publication. She acknowledged the plan is already past the six-month deadline and the TRT is working hard to get the plan published.

Martin suggested an industry-led initiative in advance of the implementation of the TRP

to ensure fishermen are familiar with some best practices, such as removal of hooks or any trailing gear. Young stated there is work ongoing to develop the workshop and training materials and expressed appreciation for the efforts of the industry towards this goal.

Itano asked for clarification as to how the serious injury or potential mortality is determined and how an interaction that occurred with the use of a weak circle hook would be categorized and for further explanation regarding the trigger for closing the Southern Exclusion Zone. Young replied the observer information goes through extensive analysis and criteria will be applied to determine the categorization of the interaction. She added all serious injury determinations feed into bycatch estimates. Regarding the weak circle hook interaction, all details are considered when an interaction occurs. Young further clarified one serious interaction would reconvene the TRT to discuss the circumstances of the interactions. Lastly, two serious injuries or mortalities would exceed the potential biological removal (PBR) level and the area would be closed.

Duenas suggested requiring 100 percent observer coverage in the Southern Exclusion Zone and asked about the potential for bias in interaction determination. Young replied that option was not considered, but added that a mechanical fix would be more preferable because of the intelligence of the animals.

Dela Cruz suggested the Council should look into purchasing an insurance policy in case of an accident rather than penalize the fishery.

2. Stock Assessment Cruise

Erin Oleson, Cetacean Program Leader at PIFSC, presented an update on the HICEAS cruise currently underway. The goal of the survey is to, in a collaborative effort between PIFSC and the Southwest Fisheries Science Center (SWFSC), generate updated abundance estimates for all Hawaii cetaceans using the R/V McARTHUR for 120 days and the R/V SETTE for 55 days.

The multifaceted survey consists of line-transect visual and acoustic observations, ecosystem studies, photo-ID, biopsies and satellite tagging. The three areas of specific interest are a more precise estimate of the current FKW population, cetacean occurrence in the insular Northwestern Hawaiian Islands and use of the acoustic line-transect survey as an alternative way of estimating abundance. So far, 105 of the 175 days of survey are complete to date, which equals approximately a 7,543 nmi trackline, and a survey area of about 30,000 nmi².

A total of 259 cetacean have been sighted, consisting of approximately 19 species, some unidentified. Sperm whales have the highest number of sightings, with 112 biopsy samples.

Oleson pointed out many sightings have occurred in the northern part of the study area, which is associated with the oceanographic transition zones around Pearl and Hermes Reef, as well as south and east of the Big Island. There have been indications that FKWs are attracted to the ship, and acoustics have been helpful in determining at what distance they are responding from. The results show the number of acoustic encounters is equal to or greater than the number of visual encounters.

Oleson also pointed out the two species that are most commonly mistakenly identified as FKWs with acoustics are short-finned pilot whales and rough-toothed dolphins. So far, eight groups were acoustically detected, five of which the visual team observed. A few went unobserved because they were too far away to chase, weather prevented visual identification or some other reason.

Average group size has been 21, 18 biopsy samples from the Northwestern Hawaiian Islands and pelagic waters. Two satellite tags were deployed on animals near Nihoa, which showed movement over two weeks of the animal moving north through the Northwestern Hawaiian Islands Chain.

Researchers on the current leg of the R/V *McArthur* are evaluating cetacean occurrence in the monument. There have been a number of sightings of a large number of species over the entire EEZ. The SETTE also surveyed around Pearl and Hermes, Midway and Kure and Lisianski and had 13 sightings.

Discussion

Martin asked if there is some kind of factor applied to account for weather variables that diminish the ability for observation and asked for clarification as to when definitive information will be available from the survey results. Oleson replied that a multiple co-variate approach is used for all line-transect estimates to account for the difficulty in assessing some species, although FKWs are fortunately not difficult to see. Oleson stated that the hope is to have new estimates for the 2012 stock assessment report.

Itano asked how the line-transects of the two different research vessels will be factored into the abundance estimates and when the results of the biopsy samples would be available.

Oleson replied that since the inshore part of the monument area survey is not being conducted in a standardized way, results will not be factored into the abundance estimates for the entire EEZ surrounding the Hawaiian Islands. The survey will be useful for identifying what species are in that area, obtaining photo I.D. data and generating mark-recapture estimates of abundance. Oleson added the FKW biopsy samples are being prioritized at the SWFSC in current stock analyses that are underway, the results of which should be available fairly soon. However, it could be several years before stock identity is assigned as far as insular versus pelagic populations. She added that none of the sightings of FKW during this survey have occurred inside the insular 40 km core area. One sighting occurred inside the overlap zone, which should have its population identification assigned with fairly good certainty.

Dela Cruz asked for clarification on the line-transect direction. Oleson replied that the line-transects are oriented in order to maximize their ability to find animals, which means they're run along the predominant swell direction. She added that during the insular monument survey, the lines run in different directions around the area to ensure assessing equal amounts across all bathymetric contours. The search effort is stratified throughout the total duration of the survey.

Duenas asked what information has been collected regarding the movement of the cetaceans. Oleson replied that the movements of FKWs within the boundaries of the monument are unknown with the one exception of the one tagged whale. Based on satellite tagging and photo data, it is known the insular stock does not travel into the Northwestern Hawaiian Islands and do not move offshore more than 140 km. She added that it is not currently known whether there is other finer structure present in the Northwestern Hawaiian Islands. There are biopsy samples from every FKW sighting during the survey.

3. Insular FKW Status Review and 12-month Finding

Oleson reported on the Insular FKW Review, which was in response to a petition to list the insular population of FKW by the National Resources Defense Council. After initial review, PIRO determined the petition contained substantial information to warrant further review. A BRT was formed consisting of scientists from several of the Regional Science Centers.

The purpose of the Status Review was to review and summarize all available data on the insular population and other FKW populations to determine whether the insular population qualified as a Distinct Population Segment (DPS), evaluate extinction risks based on qualitative and quantitative measures, and evaluate the threat to the population. There is no information in the Status Review regarding listing status or a recommendation of listing status.

The Status Review includes the following information of FKW biology among others:

- They are known to occur around oceanic islands, Cocos, Guadalupe, Galapagos and in some semi-enclosed seas.
- They are relatively uncommon compared to other tropical odontocetes.
- They are long-lived animals, and live into their 50s and 60s.
- Females become reproductively senescent sometime in their early to mid 40s, which means that they live beyond their reproductive capacity.
- FKWs have the longest inter-birth interval of any social odontocetes studied to date, close to nine years.
- FKWs forage primarily on upper trophic level fish and squid and very occasionally have been noted to feed on other marine mammals, including bottlenose dolphins.

Fundamental population information available suggests that insular population around the MHI is genetically distinct from Hawaii pelagic and other Pacific FKWs, including the following among others:

- The primary range is within 40 km of the MHI, but can occur out to 120 km from shore, overlapping spatially with the pelagic population.

- The current abundance of the insular population is 150-170 whales, with a relatively high density, 1.2 whales per thousand km².
- Sighting rates since 1989 suggest a decline in this population.
- Effective population size is 46 whales, which scientists consider to be a level at which inbreeding depression occurs.
- The Hawaii population has been observed feeding on a number of pelagic and nearshore species, such as mahi, tuna, and swordfish, and is known to share prey among the group.

After a description of discreteness factors and significance factors used to determine a DPS, the BRT determined the Hawaiian Insular FKWs is a DPS of the global FKW taxon through a process in which members cast plausibility points to express uncertainty about discreteness and significance factors. Oleson showed a graphical presentation of points and percentages for and against the factors.

After an explanation of the primary arguments of significance and discreteness, the BRT then conducted a risk assessment which included the following:

- Identification of all known or likely threats to the population
- Assessment of individual threats by severity, geographic scope, and level of certainty
- Population viability analysis (PVA)
- Assessment of extinction risk

The BRT identified 28 threats under five ESA-specified factors. The most significant current or emerging threats included reduced prey biomass and size; competition with fisheries; hooking, entanglement or intentional harm by fishers; small population size; accumulation of contaminants; and exposure to pathogens.

The BRT conducted the PVA, which is a modeling exercise, to quantify threat of actual or near-extinction based on a population of 20 animals with the use of measured, estimated and inferred information on size and trends, impacts of catastrophes, environmental variability and other parameters. After 45 model runs, 44 of the 45 indicated a greater than 5 percent chance of extinction within 75 years. The BRT then evaluated extinction risks incorporating all of the factors of the known threats and the quantitative analysis. The Team agreed by consensus that the Hawaiian insular FKWs are at a high risk of extinction.

In summary:

- The Hawaiian insular FKWs is a DPS of a global taxon
- The population has declined since the early 1990s
- Declines have continued after some threats have been reduced
- The population is at risk of extinction

Discussion

Martin asked how the BRT incorporated the 2009 Scientific Review Group (SRG) assessment that was in conflict with a previous assessment that was from 2002. Oleson replied that the 2009 survey in nearshore waters of the MHI had four sightings of FKWs, and the SRG found that those data were not adequate for stock assessment purposes because many factors were not included, both in terms of how the data were collected initially and in terms of how they were analyzed. There was significant evidence of attraction to the vessels by the animals and no way of accounting for that. The BRT did its own data quality assessment and peer review of data that hadn't been previously published and found that those data didn't merit inclusion to the level that they've been analyzed at this point.

Martin noted it seems like the survey appears to be a waste of time and resources. Oleson pointed out the survey may be usable in the future, but until vessel attraction can be quantified, those estimates cannot be considered valid.

Gibbons-Fly asked for clarification regarding the difference between the total population, estimated to be 150 to 170 whales, and the effective population, estimated to be 50 whales, and the basis for the level for quasi-extinction, estimated to be at less than 20 animals. Oleson clarified the effective population is the number of animals that are evenly contributing their genes to the population. The quasi extinction level was based on the average group size for FKWs, below which the FKWs would have a much harder time finding food and there would be significant inbreeding depression.

Itano asked if Robin Baird would be available to report on his surveys conducted around the nearshore waters of Oahu and asked if Oleson would be interested in the information from the sightings he's experienced in his work around the islands. Oleson replied it would be best for Baird to report on his own survey at some future time. She added all of Baird's information is incorporated into the stock assessments once it has been peer reviewed. Oleson pointed out all information related to FKW sightings would be useful for distribution of the animals, as well as photographs of individual animals and the location of the photographs.

Duenas asked if there was any information on the ratio of males to females. Oleson replied the sex ratio of FKWs is fairly even. Based on strandings in Japan and South Africa, there are very few younger-aged males and very few males between the ages of eight and 18.

False Killer Whale ESA Petition

Lance Smith, NMFS Protected Resources Division (PRD), reported on updates to the FKW petition and the ESA petition responses. The BRT completed its Status Review report and is now available on the website.

NMFS will make a 12-month finding that determines whether listing under the ESA is or is not warranted. The 12-month finding considers the BRT's Status Review report, regulatory mechanisms, protective efforts and any other relevant information. The 12-month finding then may be published, which is expected shortly.

Other ESA Petitions

Smith reported the update for four other petitions relevant to the region:

- A 2008 petition to revise monk seal critical habitat. Work is ongoing on an economic analysis and a national security analysis of the impact of a revision of that critical habitat. There is a 12-month finding that announced revision of monk seal critical habitat and plans to propose critical habitat in the MHI. Work is ongoing to publish the proposed rule.
- Two petitions were received in 2007 to list the North Pacific loggerhead population and a Northwest Atlantic loggerhead population group as DPSs and as endangered under the ESA. In 2009, a Status Review was completed for the loggerhead turtle globally. The proposed rule was published in March of 2010, which said there should be nine DPSs. The proposed rule said the North Pacific and the Northwestern Atlantic should be listed as endangered and the other seven DPSs as threatened. The public comment period has closed. The next step is publication of a final rule by NMFS.
- In 2009, a petition was submitted to list 82 species of coral under the ESA. The BRT has been established and is currently working on a Status Review Report for 75 of the species that occur in the Pacific. The majority of those are in American Samoa and the Mariana Islands. None of the coral species occur in Hawaii. The BRT is looking at all 82 species. The next step is for the BRT to complete their Status Review Report.
- The petition for the bumphead parrotfish was received in January 2010. The BRT was established and is currently working on the report.

B. Biological Opinion: American Samoa Longline Fishery

Smith reported that in May 2010, an ESA consultation was requested on a draft amendment to the Pelagic FEP that would require deeper setting in the American Samoa longline fishery. The purpose of the consultation was to determine the effects of the implementation of the amendment on the ESA-listed green sea turtle. In September 2010, PIRO completed a BiOp on the effects of the proposed action.

A BiOp addresses which protected species are affected, as well as the status and trend of the species, and the effects of the proposed action. Five genetic samples collected from green sea turtles in American Samoa originated from various nesting stocks throughout Oceania. Some nesting aggregations are large and increasing, while others are smaller and of unknown status. An estimated 18,000 to 38,000 adult females nest annually in Oceania. There is currently not enough genetic data available to conduct a population assessment of the affected green turtles.

An estimated 100 to 200 green turtles are killed annually by all longlining within the action area. Other sources of mortality include nearshore fishing, harvest, marine debris and contaminants. Climate change is also a possible source of mortality.

The status and trends of the affected stocks are generally positive, and the magnitude of the effects of the action on these stocks is assumed to be small. The proposed action is not expected to reduce the reproduction, numbers, distribution of green turtles in this region, or the potential for recovery of the species. The effect of the action can be stated as the removal of four adult females from Oceania green turtle stocks.

Human impacts are not related to the proposed action, but are considered in order to provide the context for determining the effects of the action.

There was a finding of no jeopardy in the BiOp. Some incidental take of green turtles is expected and the opinion authorizes 45 interactions of green turtles every three years. The opinion requires reasonable and prudent measures (RPMs) and specifies conservation recommendations.

The RPMs are:

- Branchlines of at least 10 meters to achieve deeper setting
- Research on effectiveness of deeper setting
- Four standard measures with regard to turtle handling

Conservation recommendations are:

- Forty percent observer for two years, then reduced to 20 percent
- Evaluation of the requirement for 13/0 circle hooks, and
- Four other conservation or research recommendations

Discussion

Duenas asked if the Napoleon wrasse was a listed species. Smith replied in the negative.

Duerr asked if any studies have been conducted on sea turtle entanglement in the marine debris floating in the middle of the ocean. Smith replied there were no such data located, except for a study by Alden Tagarino in American Samoa which looked at green and hawksbill turtle strandings in American Samoa.

Torres asked for clarification with regard to the confidentiality referred to in the written report. Pooley clarified NMFS' interpretation of confidentiality is that they cannot report fishing data where less than three fishers or fishing vessels operated in any particular area.

Torres offered a correction of East Micronesia to West Micronesia.

Duenas requested more funds be provided for surveys, citing the numerous atolls and islands in Micronesia where nesting can occur. Smith welcomed any information that can be provided. Duenas noted the Japanese turtle scientist who presented at the 147th Council meeting in Guam reported that there were so many turtles in Okinawa that over-foraging was occurring. Also, turtles tagged in Guam traveled to the Philippines and on to Okinawa.

C. U.S. NRC's Review of Sea Turtle Population Assessment Models

Ishizaki, Council staff, reported that NRC's "Report on Assessment of Sea Turtle Status and Trends" was recently published. One of the main conclusions of the report was that, while current nesting population counts are needed, more detailed information on key demographic parameters, such as survival, breeding, and recruitment probabilities, are needed to diagnose population status and trends. The same conclusion was also echoed in another paper that recently was published in *Endangered Species Research* by a number of sea turtle researchers.

Discussion

Pooley commented that NMFS sponsored this report because of the importance of looking at population dynamics of sea turtle populations. Although the report has some gaps, the report has been well received. Pooley welcomed input on those gaps. NMFS is determining how best to evaluate the recommendations and then has plans for implementation of the recommendations.

D. SSC Recommendations

Severance presented the following SSC recommendations and comments on Protected Species:

- The SSC endorsed the Council's STAC recommendation from its March 2010 meeting: that the Council adopt the NRC recommendations that focus on field-based studies to support demographic parameter estimation essential for risk modeling.

E. Public Comment

No public comments were offered.

F. Council Discussion and Action

With respect to the National Research Council's review of sea turtle population assessment models:

- 1. The Council endorses the Sea Turtle Advisory Committee's recommendation from its March 2010 meeting that the Council adopt the NRC recommendations that focus on field-based studies to support demographic parameter estimation essential for risk modeling.**

Moved by Duenas; seconded by Torres.
Motion passed.

With respect to the False Killer Whale Biological Review Team Report, the Council:

2A. Recommends that the BRT review document should be sent for independent review by the CIE.

- **The Council has concerns about the composition of the BRT, comprising entirely of NMFS staff and did not include experts from outside the Agency knowledgeable in the field of cetacean risk assessment. The assumption about prey competition from commercial fisheries does not include any independent analysis of prey abundance, which is inferred in the BRT Report from commercial fisheries CPUE data.**
- **Changes in CPUE may reflect changes in the fishery dynamics as opposed to changes in the abundance of pelagic fish available to the insular false killer whale population.**
- **Any review of the BRT Report should also consider potential shortcomings of the genetic analysis and the lack of any key demographic parameters to diagnose status and trends of the Hawaiian Insular False Killer Whale populations.**

Moved by Duenas; seconded by Martin.

Motion passed, with two nay votes by Itano and Tosatto and one abstention by Thielen.

Thielen stated she will abstain because she disagrees with the editorial content in the recommendation.

Tosatto stated that the Status Review Report was peer reviewed and is a final report that will not go out for CIE review. He welcomed the Council's comments on the report.

Martin commented that he was disappointed in the inadequate explanation of why some information was determined to be unusable. He believes the document should be the best document possible and does need further review.

Pooley commented that, by law, the BRT must be comprised of federal employees. He added that outside experts are involved via workshops in the development of the Status Review. He reiterated that it has gone out for independent review by people outside of NMFS and those reviews were incorporated into the Status Report. He suggested the Council provide comments on the listing document when it is open for public comment so as not to delay the process.

With respect to the FKW BRT Report, the Council:

2B. Directs Council staff to draft a letter to respond to the 12-month finding responding to the Hawaiian Insular FKW Petition. If the finding is to list the insular false killer whale population under the ESA, the letter should express Council concerns about the risk assessment as outlined above.

Moved by Duenas; seconded by Sablan.
Motion passed, with one nay vote by Thielen.

Tosatto noted he will vote in favor of this motion because NMFS wants the Council's comments if a determination is made for listing of FKW as endangered or threatened.

Thielen commented it was premature for the Council to say it has concerns prior to an independent evaluation and will therefore vote against the recommendation.

Duenas commented, after reading the document prepared, that he is concerned about the potential for habitat designation to have far-reaching impacts on the charter boat industry, handline fishery and recreational fishery.

Martin agreed this action has significant implications for people other than fishers and said it warrants close scrutiny by a much broader range of interested parties than the fishing industry.

With respect to the ongoing cetacean stock assessment cruise:

- 3. Given the potentially negative impacts of the FKW Take Reduction Plan to the Hawaii longline fishery, and preliminary indications from the ongoing stock assessment cruise that the pelagic false killer whale stock is more abundant than previously thought, the Council recommends that NMFS expedite the analysis of the cruise data and include the updated population estimates in the Draft 2011 Stock Assessment Report.**

Moved by Duenas; seconded by Torres.
Motion passed, with one abstention by Tosatto.

Tosatto commented the cruise is a valuable piece of science and provides a lot of information, but it is inaccurate to say that the stock is more abundant than previously thought. He hopes the Council understands that just because more FKW are seen throughout a broader range does not necessarily mean they are more abundant than previously thought. The work and analysis has to be completed to be able to say that.

Duenas suggested NMFS establish a website where the public can post pictures of species to assist with species distribution. Tosatto noted such an idea would be of limited scientific statistical value, but does have outreach and education value. Pooley added PIFSC has an extensive website on photo identification of cetaceans in Hawaiian waters that is supplemented by a number of outside entities.

Thielen asked to have a follow-up motion to ask the Executive Director to forward regulations deemed necessary to NOAA and that copies of those draft regulations be sent to the Council members simultaneous with the transmittal to NOAA NMFS or earlier. Haleck noted that task will be done without the need for a motion.

Council Aside

Haleck recognized Eric Roberts, USCG, sitting in for CDR Caputo.

Tucher commented there was a closed session held on the first day of the 149th Council meeting to discuss litigation matters and no action was taken.

13. Pelagic and International Fisheries

A. Action Items

1. Hawaii Longline Bigeye Tuna Catch Limit Management (Final Action)

Dalzell updated the Council on the status of the amendment document, which began in December 2008. The WCPFC longline 2009-2011 catch limit is 3,763 metric tons of bigeye in the Western and Central Pacific Ocean (WCPO). The Council considered measures to manage the Hawaii longline fishery under the WCPFC bigeye limit using different calendar year alternatives. In July 2010, the Council deferred changing the calendar year until after consultation with the Hawaii longline fishermen.

The fishing year alternatives included:

- No action, no change to fishing year (Jan-Dec)
- June - May
- September - August
- October - September
- November - October
- December - November

Analysis and modeling included 2004-2008 logbook data of monthly landings and total catch of bigeye at the Honolulu auction, price per metric ton per month, and value of catch.

The results of the analysis of the impacts of changing the fishing year included:

- No action, 45-day projected closure
- June-May alternative, 80-day projected closure
- September-August, 99-day projected closure
- October-September, 98-day projected closure
- November-October, 63-day projected closure
- December-November, 46-day projected closure

The January-December closure, which is the No Action alternative, has the smallest projected closure period. The lowest projected economic losses would occur in the December-November fishing year alternative.

The analysis also included calendar year options with fishing effort shifting to the Eastern Pacific Ocean (EPO) and consideration of social impacts of such a change.

The alternatives presented for Council action included:

- No action
- Select a Preliminarily Preferred Alternative
- Development of a new alternative

Meetings were held with the HLA Board and at the Honolulu fish auction, which was well attended by approximately 30 fishermen representing a broad range of the Hawaii longline fishery. The only significant feedback was fishermen do not want catch shares.

Discussion

Duerr suggested approaching boat owners for information on costs of operation and variable costs for each time period. Dalzell replied the meeting at the auction was with primarily boat owners. Martin added that the owners are as well informed as the fishermen and the auction and buyer representatives did not think a change at this point was necessarily good. When more clarity is provided for the catch share program, fishermen may have a better idea of their choice of the options.

Martin mentioned there is discussion within industry circles of an option to reduce landings for a period of time in anticipation of having the fishery stay open longer, such as a trip limit of 5,000 pounds of bigeye that is imposed through regulation or industry initiative. He also suggested a carryover method that would provide a way to recapture uncaught bigeye due to the fishery closing prematurely.

Itano voiced a preference for the December 1st start because 1) it provides minimal impact economically because the analysis for shifting fishing to the east is speculative, and 2) it ensures landing of high quality bigeye. He foresees a big rush on Cross Seamount of fishermen setting shortlines to benefit from the TAC closing the longline fishery. He pointed out that the reporting issue due to reporting to the WCPFC on a different calendar year is easily resolved.

Tosatto noted consistency with the WCPFC measure and said reporting methods would have to be developed. He pointed out that bigeye would still be available at the auction and suggested NMFS, the industry, the Council and Hawaii Seafood Council promote the quality of the Hawaii longline-caught and Hawaii domestic fish so the consumer is aware U.S.-caught fish is available for the holidays.

2. Hawaii Longline Catch Shares

Dalzell presented an update on the initiative by PIRO, PIFSC and Council staff to merge the PIRO permitting database and the PIFSC logbook database to provide the means to meet the objectives of the 145th Council meeting recommendation. The recommendation was to develop a database that describes current ownership patterns, recent sales of vessels and permits, catch reports, and other characteristics that will assist in the development of a reasonable range of alternatives for allocating quota shares and quantification of the associated socioeconomic effects. A Catch Shares Working Group (CSWG) was formed in February 2010.

The logbook data was reviewed for the years 2005-2009, which was then expanded to include 2000-2004. The June 2010 white paper was updated with the additional data; consideration of updating and maintenance of the database has been included in the scope of work. After a brief review of Hawaii longline permit terminology, some of the complex tasks were reviewed, such as changing permit numbers, registration of new vessels to a number, de-registration and replacement of vessels, and the transfer of permits.

Included in the summary were items the CSWG did not consider, such as:

- Permittee entities
- Permit transaction
- Operators and crews on vessels

The list of future work included:

- Resolve the bigeye catch that cannot be accounted for from 2005-2009 and 2000-2009
- Investigate catch allocation before 2000
- Consider the WCPO yellowfin limit and other species, such as striped marlin

Potential allocation schemes offered were:

- Auctions
- Equal allocations to all permit holders
- Equal allocations to active permit holders
- Catch history
- Vessel-based or gear-based allocation
- Combination of schemes

There were no comments or questions.

3. American Samoa Longline Large-Vessel Closed Area Options (Initial Action)

Dalzell presented the background of the American Samoa large vessel area closure, which was implemented in 2002 to protect the small-boat sector of the longline fleet. The background included the changing dynamics of the fishery and implementation of the Rose Atoll MNM. At the 148th Council meeting, the Council recommended that Council staff develop an options paper exploring spatial management options in the EEZ waters surrounding American Samoa that would better reflect the current configuration of the pelagic fleet, including temporal options for modifying spatial management.

The presentation included the trends of catch in the fishery, vessels participating in the fishery, the effects of the designation of the Rose Atoll Management, and maps depicting the increased loss of fishing area caused by the incongruent boundaries of the closed area.

Alternatives included:

- No action
- Modify the current closed area boundaries of the southern segment of the large vessel area to be congruent with the Rose Atoll MNM boundaries.
- Reduce the northern boundary to be congruent with the MNM, which would make 2,500 nmi² of ocean open to fishermen to the north. An additional 1,720 nmi² of ocean to the south would be closed, but this would be a gain for fishermen of 780 nmi² of ocean available for fishing.
- Reduce the northern boundary and extend the eastern boundary to be congruent with the MNM, which would make an additional 2,500 nmi² of ocean available for fishermen since no additional actions would be taken in the south for the large vessel closed area. This would compensate fishermen for the loss of about 1,700 nmi² of ocean due to the incongruence of the eastern and southern boundaries of the monument.
- Temporarily reduce the current large pelagic fishing vessel area closure to 25 nmi or 12 nmi.
- Permanently reduce the current large pelagic fishing vessel area closure to 25 nmi or 12 nmi.

The requested Council action included:

- No action
- Select a Preliminarily Preferred Alternative regarding the incongruence of the large vessel area closure boundaries and those of Rose Atoll MNM, and/or
- Select a Preliminarily Preferred Alternative to modify the boundaries of the current 50 nmi large vessel area closure

If a 12 or 25 nmi closure was selected, as opposed to a 50 nmi closure, the boundary incongruence would be resolved.

Discussion

Duenas asked if effort distribution could be added to the analysis. Dalzell replied in the affirmative.

Martin asked if the importance of the southern banks to the troll fishery were taken into consideration in the closure. Dalzell replied in the affirmative; the entire bank would be enclosed.

Caputo appreciated that enforcement was taken into consideration in developing the closure boundaries.

Council Aside

Duenas recognized Jay Gutierrez sitting in for Torres.

4. American Samoa Longline Limited Entry Program Modification (Ongoing)

Kingma presented a brief update on potential modifications to the American Samoa Longline Limited Entry Program, including the background of the fishery and program. The program was developed to avoid a boom-and-bust cycle of fisheries development, establish a framework to adjust regulations to reduce potential conflict between large vessels and small vessels, to maintain the local catch rates of albacore tuna, and to provide opportunity for substantial participation by indigenous islanders in both large and small vessel classes.

There are two main topics for Council attention: 1) vessel class sizes with minimum landings requirement and 2) permit eligibility criteria.

The limited entry program has four vessel classes:

- Class A, vessels zero to 40 feet in length
- Class B, vessels 40 to 50, or up to 49.9 feet in length
- Class C, vessels 50 to 70 feet in length
- Class D, vessels 70 feet and above

Currently, there are 12 permits in Class A, with four available, five in Class B with five available, 12 in Class C with zero available and 26 in Class D with one available.

One of the objectives of the review of the permitting process is to simplify the issuing of permits, ensure there are no unnecessary obstacles in obtaining and renewing permits, and ensure the long-term continuity of the fishery.

The alternatives for Topic 1, vessel size classes and minimum landing requirements include:

- 1a, no action
- 1b, remove vessel size classes and minimum landing requirements
- 1c, create small and large size classes and retain minimum landing requirement
- 1d, modify to have two vessel class sizes and remove minimum landing requirements
- 1e, combine Class A and B vessel class sizes and retain minimum landing requirements

The alternatives for Topic 2, eligibility criteria include:

- 2a, No action
- 2b, change criteria date

- 2c, remove criteria date
- 2d, remove eligibility criteria

At the 148th Council meeting, the Council also recommended that NMFS temporarily lift the minimum landing requirements to make it easier for American Samoan longline fishermen to recover from the 2009 tsunami. NMFS said they don't have the authority to provide such relief.

Additional issues recommended to be considered include vessel size limits for the limited entry program, which include:

- No limit
- Limit to vessels less than 101 feet in length

The next step for staff will to continue work on an analysis with NMFS. Final action is expected at the 150th meeting in American Samoa in March 2011.

Discussion

Duenas asked for clarification of the Secretary of Commerce authority on providing economic relief for dire situations in fisheries. Tosatto clarified that there are provisions contained in the MSA to provide disaster assistance, which is a process that is ongoing in the wake of the American Samoa tsunami. He pointed out that because the Council put in place a regulatory framework for those landing requirements, the Regional Administrator has limited authority.

B. Pacific Tuna Stock Assessments

Keith Bigelow, PIFSC, reviewed information regarding stock assessments for bigeye and skipjack tuna from the 6th Science Committee of the WCPFC. Only 10 of the 20 species contained within the Council's Pelagic FEP have been formally assessed. Because pelagic species stock assessments are rigorous assessments and require sufficient data, it is unlikely many of the stocks will ever be assessed.

The WCPO bigeye stock has been of concern to the WCPFC over the past decade as catches from all fisheries have increased, especially catches of juvenile bigeye by purse seine fisheries operating around FADs. The purse seine fishery's desired target is skipjack tuna, but FADs aggregate juvenile bigeye tuna. The catch of longline fisheries are at the level of the bigeye MSY.

In the WCPO, the longline fishery catches most of the bigeye tuna, about 65,000 metric tons. The purse seine catches about 44,000 metric tons. In the EPO, the purse seine fishery catches the dominant portion, 74 percent, or 76,000 metric tons. The longline fishery catches approximately 30 metric tons.

The most recent bigeye tuna stock assessment, which uses data up to 2009, indicated that recent catches are well above MSY level due to a combination of above average recruitment and

high fishing mortality. Based on the results, the stock assessment concludes that current levels of catch are unlikely to be sustainable in the long term.

Through the use of an impact plot for the WCPO, the information showed that the purse seine fishery, together with the Philippines and Indonesian domestic fisheries, now have the greatest impact to bigeye biomass.

Through phased plots, known as Kobe plots, the bigeye stock fishing mortality trajectory continues to rise. The stock status from the most recent data suggests overfishing of bigeye is continuing. The stock is not in an overfished condition.

The recent IATTC EPO assessment showed the same bigeye biomass trajectory. The purse seine fleet has the largest impact to the fishery. The phase plot demonstrated overfishing is not occurring to the stock nor is it in an overfished condition.

The definition of overfished used by IATTC is that the spawning biomass is less than the spawning biomass of the MSY. The Council's control rules are more liberal than this definition.

Bigelow emphasized that MSY is not static, but changes primarily due to the changing selectivity of the various fisheries. Now that the purse seine fishery targets juvenile and smaller fish, the MSY has dropped significantly to 73,000 metric tons, about a 60 percent reduction in MSY. There is a similar situation in the EPO. He reiterated the importance for managers to realize MSY changes based on the selectivity of the fishery.

There has been concern expressed recently for WCPO skipjack after data suggested increasing exploitation.

In general, the fishing mortality is low to moderate for some species. Species of concern are bigeye tuna and Pacific bluefin tuna. A formal assessment is due in 2011, but preliminary information shows high fishing mortality. Striped marlin is also of concern.

In 2011, the International Scientific Committee (ISC) is due to conduct a striped marlin assessment disaggregated between the WCPO and the EPO.

Discussion

Thielen asked for clarification about a stock experiencing overfishing but not being overfished and asked for an estimate of a timetable for the stock to reach the overfished condition. Bigelow clarified that the most recent data shows that overfishing is occurring, but the stock is not in an overfished state. He added that scientists are reluctant to make predictions because of the many variables involved that make predictions unreliable. He added if the pace continues, it would move into an overfished condition within one decade or sooner, with the caveat that assumptions are involved, such as a lack of stock recruitment relationship.

Thielen asked if there is a probability that the stock is already being overfished. Bigelow replied that if there is a relationship between the parental stock and the recruitment, then there is

a higher probability that the stock is overfished, which is one of many separate analyses.

Thielen asked for a repeat of the portion of the presentation regarding the purse seine sector, the longline sector and the impact of the fisheries. Bigelow repeated the requested portion of his presentation.

Thielen asked if it was possible to quantify the beneficial impact of things like closed areas or closed seasons. Bigelow replied in the negative, as bigeye tuna are highly migratory. Bigelow explained that a stock assessment is spatially disaggregated, i.e., some regions have higher exploitation than others. If managers want to reduce that exploitation, they might look in those higher areas of exploitation. He added that there are closed areas now in Guam, CNMI, Niue, Tonga.

Itano pointed out the importance of the impact that the Philippine and Indonesian fisheries have on the bigeye stock and that some analyses have been done to estimate reduction in catch by various management measures. Bigelow added that such an analysis is useful for giving the managers a straightforward example of what they might want to consider.

Duenas commented regarding the gradual increase of the fisheries since 1980, the purse seine fishery impact on juvenile bigeye should be multiplied by a factor of seven when compared with adult bigeye, the increase in the purse seine fishery catch, and the longline reduction in bigeye catch. He asked if there was a number for the total amount of purse seine catch. Bigelow replied there are problems with the preliminary estimates of 160,000 metric tons; it is probably greater than 240,000 metric tons. There has been some delay with the expansion or rebounding of the fleet from 13 vessels to 39 vessels. A meeting is scheduled for the end of October to resolve some of the data issues with La Jolla.

Duenas asked when the Council can expect the final report. Bigelow replied it should be provided for the Commission meeting in December. Duenas requested that a copy of the report be provided at the 150th Council meeting.

Thielen asked for clarification about Duenas' statement that the estimate of the impact of harvesting juvenile bigeye should be multiplied by a factor of seven as compared to adult bigeye. Bigelow replied that the increased impacts to juvenile bigeye are taken into consideration in the integrated models.

C. International Fisheries

1. Fifth International Fishers Forum

Ishizaki, Council staff, reported on the recent IFF5 held in Taiwan from August 2 to 6, 2010, which was co-hosted by the Council and the Taiwan Fisheries Agency. The themes were MSP and bycatch mitigation. The meeting was attended by 300 participants from fishing industries, governments, academia, and conservation organizations from 31 countries and territories, including representation from the Council.

At the conclusion of the meeting, the Taipei Declaration was adopted, a 12-point plan of action on MSP and bycatch mitigation, which included the following points among others:

- Ensure participation of the fishing industry in MSP efforts
- Ensure socioeconomic effects are fully considered in MSP activities
- Support the use of relevant MSP tools
- Increase awareness of success achieved by global pelagic fisheries in implementing bycatch mitigation measures
- Continue research on environmentally responsible pelagic fishing gear

A copy of the Declaration was sent to a number of organizations, RFMOs, and governments. In addition to the Taipei Declaration, participants were asked to submit written commitments on an individual basis, of which 22 participants from 15 countries and territories submitted written commitments.

Geoff McPherson and Tom Nishida received awards for their persistent efforts in trying to find solutions to false killer whale and dolphin depredation, and turtle bycatch issues. The Fishery Agency of Taiwan received an award for their efforts on banning the whale shark fishery in 2007.

Next steps include development of the Council's MSP Committee and upcoming Draft MSP policy and possibly planning IFF6.

Discussion

Duenas commented on the success of the IFF5.

2. Western & Central Pacific Fisheries Commission

A. Science Committee

Bigelow reported on the WCPFC Sixth Meeting of the Science Committee held in Tonga in August. Topics of the meeting included data, statistics, ecosystems, bycatch, stock assessment methods, biology, fishing technology, 2009 Pacific tuna bycatch by gear, and the 2009 economic overview.

Bigelow's summary of the recommendations developed for WCPFC7 included:

- Develop a CMM for striped marlin and consider an interim measure for 2010
- Pending a new striped marlin assessment by the ISC, request the ISC provide estimated catch levels corresponding to average fishing mortality from 2001-2003 and fishing

mortality reference points, including F_{MSY} and F at various spawning potential ratios

Recommendations regarding bigeye and skipjack tuna included:

- That the WCPFC reduce fishing mortality

Some delegations have concern about the effect of equatorial fishing for skipjack on high latitude fisheries. There is an ecological concept where a stock with increased exploitation will contract in size. Therefore, skipjack might become less available to high latitude fisheries, such as Japan, Australia and New Zealand.

Work is ongoing on estimating bigeye composition in the purse seine fishery.

With regard to bycatch mitigation, some progress was made with including sharks in research plans and funding the SPC to develop some preliminary shark stock assessments. Progress was also made on the addition of porbeagle and hammerhead sharks to the list of key shark species under CMM 2009-04.

There is ongoing work on reference points by the Secretariat of the Pacific Community (SPC).

There is debate to revisit CMM 2007-04 regarding seabird mitigation, such as weighted branchlines, dead bait versus live bait, blue-dyed bait, and also specifications for line shooters. Japan presented new information on tori lines.

The WCPFC Management Objective Workshop was deferred until next year after the Reference Point Recommendations are distributed.

Preliminary analyses of the FAD closure in 2009 showed the effort from associated sets was transferred to unassociated or free-swimming school sets. Bigeye was reduced during the two-month period. However, viewing the whole year in retrospect, the FAD closure didn't have a real effect on bigeye tuna catch rates because, in the open ten months, there was increased setting on FADs.

Bigeye tuna are included in the 2011 stock assessments. Stock assessments are also scheduled for skipjack, and perhaps yellowfin and South Pacific albacore.

There were no comments or questions.

B. Northern Committee

Tosatto reported on the Northern Committee that was held in Fukuoka, Japan, which was preceded by a one-day workshop on Biological Reference Points. He commented that the workshop was not as successful as hoped because there still is not agreement on the establishment of biological reference points for the northern stocks. The U.S. retained a position around MSY-based reference points.

The North Pacific swordfish is in a very healthy state. There is an effort to convince the Northern Committee to use North Pacific swordfish as the trial species for MSY-based reference points and control rules.

The Northern Committee established a date of 2014 to achieve a five percent observer coverage level for the Japanese, Korean, and other fisheries, with room for exemptions. However, the U.S. has been trying to reduce the use of exemptions for the observer program. Any exemptions for the observer program would expire by 2018 to give those countries time to address their safety and legal constraints of placing observers on some of their artisanal fishers.

Discussion

Duerr asked if Mainland China was a member of the Northern Committee. Tosatto answered in the affirmative.

C. Technical & Compliance Committee

Tosatto reported about the recent TCC meeting held in Pohnpei that addressed the progress made on such topics as the Regional Observer Program, VMS, the Regional Register of Fishing Vessels and ad hoc data. The U.S. runs its own observer program, and the U.S. purse seine fishery pays for the cost of observers, as well as its own VMS system. NMFS is working in conjunction with the Australian Delegation, who is leading the development of a proposed CMM that sets up a framework for the Secretariat and/or participant countries to monitor compliance amongst all of the countries. Illegal, unreported and unregulated (IUU) fishing progress included getting a list of vessels for potential listing by the Commission, as well as adjustments to the text of the IUU CMM process.

Discussion

Duenas pointed out the wealth of information available on the WCPFC website and recommended the Council members take the opportunity to view it. He appreciated the opportunity to attend the meeting as it provided him a better understanding of how the entire process operates.

Itano asked if there was discussion of developing a CMM regarding whale sharks and had heard a report that Parties to the Nauru Agreement (PNA) is favoring a ban of whale shark associated sets. Tosatto replied that there was discussion about the many loopholes that are becoming evident in CMM 2008-01 and whether 2008-01 is effective and a proposal to outlaw sets on whale sharks from PNA or FFA countries.

Itano stated the International Seafood Sustainability Foundation (ISSF) Bycatch Working Group for purse seine mitigation is developing best practices for release of species like whale shark, which includes possibly implementing standard gear onboard vessels for use in release. Tosatto added that NMFS was one of the first governmental entities to provide funding in support of ISSF's work to reduce bigeye bycatch.

3. Inter-American Tropical Tuna Commission

Martin reported that, according to the IATTC correspondence, there were no consensus measures taken because China objected to Chinese Taipei being seated at the table.

Gibbons-Fly added that this was the first meeting of the IATTC with the entry into force of the Antigua Convention, which replaces the 1949 Convention. For a period of time, both Conventions will be in force because not all of the parties to the 1949 Convention have ratified the new Convention, including the United States. When the revised IATTC Convention was adopted in 2003, it allowed Taiwan to become a member, which ensured that Taiwan and its fishing fleet are bound by the provisions of the agreement and provide them a seat at the table. The People's Republic of China (PRC) objected to Taiwan being seated at the table and blocked any formal consensus decision on any formal action being taken by the IATTC. Budget and administrative procedures were adopted to keep the IATTC functioning and the bigeye CMM adopted in 2009 needed no action to remain in effect.

Discussion

Itano voiced concern about how the Antigua Convention may change the way the IATTC will operate in the future. Gibbons-Fly clarified that under the new arrangement some delegations may try to assert more of an active role for the Scientific Committee. He noted for the last few years the IATTC has been in a mode that is a de facto representation of what's provided for under the Antigua Convention on a voluntary basis based on the interest of the members. He cautioned that attention should be given to make sure there is not an effort to allow the scientists and member governments to have more of a say in reviewing the science, providing comments and formulating the recommendations for CMMs. The strength of the IATTC has always been the independent staff providing the scientific advice and recommendations and not having the process politicized.

Simonds pointed out the request to the IATTC from the Regional Administrator of the Southwest Region, who is head of Delegation for the U.S., to evaluate a TAC Program for the purse seiners and the longliners.

Martin noted that at the WCPFC agreed that, if there was no new CMM implemented for the years following 2011, CMM 2008-01 would remain in effect beyond 2011.

Tosatto clarified his understanding of the process is the general provisions would be sustained, but some of the dated measures will need discussion for the U.S. Delegation's position.

D. SSC Recommendations

Severance reported the SSC comments and recommendations regarding Pelagic and International Fisheries.

Regarding the Hawaii Longline Bigeye Tuna Management, the following aspects were discussed or otherwise noted:

- Fishermen did not seem to be significantly interested in changing the fishing season.
- Dealers can potentially obtain fish from outside of Hawaii, as well as from Hawaii-based fishermen in the EPO, in the event that a closure occurs prior to the Holiday season, and consumers will therefore be able to obtain fish during the Holiday season.
- Altering the fishing season did not seem to improve fleet-wide annual revenue.
- There was no significant movement by fishermen into the EPO during the summer months of low landings of bigeye from the WCPO and high prices at the auction.
- Other management entities, such as the IATTC and WCPFC, require reporting on a calendar year, and any changes to the fishing season from a calendar year would require additional monitoring and reporting costs.

The SSC, therefore, recommends no action on this item.

Regarding the Proposed Changes to American Samoa Large Pelagic Fishing Vessel Area Closure, the SSC notes that the issue of the area closure around American Samoa is primarily a non-scientific issue, but that the incongruence with the new Rose Atoll MNM must be resolved for management and enforcement purposes.

- The SSC, therefore, suggests that the Council take action to minimize incongruence with the Rose Atoll MNM and notes that Alternative 2c will provide more fishing area for large vessel American Samoa longline fleet.
- The SSC further suggests that the Council consider an area closure reduction to 25 or 12 nmi as long as this reduction continues to protect South Bank for potential future recreational fishing expansion.
- The SSC further suggests that any amendment to reduce the size of the current large pelagic vessel area closure be temporary with an option for continuation if so desired by the Council.

There were no questions or comments.

E. Public Hearing

No public comments were offered.

F. Council Discussion and Action

Regarding the management of the Hawaii longline fishery under a bigeye catch limit for the WCPO, the Council:

1. Final Motion: **Endorses the SSC recommendation to take no action at this time to modify the fishing year from a calendar year to a different 12-month period. Council staff are directed to continue refining the analysis of the alternatives.**

Original Motion: Endorses the SSC recommendation to take no action at this time to modify the fishing year from a calendar year to a different 12-month period.

Moved by Duenas; seconded by Sword.

Motion passed, with one abstention by Leialoha.

Itano reiterated his concerns regarding the fact fishermen preferred no change at this time, the availability of locally-caught bigeye for the holiday season, there is no benefit economically from a calendar change fishing year, and the administrative manpower issues associated with reporting. Changing the calendar year would be too onerous, thus he would like to explore other alternatives.

Duenas suggested the Council staff continue to refine the analysis, receive more community input, and conduct more outreach. Martin agreed with Itano's comments and spoke in favor of the motion.

Regarding the proposed changes to American Samoa large pelagic fishing vessel area closure, the Council:

- 2A. **Selects Alternative 2c as its Preliminarily Preferred Alternative to minimizing incongruence with the Rose Atoll MNM while returning available fishing area to the longline fleet that was lost due to the establishment of incongruent boundaries of the Rose Atoll MNM with the large vessel prohibited area.**

Alternative 2c would also maintain protection of the various banks and seamounts important to the American Samoa troll and sports fisheries.

Moved by Duenas; seconded by Sword.

Motion passed, with two nay votes by Leialoha and Thielen.

Duenas asked for clarification. Dalzell clarified this recommendation would extend the boundary out to the east and reduce the boundary to the south. Caputo noted that the boundary of the longline closed area is overlapping with the boundaries of the monument.

- 2B. **The Council selects the modified version of Alternative 3a as its Preliminarily Preferred Alternative to temporarily reduce the large pelagic vessel area closure around Swain Islands to 25 nmi.**

Moved by Duenas; seconded by Tulafono.
Motion passed, with two nay votes by Leialoha and Thielen.

Regarding the management of stocks in the WCPFC:

- 3. The Council recommends that the U.S. Delegation to the 7th meeting of the WCPFC requests a study be conducted by the Commission to evaluate the use of catch limits for pelagic fisheries in the WCPO similar to that being conducted by the IATTC for the Eastern Pacific Ocean.**

Moved by Duenas; seconded by Tulafono.
Motion passed, with two abstentions by Leialoha and Tosatto.

Itano requested clarification of the IATTC catch limits. Dalzell replied that currently there is no scheme and referred to a letter previously circulated to the Council from the IATTC.

Regarding management of bigeye in the WCPFC Convention Area, the Council:

- 4. Reiterates its 148th Council meeting recommendations for bigeye purse seine tuna catch limits, mandatory report sampling, effective FAD closures, evaluating the Vessel Day Scheme for bigeye conservation and rolling three-year catch limits for longline fisheries, as well as mandatory gear marking for all fishing vessels in the WCPFC Convention Area.**

Further, that the United States transmits draft management proposals for these issues to the Commission for consideration prior to WCPFC 7, that's the Seventh Commission meeting coming up in December.

Moved by Duenas; seconded by Torres.
Motion passed, with three abstentions by Leialoha, Tosatto, and Thielen.

Thielen noted her intention to abstain.

14. Administrative Matters

A. Financial Reports

Simonds referred the Council to the financial reports for the Administrative multi-year budget, the Turtle 2010 budget, the Coral Reef 2009 and 2008 budget, and the Council compensation report as of September 15, 2010.

There were no comments or questions.

B. Administrative Reports

Simonds reported that the position remains open for an economist, copies of the 2009 audit were circulated, and reports for the FEPs will be completed shortly. Transfer of the 401(k) plan is occurring, the FOIA related to the Council's contract with Roy Morioka was completed, and performance metrics were provided.

There were no comments or questions.

C. SOPP Review and Changes

Tucher reported that the recommendation from Headquarters is to delay final action on the revised SOPP in anticipation of the new language due out in the near future.

There were no comments or questions.

D. Council Family Changes

Mitsuyasu reported that a packet of applications that were received for the next Advisory Panel cycle was circulated to Council members. Applications are also still being solicited for positions on the Pelagic FEP and the CDPP panels.

Simonds reported that a Curriculum Vitae for Fiona McCormick was circulated for the Council to consider adding her to the Social Science Committee.

There were no comments or questions.

E. Meetings and Workshops

Simonds reported on upcoming meetings of interest to the Council, which included the 106th SSC meeting scheduled for the last week in February, the 150th Council meeting, the Marine Debris Conference, the archipelago Council advisory meetings, the aquaculture workshop, turtle workshop, and the Annual Chairman and Executive Director's meeting that is scheduled to be held in Hawaii.

Discussion

Leialoha asked for a copy of the calendar of meetings.

Duenas reiterated his concerns expressed earlier regarding the Coral Reef Task Force meeting held in Saipan and the lack of transparency in holding a closed session, the potential abuse of using federal funds for a newspaper insert requesting legislation be adopted, and the fact that representatives from the resource agencies of Guam and CNM I were not present. Tosatto pointed out that David Kennedy, the Acting Assistant Administrator of the National Ocean Service that manages the Coral Reef Conservation Program, may be the appropriate person to hear Duenas' concerns.

Itano requested to add the Pelagic Fisheries Research Program's annual meeting scheduled for December 8th to the meeting list.

F. Other Business

There was no report of other business.

G. Executive and Budget Standing Committee

Haleck reported that the Executive and Budget Standing Committee met on Monday, October 11, 2010, from 2 p.m. to 5 p.m. at the Council office. The Committee heard reports provided by the staff and members of the Standing Committee.

Recommendations included:

- The Executive and Budget Standing Committee recommended staff send Council Members an e-mail requesting them to review and comment on the Council website
- Regarding the SOPPs, the Council is to delay final action on approval of the SOPPs
- Endorse Fiona McCormick as the new member to the Social Science Research Committee
- Review and tentatively assign the AP applicants for the next four-year term
- Add the PFRP Principals' meeting to be held December 15-16, 2010, to the Council calendar
- Support hosting the CNMI Aquaculture Workshop in January 2011
- Direct Vice Chair Duenas to work with the Vice Chairs to discuss the new Council Member appointments
- Direct staff to develop a detailed worked example of applications of ACL approaches as recommended by the SSC
- Direct staff to draft a letter to the Island Governors regarding appointments of the representatives who participate on the U.S. Coral Reef Task Force All Islands Meeting

There were no comments or questions.

H. Public Comment

No public comment was offered.

I. Council Discussion and Action

Regarding Administrative Matters, the Council:

- 1. Directs staff to draft letters to the Island Governors requesting that the all-islands meetings held in support of the U.S. Coral Reef Task Force be held open to the public to ensure transparency.**

Moved by Haleck; seconded by Sablan.
Motion passed.

- 2. Directs staff to report at the next Council meeting on the protocols and procedures that are in place to ensure statistically valid and appropriate research projects are funded in the Pacific Islands through the NOAA Coral Reef Conservation Program Grants.**

Moved by Haleck; seconded by Sablan.
Motion passed, with one abstention by Leialoha.

- 3. Appoints the Advisory Panel members, as attached, for the Hawaii Archipelago, Mariana Archipelago, American Samoa Archipelago and the Pelagic Advisory Panels and Community Demonstration Projects Program.**

Moved by Haleck; seconded by Torres.
Motion passed.

- 4. Appoints Fiona McCormick as a new member to the Council's Social Science Research Committee.**

Moved by Haleck; seconded by Sablan.
Motion passed.

- 5. Directs staff to solicit comments and suggestions from all Council members on improving the Council's website.**

Moved by Haleck; seconded by Torres.
Motion passed.

15. Other Business

A. Election of Council Officers

Duenas announced the results of the Election of Officers:

- Chairman: Manny Duenas
- Vice Chair representing American Samoa: Stephen Haleck

- Vice Chair representing CNMI: Ben Sablan.
- Vice Chair for Guam: Joe Torres.
- Vice Chair from Hawaii: Dave Itano

There were no comments or questions.