




WESTERN
PACIFIC
REGIONAL
FISHERY
MANAGEMENT
COUNCIL

**MINUTES OF THE
183rd MEETING OF THE
WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL**

**September 15-17, 2020, Council Plenary
By Web Conference**

Approved by Council:



Archie Soliai, Chair

Western Pacific Regional Fishery Management Council

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I. Welcome and Introductions

The following members of the Western Pacific Regional Fishery Management Council were in attendance:

- Taotasi Archie Soliai, chair (American Samoa)
- John Gourley, vice chair (Commonwealth of the Northern Mariana Islands [CNMI])
- Michael Duenas, vice chair (Guam)
- Howard Dunham, vice chair (American Samoa)
- Ed Watamura, vice chair (Hawai‘i)
- Roger Dang (Hawai‘i)
- Monique Amani (Guam)
- McGrew Rice (CNMI)
- David Sakoda, Hawai‘i Department of Land and Natural Resources (Hawai‘i DLNR) (designee for Suzanne Case)
- Michael Tenorio, CNMI Department of Lands and Natural Resources (CNMI DLNR) (designee for Anthony Benavente)
- Chelsa Muna-Brecht, Guam Department of Agriculture (DOAg)
- Henry Sesepasara, American Samoa Department of Marine and Wildlife Resources (DMWR)(designee Domingo Ochavillo also in attendance)
- Michael Tosatto, National Marine Fisheries Service (NMFS) Pacific Islands Regional Office (PIRO)
- Brian Peck, U.S. Fish and Wildlife Service (USFWS)
- LCDR Jason Holstead, U.S. Coast Guard (USCG) (designee for Rear Adm. Kevin Sibley, commander for USCG District 14)
- Michael Brakke, Department of State

Also in attendance were Council Executive Director Kitty M. Simonds; Fred Tucher, Elena Onaga and Kristen Johns from NOAA General Counsel; and the Scientific and Statistical Committee (SSC) Chair James Lynch.

Soliai opened the 183rd Council meeting with a prayer.

II. Oath of Office

Tosatto swore Gourley, Rice and Dang into office.

III. Approval of the 183rd Agenda

The 183rd meeting agenda was approved by general consent.

IV. Approval of the 182nd Meeting Minutes

The 182nd meeting minutes was approved by general consent.

V. Executive Director's Report

Simonds reported that COVID-19 has continued to shut down the islands' economies and the pan-Pacific flights on which they depend. The silver lining to the situation is that local and national governments, as well as organizations such as the Hawaii Farm Bureau, have publicly recognized the importance of local fisheries to the island communities. This was a welcomed and long-overdue change for Council members, advisors and staff.

Staff has prepared a response to the Presidential Executive Order (EO) 13921 in which the Administration asked the regional fishery management councils to provide recommendations.

On Sept. 11, 2020, NMFS proposed a temporary rule for the interim catch limit of 13,000 pounds for the American Samoa bottomfish fishing year, which began in January 2020. The Council has been advising the American Samoa government and others to provide comments on the proposed rule, which are accepted until Sept. 28, 2020. There has been a lot of discussion about the proposed rule, and it is important for the American Samoa Government to respond.

Regarding the new regulations on the National Environmental Policy Act (NEPA) procedures, the Council will have the option to apply the old NEPA rules to any Council actions for which final action has been taken. Simonds noted that NMFS provided Council staff with a briefing in February 2020, and she requested that PIRO provide a briefing to Council staff on the interim guidance after this Council meeting.

Simonds thanked NMFS for reopening the Southern Exclusion Zone (SEZ) on Aug. 25, 2020. The reopening was based on information that nearly doubled the pelagic false killer whale stock's Potential Biological Removal within the exclusive economic zone (EEZ) around Hawai'i. She reported that the Pelagic Fishery Ecosystem Plan (FEP) Amendment 10 final rule for the Hawai'i swordfish longline fishery will be published and become effective on Sept. 17, 2020. She said that if the rule had been implemented in April 2020, the Council would have had an idea of how the new mitigation measures are working by now. She expressed hope that the fishermen will fish. The Council would then have several months of data to reconsider some of the measures later in the year.

The Council was scheduled to address the issue of improving the State-Federal coordination of shared resources at the 183rd meeting. Simonds noted the successful State-Federal coordination for the Hawai'i deep-seven bottomfish fishery and said she has encouraged

Sesepasara to draft a management plan for American Samoa fisheries, considering the overfished and overfishing conditions of bottomfish. She encouraged the Guam and CNMI governments to also draft management plans for their fisheries.

Regarding the management of the Hawai'i fisheries, the Council recently sent a letter to Hawai'i DLNR Chair Case outlining priority issues for the Council on management of shared resources. The Council would like to discuss collaboration similar to the deep-seven bottomfish example with other management unit species (MUS) to address the continuing lack of data on the Hawai'i small-boat pelagic fisheries, particularly the non-commercial sector. Discussions have been ongoing with the Council, Hawai'i Division of Aquatic Resources (HDAR), Pacific Island Fisheries Science Center (PIFSC) staff and Advisory Panel (AP) members to consider regulatory options to fill the critical information gaps in these fisheries. This was addressed at the Council's Fishers Forum held on Aug. 27, 2020. The current management regime for the main Hawaiian Islands (MHI) small-boat fisheries has been in place for 30 years and is due for this review, as is the management of fisheries in the other areas of the Western Pacific Region. Simonds looked forward to constructive discussion on this issue over the next three days with a plan to move forward with DLNR, federal partners, PIFSC, PIRO and the Council.

VI. Agency Reports

A. National Marine Fisheries Service

1. Pacific Islands Regional Office

Regarding the Pelagic FEP Amendment 10, Tosatto acknowledged that the Council has been waiting for the rule. He said the timing of the final rule matches the fishery's fall season, so the new provisions will be in place as the fishing effort picks up.

NMFS published a final rule June 22, 2020, regarding the area of overlap between the convention areas of the Inter-American Tropical Tuna Commission (IATTC) and the Western and Central Pacific Fisheries Commission (WCPFC). Several years ago IATTC and WCPFC allowed member countries to choose the applicable measures in the overlap area, and the United States had previously chosen to apply the WCPFC measures. The rule switches that application for most measures in the overlap area to the IATTC.

NMFS published a proposed rule June 29, 2020, to remove the retention limit of 10 swordfish per trip in the American Samoa longline fishery. The comment period on the proposed rule ended on July 14, 2020. NMFS is addressing comments and preparing the final rule. The intent of the retention limit was to de-incentivize targeting swordfish in that fishery, but NMFS found this was unnecessary with the other sea turtle mitigation measures in place.

Tosatto reported that PIRO approved the Guam Marine Conservation Plan (MCP).

NMFS specified a 2020 limit on Aug. 19, 2020, of 2,000 metric tons (mt) of longline-caught bigeye tuna for each U.S. Pacific Territory. In August 2020, NMFS approved a specified fishing agreement and, shortly thereafter, began attributing bigeye tuna catch to American

Samoa. Tosatto said the transition of the allocations was smooth this year. He said a second agreement will likely be required.

Tosatto highlighted the status of observer coverage in the region's fisheries, noting that observers are continuing to be deployed with waivers provided on a case-by-case basis. The Hawai'i shallow-set longline fishery has maintained 100% observer coverage. For the deep-set longline fishery, fewer waivers are being issued and the coverage is beginning to return to a higher level. NMFS continues to waive fishery observer placements on vessels in the American Samoa longline fishery and the Western and Central Pacific Ocean (WCPO) purse-seine fishery due to travel restrictions.

The Protected Species Workshops for the Hawai'i and American Samoa longline fisheries and the Hawai'i and Pacific Islands permit applications have been moved online in response to the COVID-19 pandemic.

Gourley asked if NMFS is on schedule to publish the critical habitat for the corals, noting that the deadline for submitting draft proposed rule to the Federal Register is Oct. 6, 2020.

Tosatto said it is a court-monitored deadline. While the clearance of the Federal Register notice is out of his hands, NMFS intends to meet its deadline.

Gourley asked Tosatto if NMFS contacted the CNMI government to speed along the identification of members for the Marianas Trench Monument Advisory Council (MTMAC).

Tosatto said he will check with his staff. He noted that NMFS is making progress on preparing the Marianas Trench Marine National Monument (MTMNM) Management Plan and draft NEPA document for publication. PIRO is coordinating with USFWS on the roll-out plan, in light of COVID-19 restrictions. The MTMAC has been identified as a priority to move the plan from a draft to final. Once the draft plan is released (expected in the fall), NMFS staff will work with the CNMI government and others to reconstitute that group.

Gourley said it would be advisable to organize the MTMAC before the draft proposed rule is published to give members time to review the documents.

Tosatto agreed and said he is trying to streamline the designation of MTMAC members down to a lower level of administrative approval, whereas the current process requires USFWS to have members designated at the Department of the Interior level.

Ochavillo asked if the American Samoa government should expect a response from Tosatto regarding the official letter on the bottomfish interim measure sent in June 2020.

Tosatto said the temporary rule on the interim catch limit published on Sept. 11, 2020, partially addressed the letter in that NMFS proceeded with the rule while the letter from the American Samoa Government opposed it. He apologized for the lack of a direct response to the letter. The emergency measure can only be in place for six months (extended for another six months, if necessary), so the Council, American Samoa and NMFS need to work together on a long-term solution.

Watanura asked Tosatto how the ruling for the overlap area between the IATTC and the WCPFC directly affects the Hawai'i longliners.

Tosatto said it would have little effect on the Hawai'i and American Samoa longliners, based on where the fishing takes place. The overlap area is near Kiribati and French Polynesia, and the two fisheries infrequently fish in this area. The catch in this area would now be attributed to the IATTC.

Dang asked how the shallow-set swordfish fishermen will be notified of each turtle take following the implementation of Pelagic FEP Amendment 10.

Tosatto said the best source of information for vessel owners or permit holders who are not on the vessel would be the captain or crew members. With the exception of cases in which the sea turtle species identification is unclear, the captain should report on turtle interactions to the owner or permit holder, and the observers would report them back to NMFS. If identification is in question, NMFS may reach out to the permit holders, but such cases are expected to be rare. If a trip limit is reached, Tosatto will send a letter to notify the longline permit holder. The limit is reset at the end of each trip.

Dang said that in past years, when the turtle take tally increased, the permit holders took the initiative to inform every vessel and requested that they move fishing locations to avoid further interaction. That type of initiative only works by having access to the best and live information. Dang asked if vessel owners or permit holders could be included in the live notification that observers make when there is a turtle take as this would allow vessels to make quicker adjustments to their fishing plans instead of waiting for a notice from NMFS that their trip limits have been reached.

Tosatto said that the key issue is that observer information is confidential, especially if it can be tied to an individual vessel. If there are less than three participants in any piece of information, it cannot be shared unless it is aggregated up to a level that preserves confidentiality. The longline fleet has more flexibility to share this information and manage itself. NMFS may eventually evolve to a point where confidentiality can be preserved while interacting with the fleet as smartly as possible, particularly with establishing the right protocols for providing turtle interaction information for a given vessel to that vessel's permit holder. He said time will tell if there is a need for that type of information. He said the hardest problem may arise with unclear turtle identification.

Dang said the shallow-set fishery is a small group of vessels that is open to working through the confidentiality issues.

2. Pacific Islands Fisheries Science Center

Michael Seki, PIFSC director, reported that eight research cruises have been canceled due to the COVID-19 pandemic. Canceled cruises on the NOAA ship *Oscar Elton Sette* included the Leeward O'ahu Pelagic Ecosystem Characterization Study, Kona Integrated Ecosystem Assessment Survey, Bigeye Tuna Oceanography Survey, Hawaiian monk seal and green sea turtle field camps deployment and recovery and the Bottomfish 7 Modular Optical Underwater

Survey System (MOUSS) Survey. The NOAA ship *Rainier* canceled the Mariana Archipelago Reef Assessment and Monitoring Program survey efforts around the Mariana Islands to monitor coral reefs, but it did complete a limited amount of mapping on Penguin Bank, which will be used to refine data used in the MHI Bottomfish Assessment.

Most lab work and fieldwork activities have been suspended. NMFS was continuing to develop protocols and guidelines for returning to work, particularly for mission-critical activities. A limited list of research and monitoring activities was being approved at the NOAA Inouye Regional Center: periodic in-season monitoring of the bigeye tuna catch limit, camera preparation for the MOUSS-portion of the 2020 Hawai‘i Bottomfish Fishery-Independent Survey, that survey’s life history sample processing and outreach on electronic monitoring (EM) and electronic reporting (ER). The ER outreach to engage with the Hawai‘i longline fleet at the docks is on hold. As a contingency plan, NMFS is developing an instructional video that will be loaded onto tablets to assist captains and crew with the software. PIFSC anticipates the video to be ready by the end of November, prior to the January 2020 mandatory ER implementation timeline.

NMFS is preparing a passive acoustic data recorder or high-frequency acoustic recording package to be deployed off the *Sette* to measure ambient sounds, primarily looking for cetaceans. The four Hawaiian monk seals that were rehabilitating for 10 months at Ke Kai Ola on the Big Island were returned to Midway. Diver re-qualifications and small-boat bleaching recovery surveys will resume once staff are cleared to return to the Inouye Regional Center .

Seki talked briefly about a recent peer-reviewed paper that describes a bottom-up predictor for tuna recruitment. Greater abundances of large phytoplankton translate to more zooplankton, which facilitates the growth of tuna and on up through the food chain.

At the last International Science Committee for Tuna and Tuna-Like Species in the North Pacific (ISC), the United States, Japan and Taiwan agreed to undertake a collaborative international sampling program for life history of Pacific billfish. PIFSC has taken the lead on collecting the samples across the North Pacific.

Seki described an ongoing Protected Species Toolbox project that was developed so that users can estimate bycatch by searching and sorting for parameters such as year, species and region. It will initially automate bycatch estimations for the Hawai‘i-based deep-set and shallow-set longline fisheries and will expand to the American Samoa longline fishery and marine mammal bycatch estimates.

PIFSC completed the Western Pacific Fisheries Information Network (WPacFIN) transition of the HDAR reporting systems from Visual FoxPro (which is no longer supported) to MySQL.

Seki highlighted four research papers published by the Hawaiian Monk Seal Research Program. They covered improving the estimation of age-specific reproductive rates, the benefits of conservation translocations of female monk seal pups in the Northwestern Hawaiian Islands (NWHI), an assessment of the degree to which the various causes of monk seal deaths impact the

MHI population growth rate and a Technical Memorandum on the impacts of terrestrial loss and degradation at French Frigate Shoals on Hawaiian monk seal populations.

Seki described a genetic study that shows Hawai‘i hawksbill sea turtles spend their entire lives in Hawaiian waters, with implications for this species’ management, and documentation of a female green sea turtle tagged at Laniakea on the north shore of O‘ahu that traveled 1,000 miles to French Frigate Shoals and laid four nests before returning to Laniakea.

The Socioeconomic Program created a web page with a Fishery Ecosystem Analysis Tool that allows users to visualize non-confidential commercial fisheries data from the Pacific Islands Region. Key modules include fishery performance indicators, cost data, Hawai‘i fishery trends, U.S. Pacific highly migratory species fishing trends and human community research.

Seki said the 2020 Bottomfish Fishery-Independent Survey is underway in partnership with the Pacific Islands Fisheries Group. The survey is about 71% complete, with 321 grids of 453 scheduled completed over 21 days. Survey data and information from MOUSS cameras that were deployed during the survey will go into the 2021 MHI Bottomfish Stock Assessment.

Seki said that PIFSC Deputy Director Evan Howell left to become the new director for the NMFS Office of Science and Technology in Silver Spring, Md. This position has temporarily been filled (for 90 days) by two people while PIFSC finds a permanent replacement—Logan Gregory, sitting deputy director for the Office of Law Enforcement in Silver Spring, and Jennifer Samson, who oversees the Coral Program in the PIFSC Ecosystem Sciences Division.

Watamura said he heard the presentation on tuna recruitment at the SSC meeting and asked if there has been any confirmation of large forage fish as an indicator.

Seki said that ground truthing has not been done yet and noted that the research paper was based on a model output and it would be difficult to get the necessary information. One of PIFSC’s priorities is to better understand marine resource (e.g., bigeye tuna, swordfish) response to changing environments.

Watamura said another SSC presentation by University of Washington scientists was on how ocean circulation relates to forage fish availability at different ocean depths and how that affects pelagic species.

Seki said the presentation Watamura referenced examined the relationship between deep-set longline catches and ocean eddies, with preliminary results showing that longline catches tend to be better in clockwise-rotating eddies. PIFSC and University of Washington scientists are working together to investigate differences in their findings regarding productivity.

Watamura said he has noted the cyclical (not linear) nature of the ahi fishery in Hawai‘i.

Rice asked if the billfish genetics project has shown if the northern and southern stocks of striped marlin are the same.

Seki said no and noted that PIFSC scientists' interest is with the life history of billfish to improve the age and reproductive information that feed stock assessments.

B. NOAA Office of General Counsel Pacific Islands Section

Johns reported on the following.

NMFS provided an exemption in 2016 to eligible longline vessels from fishing in the Large Vessel Prohibited Area. In 2017, the District Court in Hawai'i found that NMFS had not adequately considered cultural fishing as required under the Deeds of Cession, which the court found to be other applicable law under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). NMFS appealed the decision. A three-judge panel at the Ninth Circuit Court of Appeals heard oral arguments on Feb. 5, 2020, and is yet to make its final decision. One of the judges passed away in August 2020, but the court has not indicated that it needs to hear further argument.

Conservation Council of Hawai'i and local cultural practitioner Mike Nakachi filed a lawsuit in April 2020 alleging that NMFS failed to notify the Council that the oceanic whitetip shark is overfished and subject to overfishing under MSA and that NMFS arbitrarily determined that the stock status is "unknown" in the annual report to Congress. NMFS determined that the shark is overfished and subject to overfishing May 1, 2020, and updated its website on the Report to Congress in August. The plaintiffs subsequently dismissed their lawsuit and the case was dismissed Aug. 24, 2020.

A complaint in the District Court of District of Columbia filed by the Center for Biological Diversity in August 2019 alleged that NMFS failed to designate critical habitat for 20 threatened species of coral in the Caribbean and Pacific. NMFS entered a stipulated settlement filed in February 2020 under which it agreed to submit a proposal to the Federal Register to designate critical habitat by July 31, 2020. This case has been stayed. NMFS anticipates submitting its proposed critical habitat designations in October 2020.

A second Center for Biological Diversity v. Ross case is in regards to a missed deadline to issue a 12-month determination as to whether listing under the Endangered Species Act (ESA) is warranted for cauliflower coral. NMFS submitted its 12-month finding of listing the coral as not warranted to the Federal Register in June 2020, after which the case was dismissed.

A 60-day notice of intent (NOI) from the Conservation Council of Hawai'i alleges that NMFS failed to complete ESA consultations for the threatened oceanic whitetip shark regarding the two Hawai'i longline fisheries, American Samoa longline fishery and the U.S. purse-seine fishery. The consultation on the Hawai'i shallow-set longline fishery is now complete. The Conservation Council of Hawai'i has not filed a complaint, and NMFS has been providing updates to the plaintiff regarding the consultation status.

The Hawaii Longline Association (HLA) filed a 60-day NOI for NMFS's failure to meet its statutory deadline to complete an ESA consultation on the Hawai'i deep-set longline fishery. The consultation was initiated in October 2018. HLA argues that NMFS has passed the statutory deadline for finishing the consultation, but HLA has not filed a complaint on this NOI.

Soliai asked Johns if any deadlines exist for withdrawing an NOI or filing a complaint.

Johns said the NOIs are not usually withdrawn. The NOI is a requirement so NMFS has the proper notice before a complaint is filed and time to comply with whatever is alleged. However, it is not a court document and does not need to be officially withdrawn.

C. Enforcement

1. U.S. Coast Guard

Holstead reported that, from June 1 to Aug. 31, 2020, the USCG handled 182 cases of search and rescue, law enforcement, marine environmental response and security-type missions. USCG safely transported four Hawaiian monk seal pups from Ke Kai Ola on the Big Island to Midway Atoll National Wildlife Refuge in the NWHI for release.

The 154-foot USCG cutter *Oliver Henry*, one of the newest Sentinel-class fast response cutter, is in transit to Guam. New cutters are capable of search and rescue, protection of living marine resources and international partner engagements throughout Oceania. The *Oliver Henry* is the second of three planned fast response cutters stationed in Guam to ensure better compliance with international fishery rules and regulations.

Rice asked if one of the USCG cutters was part of the 2020 Rim of the Pacific Exercise.

Holstead confirmed the cutter participation from California, along with the two cutters homeported at Sand Island—the *Midgett* and the *Kimball*.

Peck asked for the name of the new USCG lieutenant in American Samoa.

Holstead said he did not know but could find out.

2. NOAA Office of Law Enforcement

Martina Sagapolu reported that from June 8 to Aug. 31, 2020, NOAA Office of Law Enforcement (OLE) saw 199 cases, with an increase in protected species and fishery management incidents during this period. She highlighted three investigations: one involved a Hawai‘i longline vessel fishing in the SEZ, which was closed to fishing in an effort to protect false killer whales; one related to a summary settlement issued for a person conducting an illegal take of a resting endangered Hawaiian monk seal on the North Shore of O‘ahu; and one involved two enforcement officers who conducted a random dockside boarding of a Hawai‘i longline vessel in Honolulu Harbor to check hook measurement compliance.

The reported that 2021 Joint Enforcement Agreements have been signed for Hawai‘i, Guam and CNMI. Once COVID-19 related travel restrictions to American Samoa are lifted, three new enforcement officers will be stationed in the Pago Pago office.

Muna-Brecht thanked Sagapolu and NOAA OLE for allowing Guam to use its conservation reservists’ hours towards fulfilling its required conservation hours due to being short-staffed.

Sagapolu said NOAA OLE recognizes available resources are scarce and is willing to work with Territorial and State partners on solutions.

Watamura asked for more information about the \$100 summary settlement for the take of a Hawaiian monk seal on the North Shore.

Sagapolu said NOAA OLE works closely with NMFS Protected Resources Division (PRD) to determine if the seal was harassed, and the biologist determined it was.

Watamura said he misunderstood the word “take” and thought the seal was killed.

Sagapolu said the fine would not be \$100 if the animal were killed.

3. NOAA Office of General Counsel Enforcement Section

Elizabeth O’Sullivan reported that NOAA Office of General Counsel Enforcement Section had six cases pending consideration on the issuance of a civil penalty and two cases that were charged (the *Lady Mocha II* and *Kaimi* cases) that involved longline fishing in the SEZ in violation of the Marine Mammal Protection Act (MMPA).

Four cases were resolved since the Council meeting in June 2020, two of which involved fishing violations in the SEZ—the *Green Mountain* case settled for a reduced civil penalty of \$5,500, and the *Lady Betty* case settled for a reduced civil penalty of \$1,875. The case of purse seine vessel *Ocean Galaxy*, which failed to release silky sharks as required by the WCPFC Implementation Act, was settled for a compromise civil penalty of \$63,000. The case of purse seine vessel *Ocean Conquest*, which interfered with the onboard NMFS observer and failed to file required fish discard reports in violation of the WCPFC Implementation Act, paid a compromise civil penalty of \$20,000.

D. U.S. State Department

Brakke reported that the U.S. State Department and NMFS continue to work to address the impacts of COVID-19 on international fisheries. The decisions to suspend observer coverage requirements on purse-seine vessels under the WCPFC and 1987 Treaty on Fisheries (“Tuna Treaty”) have been extended through Oct. 31, 2020. Decisions on at-sea transshipment for purse-seine vessels and their observers have also been extended in the WCPFC. In the North Pacific Fisheries Commission, the United States objected to a Chinese proposal to alter high seas boarding and inspection procedures as a result of COVID-19, while calling attention to USCG’s proactive and effective measures to minimize the risk of COVID-19 transmission at sea.

Brakke noted all Pacific Islands fishery observer repatriations are complete and acknowledged the collaboration of the American Tunaboat Association and others in American Samoa to facilitate the process.

The United States and Pacific Island countries continue to negotiate terms of access under the Tuna Treaty for 2021 and 2022. The United States and the Parties to the Nauru Agreement (PNA) have held several small group discussions since the last Council meeting and

exchanged views in an attempt to bridge divides on the terms of upfront fishing access, including on the price of a fishing day. The U.S. State Department continues to work closely with the American Tunaboat Association on proposals and positions. U.S. representatives have also started meeting separately with members of the “exploratory” days pool under the Treaty (non-PNA countries, i.e., Fiji, Niue, Samoa, Tonga, Vanuatu) to consider opportunities to incentivize fishing activities in waters under their jurisdictions. Generally, fishing in those EEZs has been limited.

Brakke reported that U.N. delegates will not be able to negotiate the annual U.N. General Assembly sustainable fisheries resolution in person. The coordinator of the resolution intends to pursue a technical rollover of the resolution by correspondence. The only changes to the resolution would be necessary operational updates, including any paragraphs needed to convene the informal consultations of States Parties to the U.N. Fish Stocks Agreement, resumed Review Conference and/or a workshop on the impacts of bottomfishing on vulnerable marine ecosystems and the sustainability of deep-sea fish stocks.

The date for the fourth session of the U.N. Intergovernmental Conference on Marine Biodiversity of Areas Beyond National Jurisdiction (BBNJ) has not been set but is anticipated to happen in 2021.

Brakke said the U.S. State Department has been responding to international and interagency interest in Chinese fishing activities and alleged illegal, unreported and unregulated (IUU) fishing in various regions. Ecuador has raised concerns about a high concentration of Chinese vessels just beyond the limit of its EEZ and sought U.S. assistance to support its maritime domain awareness and enforcement capabilities.

Regarding personnel changes, on Aug. 20, 2020, the president announced his intent to nominate Drew Lawler as Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs in the Department of State. The position requires Senate confirmation.

Soliai asked if he understood correctly that the State Department is exploring the possibility of going bilateral with non-PNA countries.

Brakke said non-PNA countries are already parties to the Tuna Treaty and a framework already exists under the Tuna Treaty for purse-seine vessels to fish in their EEZ. The terms are different because they have much less tropical tuna. The exploratory arrangement requires industry to pay an upfront fee to access to their EEZ and then for days based on fish caught.

Simonds said she is alarmed to hear from the World Trade Organization meetings about the billions of dollars that China spends to subsidize its fishing fleets, especially since the U.S. longline fisheries are not subsidized at all.

Brakke said China subsidies are a major concern to the United States and negotiations are ongoing in the World Trade Organization context to try to enhance and strengthen disciplines on fishing subsidies.

E. U.S. Fish and Wildlife Service

Peck provided the USFWS report. A team of seven biologists visited Nihoa from Aug. 16 to 22, 2020, and completed activities such as invasive plant surveys and control, and land and seabird surveys.

The USFWS and NMFS have completed the final draft of the MTMNM Management Plan and Environmental Assessment, which should be available this fall for a 90-day public review and comment period.

Guam National Wildlife Refuge staff hosted 10 high school students in the Upward Bound Program's marine science class. Students learned about the Reserve's role in sea turtle conservation and visited a sea turtle nest, learned how to read a tide chart and practiced marine species identification while exploring Ritidian's reef flat at low tide. Upward Bound is a federally funded national program that supports high school students that will be first generation college students and/or come from a low-income family. In addition, staff piloted tide pool exploration as a new program for younger children. A small group of families participated in the event to look for marine creatures such as giant clams, sea urchins and sea cucumbers. Staff conducted water safety and reef etiquette briefings to promote safe exploration that does not harm the Reserve's marine life.

A resource monitor saved a green sea turtle that was stuck in the seawall at Tern Island in the Papahānaumokuākea Marine National Monument (PMNM). The resource monitor also found three dead green sea turtles and one Laysan albatross trapped in the deteriorating seawall and among debris. Staff members are planning a trip to Tern in October 2020 to mitigate entrapment hazards on island for turtles and monk seals and cleanup debris from Hurricanes Walaka and Douglas.

Tenorio asked which agency is in charge of the MTMNM and MTMAC.

Peck said he would have to ask USFWS staff involved with the plan. He asked Tosatto to clarify.

Tosatto said for the MTMNM and Rose Atoll Remote Island Area Monuments, USFWS is in charge as the designee for the Department of the Interior, and NOAA on behalf of the Secretary of Commerce is a co-management agency on a range of issues. For the administrative purposes of the MTMAC, the Interior Secretary designates the members and they are vetted through both Secretaries.

Gourley asked if USFWS would call the MTMAC meetings and be responsible to ensure the members were vetted and approved.

Tosatto said the Proclamation puts MTMAC support in both Secretaries' hands, but the Interior Secretary signs off on membership appointments because a single representative was needed for administration purposes. USFWS and NMFS would jointly convene the meetings.

Gourley asked which agency has overall administrative responsibility for the MTMAC.

Tosatto said it would be shared between USFWS and NMFS.

F. Public Comment

There were no public comments.

G. Council Discussion and Action

Regarding the PIRO agency report, the Council requested NMFS PIRO to work with the Council and the Hawai'i shallow-set longline industry representatives to establish communication procedures for providing permit holders and vessel owners with timely turtle interaction updates based on observer data to ensure the fleet has access to all available information for purpose of minimizing interactions with loggerhead and leatherback turtles and complying with the trip limit regulations.

*Moved by Rice; seconded by Duenas.
Motion passed.*

Regarding the PIRO agency report, the Council requested NMFS PIRO and USFWS to reconstitute the MTMAC prior to the publication of the draft MTMNM Management Plan to ensure comprehensive review of the plan.

Peck suggested amending the motion to include USFWS.

Rice and Gourley agreed to the change.

*Moved by Rice; seconded by Gourley.
Motion passed.*

Regarding the PIRO agency report, the Council requested NMFS PIRO to provide a briefing to Council staff on the NEPA procedural revision and NOAA Interim Guidance.

*Moved by Rice; seconded by Dunham.
Motion passed.*

VII. Mariana Archipelago

A. Guam

1. Isla Informe

Duenas reported on the bottom fishing activities in Guam over the summer and noted the catches were a mixed bag, including onaga. He added the presence of shark depredation, something Guam fishermen have been saying all this time. Bottomfishing was great this summer with nice fishing weather. Duenas added the Catch-It-Log-It self-reporting App will be very useful with fishermen taking photos of their catch and sharing them.

A lot of restaurants have been closed during COVID-19 for dine-in but were able to stay open and do takeout allowing fishermen to sell their catch, including to the Guam Fishermen's Coop. He highlighted the amount of fish caught over the summer, including deep and shallow-water bottomfish such as mafuti and blackfin grouper. Some fishermen also went trolling.

Rice asked if monchong was included in one of the photos he presented.

Duenas confirmed monchong is caught during the twilight hours, including during the early morning or sunset hours, typically in the 1,000- to 1,200-foot depth. They can be caught all day but in deeper waters of between 1,400 to 1,600 feet and then shallower during the twilight hours.

Rice said catch rates are also high in Hawai'i during the twilight and early morning hours and fishermen are able to fill up their boats in one hour before the bite stops.

Dunham asked if Guam fishermen use electric reels and hydraulics to catch fish.

Duenas said many bottom fishermen are new and use new technology, including electric reels with automatic power rewind that come in small, compact packages, so fishermen can put two types of gear on their boats, effectively to troll and bottomfish. They use small diameter braid and are able to use lighter sinkers so a heavy load of sinkers is not lugged around to reach the bottom. He added a lot of bottomfish fishermen now use chum and parachutes to slow their drift and are starting to anchor. A lot of the techniques were pioneered by his father and fishermen before them. He said it is good that the younger generation is starting to dabble in these techniques.

Watamura said he has seen a lot of Guam fishermen post photos on social media, which suggest that the stocks are well in Guam. This past summer the Hawai'i uku fishery had a tough time. A lot of fishermen went to where uku congregate and would drop six times, and their catch would get predated by sharks each time. He sympathized with the depredation issues in Guam.

Amani provided a report on Guam's restaurant industry under COVID-19. As of Aug. 21, 2020, Guam is in full lockdown except essential businesses. Some restaurants refuse to provide curbside service as it does not provide enough revenue to continue to operate. Many businesses are closing for good. Amani said the governor has deemed fishing as an essential activity since the beginning even though a lot of police officers and Department of Parks and Recreation rangers have been trying to enforce people from fishing. Fishing was eventually allowed to continue as fishing has always been big part of the Guam community and now more so than ever. She sees the greatest number of people fishing in Guam using talaya, nets and boats. Guam had a rough summer with waters that were not calm other than the last two and half months. The restaurants are seeing mostly bottomfish(monchong, onaga, and some lehi) and not too many pelagic fish.

Duenas said that customers were able to come in and pick up their items during the first lockdown but restaurants are now required to bring the food out to curbside during the second lockdown.

Amani confirmed customers are currently not allowed to enter the restaurant. She has dedicated staff to service them curbside. Her restaurant was up 50% in capacity before the lockdown with patrons allowed inside, but now restaurants are experiencing between 15% and 20% of the business they were doing previously. A lot of businesses are not able to do curbside service, so her restaurant is taking what they can at the moment.

2. Department of Agriculture, Division of Aquatic and Wildlife Resource, Report (Legislation and Enforcement)

Muna-Brecht reported the DOAg resumed creel-based and participation surveys in July 2020 after the Pandemic Condition of Readiness 1 (PCOR 1) was downgraded to PCOR 3, which ended on July 3, 2020. Non-fishermen-interaction participation surveys were conducted from vehicles by Division of Aquatic and Wildlife Resources (DAWR) biologists to determine how many were fishing during PCOR 1. Six shore-based and two participation surveys were conducted during July; however, because of transition and personnel challenges and adjustments, data were not reported and was not resolved with WPacFIN until this week. Guam went back to PCOR 1 on Aug. 16, 2020, resulting in most creel surveys not completed; only two creel and one participation surveys were done. Fishing was added to the list of essential services or businesses. Fishermen were allowed to go fishing alone, which limited opportunities for those who fish in groups using nets. Only four opportunistic surveys were conducted in September because the island remained in PCOR 1. Guam's positive numbers remained high this week from 17 to 38 daily. The lockdown is reviewed weekly, and the number of positive cases announced daily. The lockdown is expected to continue with lifting of some restrictions. Only five out of eight surveys were completed before Aug. 16, 2020. She noted more information on this will be reported at the next Council meeting.

Muna-Brecht reported on Guam's boating access grant and the proposed boat ramp in Talofofo. The Memorandum of Agreement was routed for signatures and is in review at the Attorney General's office. Construction on the Agat Marina dock and the Harbor of Refuge should begin this year. All work for the Agat Boat Marina, Harbor of Refuge and Merizo Pier will be during the next fiscal year with funding provided through federal grants totaling \$700,000.

Muna Brecht also reported on law enforcement violations that occurred during this fiscal year and quarterly reporting from July. Conservation officers were detailed to the Guam Police Department during Guam's PCOR 1 lockdowns. They were not allowed to conduct arrests. They provided warnings or counseling whenever they encountered people poaching and as instructed by the Guam Police Department. The conservation officers did record information so that when they return to normal duty they will revisit the cases and institute arrests. The officers were performing duties at the COVID-19 quarantine facilities and were not patrolling between March and July 2020. They returned to regular duty after July. Under PCOR 1, the conservation officers were tasked to patrol beach areas and enforce congregating rules, advising people they are not allowed at the beaches if they were in groups. The EOs created confusion with no one initially allowed at the beaches. It was not until later that an exception was provided clarifying that fishing is an allowable activity. Press releases were issued for each arrest made and spread out over a month so the conservation officers received as much media attention as possible.

DOAg has been focused on Guam's fishing and commercial regulations, but an amendment to public law is still needed. There were discussions with the Guam legislature's oversight chair Senator Clynt Ridgell, who does not want to repeal the entire law that restricts regulations from being implemented unless they have been vetted through a council. The Guam Fisheries Council has never convened because it named specific organizations that no longer exist, so the law cannot be implemented. Ridgell agreed to amend the law but just that section removing the nonexistent organizations, so a fisheries council will still remain in place. Ridgell also agreed to introduce legislation for the commercial fishing regulations, which the DOAg worked on in May with Council staff.

3. CARES Act Distribution of Funds

Muna-Brecht reported the Guam CARES Act Fisheries Spend Plan was submitted on Aug. 5, 2020, to the Pacific States Marine Fisheries Commission (PSMFC) and resubmitted on Aug. 12, 2020. The spend plan breakdown will be distributed among commercial and sustenance fishermen. Guam does not have entities or organizations that either are allowable under the CARES Act funding or exist on Guam. For example, a local commercial freshwater aquaculture business does not qualify because the CARES Act requires it to be operating in federal waters. Of the 778 people who registered as fishermen with the DAWR, 715 qualified for the funding, 12 qualified for Tier 1 commercial category with five years of records and three qualified with less than five years of records. There were 12 Tier 2 fishermen, i.e., commercial fishermen who did not maintain records but were able to provide receipts verifying their sales. The 715 sustenance fishermen will each receive \$1,045. The 12 Tier 2 fishermen will each receive \$1,200, and the total Tier 1 commercial fishermen will get paid based on their documents and demonstrated 35% revenue loss across the five-year average between January and June 2020. Muna-Brecht received feedback from the PSMFC about the spend plan requiring minor edits to clarify language but no structural changes to the documents. She will send the edited documents back this week and hope the plan can be approved so the applications process can start.

DOAg issued special permits to allow fishing in the marine preserves to catch the seasonal atulai, i'e, ti'ao and manahak. All species have been active this year, with large groups of the fish coming in during the entire pandemic starting in May 2020. Special permits were issued for May, June, July and September. It is unusual for these species to be active in Guam's waters this entire time.

Five of 14 fish aggregating devices (FADs) are active. Progress has been made with the memorandum of agreement with work orders signed and submitted to the Department of Public Works, which is beginning to identify contractors. Purchase Orders will be processed starting next fiscal year. All of the paperwork has been collected, and she anticipated being able to put out the FADs again.

Progress has also been made to replace lost or damaged shallow-water mooring buoys. Consultations were held with the Department of Public Works, the Army Corps of Engineers and others they need to talk with to make sure the anchors are still intact and ready to be used. Funding is available to procure buoys.

There were sea turtles strandings in May and September 2020 with one found behind the Agat Mayor's Office whose flippers were bound and obviously poached. It was reported to the conservation officers. When DAWR biologists arrived at the Mayor's office to retrieve the turtle, it had already been removed. A dead juvenile hawksbill turtle was reported by one of the U.S. Navy's wharves and was recovered by DAWR personnel.

Muna-Brecht also reported on the status of solar lighting installation at the Paseo de Susana fishing platform and on recent reports of box jellyfish occurrences.

Tosatto offered Muna-Brecht assistance if she needs help in getting the CARES Act Plan through. He has been monitoring the process and helped where he could. He said anything to get over the bureaucracy will help, noting Muna-Brecht is a long way from those in Washington, DC, who need to approve the plan.

Muna-Brecht thanked Tosatto. She also thanked Mark Fossom and Scott Bloom who have made themselves available for assistance. She also thanked Tosatto for approving the Guam MCP.

Duenas asked how the Conservation Reservist Program came about.

Muna-Brecht said DOAg received funding through the Coral Reef Conservation Program during the last fiscal year to start the Conservation Reservist Program. DOAg announced 10 reservist positions for one-year terms with each hired reservist to work 43 hours per month and receive a stipend of \$250 a month. The grant funding will allow the Government of Guam to provide support to the program on its own after the year is up. To qualify, an applicant has to be Police Officer Standards Training certified, must go through police training, have a firearms license, be over 18 years old and have a high school diploma. Applications are submitted directly to conservation officers for review and selections. The reservists will help enforce Guam's regulations and laws, the same as conservation officers, and help with meeting the NOAA Joint Enforcement Agreement hours in enforcing and upholding required federal mandates.

Amani asked if law enforcement training will be offered to an applicant who lacks it.

Muna-Brecht said the Police Officer Standards Training is held annually through the Guam Community College and is the same basic law enforcement training through which Guam Police Department officers, Guam Customs officers and Guam Airport officers go. Once they are selected to the program, they receive an additional 12 hours of training with the DOAg's conservation officers to learn about local and federal laws and regulations they enforce. Anyone hired as a conservation officer must also go through NOAA training.

4. Guam Community Activities

Felix Reyes, Council staff, reported that repairs for the boat wash-down machine at the Agana Marina have been delayed due to the COVID-19 lockdown. The Fishermen's Code of Conduct sign placed at the Agana Marina in 2016 has faded and become illegible. The port agreed to fund a replacement sign when the lockdown is lifted. At the Agat Marina, a similar

sign installed in 2016 remains in good condition four years later because it was installed facing away from the sun.

The fishing derby hosted by the Shut Up and Fish Guam fishing charter organization in March 2020 was the only one held on Guam this year. All other derbies for the rest of the year were postponed or cancelled, including the kid's derbies sponsored by DAWR, and the 25th Guam Marianas Invitational International Fishing Derby sponsored by the Guam Fishermen's Co-op. Sport fishing, normally interpreted as catch and release, is currently not allowed, but catching fish that are retained is allowed.

A rare, eight-foot prickly shark was caught off the southern village of Umatac in about 1,200 feet of water. This species, common in the Pacific area, has never before been seen or caught around Guam. Another rare species never before caught around Guam is the snake mackerel, also caught off Umatac village by the same fisherman.

Guam is progressing rapidly with the training of the Catch-It-Log-It app. Training was completed with four AP and DAWR members. Training for general fishermen with focus on bottomfish fishermen and fish vendors is scheduled for Sept. 26, 2020. Outreach to raise awareness of the app and the training was shared with tackle shops, markets and restaurants. Call in to local radio stations is also planned to raise awareness about the training and invite listeners to join. Reyes said there is hope the lockdown will be lifted in time for the September training next week. The decision was made to train fish vendors' staff and owners individually and separate from the general and bottomfish fishermen on the use of the App.

B. Commonwealth of the Northern Mariana Islands

1. Arongol Falú

Gourley noted that Saipan is doing well in controlling the spread of COVID-19. The total case count is 61, and 57% of the total COVID-19 cases are from plane arrivals. At this time, there were no community infections. The curfew for the island is at 2 a.m. to 4 a.m. The restaurants are at 75% occupancy for dine-in customers. Businesses are allowed to operate until 1 with 75% occupancy. Public parks, pathways and beaches are open; however, social distancing rules apply. The hotels are still mostly closed, and tourism figures are at a low. Guest workers are starting to exit the island, with the Hotel Association hiring charter planes to send several hundred of them back to their home country by the end of this month and/or next month. Fishing activities are unhindered; however, the fresh fish demand is decreasing due to the decline in the restaurant, hotel and tourism industries due to COVID-19.

2. Department of Lands and Natural Resources, Division of Fish and Wildlife, Report (Legislation and Enforcement)

Tenorio provided the report for the Division of Fish and Wildlife (DFW). FADs are in place except in three areas: one to the south of Rota, one approximately three miles southwest of Tinian and one at FAD HH. DFW has acquired additional materials such as anchors and lights for the FADs.

Currently there is an Interim Section Supervisor for the Fisheries Data Section. DFW is in the process of recruiting and filling that position. The team is still doing surveys within the confines of the COVID-19 restrictions.

The Sea Turtle Program has conducted interviews with the news media on recent poaching activities, released a press release through the Office of the Governor and created and distributed about 500 copies of a Sea Turtle Activity Book.

The Boating Access Program is working with the Northern Marianas Housing Corporation to fix the Smiling Cove Marina by using the disaster recovery funds. The Boating Access Program's activities in Tinian and Rota have not changed since the last Council meeting.

DFW has been working on a proposal with the Coral Reef Initiative Program to develop a Saipan Western Lagoon Coral Reef Fishery Ecosystem Management Plan. DFW is also collaborating with a NOAA contractor to develop and maintain the coral nursery within Saipan Lagoon as well as with other natural resource agencies to improve coral restoration efforts in the CNMI. DFW is additionally working with the CNMI Office of Planning and Development to develop its Sustainable Development Goal.

Ochavillo asked if the Saipan Western Lagoon Coral Reef Fishery Ecosystem Management Plan is being developed by DFW or in collaboration with other agencies.

Tenorio said DFW is working with other agencies and looking at existing regulations that apply to the lagoon, fishery data and other factors that may affect fishing inside the lagoon to develop the plan.

3. CARES Act Distribution of Funds

Tenorio reported that the CARES Act spend plan has approved by the CNMI administration and will be forwarded to PSMFC.

4. CNMI Community Activities

Floyd Masga, Council staff, provided the CNMI Community Activities report. The Bottomfish Development Project conducted two bottomfish trainings for this reporting period. The first was an in-class training with the Tenorio and Associates on Aug. 15, 2020; the other was an at-sea training on Aug. 27, 2020. The training session topics included chumming, gear rigging, bottomfish gear, the use of Global Position Systems and home-made chum bags. Participants included, trollers, spear fishermen, bottom fishers and net casters.

The design and cost estimate for the Garapan Fishing Base Improvement Project has been submitted to the CNMI DLNR. The announcement for the Invitation for Bid by the Department of Public Works will be released to the media for the bidding process next week.

Regarding mandatory license and reporting regulations, the CNMI administration under the Lieutenant Governor's office and the DFW director have assigned Frank Villagomez as the Acting Data Manager to create a working group and to start amending the permitting forms and

the commercial receipt forms. However, DFW is still down to one supervisor and two conservation officers, making it difficult to enforce the mandatory reporting regulations.

The 36th Saipan International tournament biggest catch was a 290-pound billfish by Team K Fisher. The tournament was changed to a one-day tournament due to the COVID-19 restrictions. The Marianas Apena Spear Fishing Tournament was a month-long spearfishing tournament that became an all fishing method tournament to accommodate for the COVID-19 restrictions. Lastly, the 2020 Deer Meat for Dinner Fishing Tournament, a pelagic tournament with 15 participants, was held in Rota for the.

Council staff conducted a virtual training for DFW staff and AP members on the Catch-It-Log-It app and scheduled a training for fishermen and vendors for Sept. 26, 2020, at the Hyatt Regency Ballroom.

C. Advisory Group Reports and Recommendations

1. Advisory Panel Report

Richard Farrell, AP vice chair for CNMI, presented the report and recommendations.

Regarding the Mariana Archipelago fisheries issues, the CNMI AP recommended the Council request the USCG to provide a repeater and navigational light on Aguigan (Goat Island) and Anatahan to assist fishermen in identifying the island, as well as fix the lights on Rota and Tinian (cross point) and to assist the fixing of VHF Channel 2 (24-hour USCG weather forecast). This is a safety issue for fishermen in the CNMI.

Holstead noted the weather service radio broadcast is done via NOAA's National Weather Radio and suggested that it be separated from the questions to the USCG because it is outside the USCG responsibilities.

2. Scientific and Statistical Committee Report

There were no SSC recommendations regarding the Mariana Archipelago.

D. Public Comment

There were no public comments.

E. Council Discussion and Action

Regarding CNMI fisheries issues, the Council **requested the USCG to assist the CNMI in the following to address safety at sea issues:**

- **Providing an Automatic Identification System (AIS) transmitting beacon and navigational lights on Aguigan (Goat Island) and Anatahan to assist fishermen in identifying the island; and**
- **Repairing the lights on Rota and Tinian (cross point).**

Holstead requested for clarification on the repeater. If the goal is to identify hazards to navigation, an AIS Aid to Navigation is more useful. Major ports for large commercial vessels would have an AIS transponder on top of other aids to navigational systems. He suggested the recommendation be clarified to include AIS transmitting beacon and navigational lights.

Moved by Gourley; seconded by Duenas.

Motion passed.

Regarding CNMI fisheries issues, the Council requested NOAA (National Weather Service Pacific Islands) fix VHF Channel 2 (24-hour weather forecast broadcasted from Saipan).

Holstead suggested that the broadcast location is identified to allow NOAA to address the recommendation appropriately and clarified that the location should be noted as VHF Channel 2, 24-hour weather forecast broadcasted from Saipan.

Moved by Gourley; seconded by Tenorio.

Motion passed.

VIII. Program Planning and Research

A. National Legislative Report

Gourley reported that 20 fishery related bills are being monitored, which are not moving until the election. Regarding the reauthorization of the MSA, a listening session was conducted in Hawai'i by Congressman Ed Case. A recent letter indicated that the listening sessions will be wrapped up at the end of the year. Case requested additional comments from the Council due on Sept. 20, 2020. Senate Bill 906, introduced by Sen. Diane Feinstein of California to improve the management of the driftnet fisheries and minimize bycatch, has passed the Senate. Sen. Roger Wicker held hearings to introduce the aquaculture legislation. Gourley said that once the election is over, there will be a mad rush to finish legislation before the end of the year.

B. Draft Offshore Energy Policy

Zach Yamada, Council staff, presented the Council's draft offshore energy policy. At the 182nd meeting in June 2020, the Council directed staff to draft an offshore wind policy that considers the potential for reduced fishing grounds, FAD effects of the floating turbine, impacts on seabirds and impacts on the benthos from undersea cables. If the Council approves the policy, it would be included in its Statement of Organization Practices and Procedures (SOPP). Offshore energy projects in the region would be directed toward this policy to provide guidance. Yamada described the different facets of offshore wind and offshore energy like wave buoys. The purpose of the policy is to ensure healthy fishing communities, stock and habitat. Impacts of the offshore wind projects should be properly documented. The guidelines described in the policy should align offshore energy operations with the MSA. Proper research should be conducted to quantify the impacts on the stock and essential fish habitat (EFH) and habitat areas of particular concern (HAPC). Yamada described some of the best management practices including but not limited to creating buffers on placements relative to the habitats and fishing areas, noise mitigation and

engagement of the local fishing communities. Compensation should be provided to fishing communities with lost fishing access and opportunities.

Dunham expressed concerns regarding safety hazard of the electrical cables to the shoreline users.

Yamada said that the issue should be covered by the emergency plans. The cables should be regularly monitored and inspected.

Watamura said that he was a member of Hawai'i Fishermen's Alliance for Conservation and Tradition when he met with the offshore wind companies. Fishermen are concerned that migration patterns might be affected by the structures. These projects are of a huge scale, and the structures may act as FADs that could disrupt the fish migration and in turn attract seabirds, which could get hit by the turbine blades. The length of the project covers 12 miles and could be an eyesore from shore.

Tosatto said having a policy is good and that the draft policy is patterned from the mid-Atlantic and Northeast region, which have dealt with these issues for years. He added the issue of inter-island gear transmission to transmit excess land-generated power through inter-island cables. He said, as these projects develop, the Council should engage at the proper place and time, which is through the EFH and ESA consultation processes.

Peck suggested addressing seabird protections under the best management practice section of the policy rather than the objective. It needs to be addressed under the agency review of Migratory Bird Treaty Act and other relevant laws.

Holstead said that in the northeast region particularly in Rhode Island, USCG was heavily involved in offshore wind project due to the turbulence caused by the turbines affecting rescue helicopters and USCG operations. He commended Council staff for reaching out to the Mid-Atlantic Council and other entities that have been involved in these issues in other regions.

Gourley said that there would be a lot of permitting requirements associated with wind development and it is prudent for the Council to be involved. It would help the Council to understand the issues rather than reinventing the wheel. He said he was involved in projects that dealt with laying undersea fiber optic cables with minimal damage to the reef and noted that developing a draft policy allows the Council's learning process to occur.

C. Standardized Bycatch Reporting Methodology

Asuka Ishizaki, Council staff, reported on the status of the Standardized Bycatch Reporting Methodology (SBRM) review. NMFS issued a new rule in 2017 that requires each of the FEPs to identify the required procedure or procedures that constitute the SBRM for each fishery and include an explanation on how that SBRM meets the purpose as described in the new 2017 rule. Council and PIRO Sustainable Fisheries Division staffs are working to develop the review document and are seeking clarification with NOAA General Counsel on what needs to go into it to ensure consistency determination can be made. Additional clarifications were received in June that Ecosystem Component species do not need to retain SBRM, similar to how EFH was

not retained for those species. The next time the Council receives an update it will include the review document for Council action.

D. Update on the Draft Aquaculture Programmatic Environmental Impact Statement

Tori Spence, PIRO Sustainable Fisheries Division, provided the status of the draft Aquaculture Programmatic Environmental Impact Statement (PEIS). She reviewed the PEIS process, components of the document, management alternatives and the parameters used in the impact analysis. The scoping was conducted in 2016 and included a public comment period. PIRO intended to incorporate the public comment in the final PEIS that should allow for the development of the amendment for the management program.

The management alternatives include 1) no change alternative; 2) limited management program and 3) expanded management program. Under alternative 1, no aquaculture permit would be established and the current special permit for coral reef ecosystem species would be retained. Alternatives 2 and 3 would have a more comprehensive permitting program. Both alternatives offer a limited entry program and permit transfers. Aquaculture would be prohibited in closed areas. Reporting and recordation would be required for both alternatives. The difference between alternatives 2 and 3 is that the duration on alternative 2 is shorter than 3. The scope of the types of system is also limited. The species subject to aquaculture would be limited to MUS. Alternative 3 has a longer permit duration and allows for culturing native species. The criteria used for the impact analysis include effluent, ecosystem function, wild fish, other wildlife, protected species and socioeconomic impacts.

Watamura said that the aquaculture pods act as FADs and the feed attracts other fish. The big problem is the escapement in the order of thousands. Kahala are cultured in the Kampachi Farms and are showing up in large numbers in Penguin Banks. Kahala interferes with bottomfishing operations. Kahala are aggressive, and the target fish do not bite when kahala are around. Thus fishermen are forced to move their fishing location.

Spence said the potential effects of escapes on other fish in the area have been incorporated. She asked if there were any quantification of these interaction events that could be incorporated into the document.

Watamura said that these are fishermen observations but that the kahala they are seeing at Penguin Banks are the ones farmed on the Big Island.

Tosatto said that the attempt is to finalize the PEIS in preparation for the anticipated movement of developing aquaculture in the different regions. The Pacific Islands may come after Southern California and Gulf of Mexico. He also briefed the Council about the litigation regarding the aquaculture in the EEZ in the Gulf region that had a 5th circuit court decision on the inconsistency of the aquaculture amendment with MSA. Litigation in the past in the 9th circuit court deemed consistency with MSA as it pertains to the aquaculture operation using the coral reef permit. Notwithstanding the inconsistent court decision, NMFS is proceeding with the PEIS since the impacts are going to be the same and the benefit to the nation will be the same.

Rice said that the kahala that show up in Honolulu are from the Keahole Kampachi Farms and noted that it is from State waters that the fish escaped.

Watamura said that aquaculture will be beneficial and is better than the imported cultured fish from other countries that could be a food safety hazard. Local aquaculture done correctly is better than imported fish.

E. Electronic Technologies Implementation Plan

Keith Bigelow, PIFSC, presented on the Electronic Technologies Implementation Plan. The current plan will cover 2020-2024 and will be an update to the first regional plan developed for 2015-2019. The public version of the plan will be distributed before the December Council meeting. Bigelow described the six visions in the draft regional priorities: 1) implement mandatory ER in the Hawai'i and American Samoa longline fisheries; 2) continue the development of EM in the Hawai'i-based longline fisheries and conduct the necessary catch handling study to address camera detection issues with species such as sharks; 3) continue the development of ER in the Pacific Islands Region Observer Program in collaboration with the West Coast Region Observer Program and the Pacific Fisheries Information Network; 4) improve highly migratory species data coordination and integration between the Pacific Islands and West Coast Region longline fisheries to improve quota management, especially in the IATTC; 5) continue to work with stakeholders and partners to assess the feasibility of ER for federally managed fisheries in Hawai'i, American Samoa, Guam and the CNMI; and 6) implementation mandatory ER in the U.S. purse-seine fishery that occurs in the WCPO.

Bigelow described the current state of ER and EM in the region. He identified the major issues with implementation, including limited federal funding where much of the funds are from soft money. The plan identifies artificial intelligence and machine learning as two areas for research and development. He described the effort for establishing a secure web portal for data access for ER in the longline fishery.

Bigelow said he is seeking comments by Oct. 15, 2020. A second draft will be circulated on Nov. 15, 2020. A presentation on the penultimate draft will be provided to the Council in December 2020. The deadline for submitting the regional plan to NMFS headquarters is Feb. 1, 2021.

Rice asked if the funds used to implement a paper reporting can be used to implement ER for the longline fishery.

Bigelow said more than 20,000 pieces of paper per year are processed for the Hawai'i longline logbook data. About 60 of the 145 Hawai'i vessels have changed over voluntarily to ER. An estimated cost to print the log sheets is \$10,000. The cost is minimal but its removal would be helpful. What is more critical with ER is the timeliness of data submission. Waiting on the vessel to return and data transcription are time consuming.

Gourley asked whether PIFSC was talking to fishermen and whether the American Samoa longline fishery is ready to move from paper logbooks to ER.

Bigelow said that the June 2020 Council action recommended an October 2021 target date for implementation in American Samoa. This gives ample time to work with the fleet of 10 to 12 active longline vessels. Alias would not be required to use ER because they have no vessel monitoring system (VMS), so the target vessels in American Samoa would be those that are greater than 50 feet (Class C and D).

Gourley asked Bigelow to gauge the level of difficulty in implementing this program.

Bigelow said that the difficulty is in the distribution of the tablets with the associated training and outreach. The distribution was halted due to COVID. PIFSC is developing an informational video to assist the fishermen and would distribute the tablets once the stay-at-home order is lifted. They are translating the hard copy instructions into Vietnamese.

Tosatto clarified that NMFS would implement mandatory ER if the Council recommends it and NMFS approves it. The Council is responsible for determining whether recommending mandatory ER at this time is appropriate, whether the fleet is ready to implement ER and whether necessary analysis has been prepared to support the recommendation. He urged Council members to understand that it is the Council and not NMFS that required the logbooks. He agreed with Bigelow that the Hawai'i longline fleet is ready to implement ER but less so for the American Samoa longline fleet. He said Council members from American Samoa should be prepared to answer the readiness question because the Council will consider recommending mandatory ER for that fleet.

Sesepasara sought clarification on the number of active longliners.

Bigelow said 10 vessels actively longlined between January and June 2020, of which two were alia vessels.

Sesepasara sought clarification on the implementation timeline being in October 2021.

Bigelow said that the Council recommended a target implementation of October 2021 for American Samoa at the June 2020 meeting.

Sesepasara said currently 16 longline vessels are active with several new vessels recently added to the fleet. He suggested that NMFS confirm how many vessels may be in the fleet by that target implementation timeframe.

Simonds said that there will be more discussion on the mandatory longline ER action in the pelagic section of the agenda.

F. Report on the Council Response to President Trump's Executive Orders 13921 and 13924

Council staff Marlowe Sabater, Ishizaki, Joshua DeMello and Mark Fitchett reported on the response to President Trump's EOs 13921 and 13924 on promoting U.S. seafood competitiveness and enhancing fishery production. Section 4 of EO 13921 directs the Secretary of Commerce to request each of the regional fishery management councils to submit within 180

days a prioritized list of recommended actions to reduce the burden on domestic fishing and include a proposal for initiating each recommended action. The Council's advisory groups, industry and federal partners reviewed the draft document and provided significant comments. The list of recommended actions was grouped by statutes: MSA, ESA, MMPA and other relevant statutes.

Council staff presented the burden to domestic fishing, the recommended actions to alleviate the burden and the proposal to initiate the action. Sixteen recommended actions were presented in detail. Six were from MSA, four from ESA, three from MMPA and three from other statutes. Under MSA are the delays in the processing of the Council actions that result in unnecessary closure of the fisheries. Another is the exemption of man-made and degraded habitats from EFH and succeeding federal consultations. Under ESA is streamlining consultations to ensure that environmental reviews are efficiently conducted within statutory 135-day timeline and that any Reasonable and Prudent Measures (RPMs) are "reasonable" and commensurate with relative impact to populations, are developed in consultation with the Councils and are implemented under MSA. Also under ESA is the need to revise the listing for populations that are increasing and for which threats do not pose immediate danger of extinction. Recommendations under the MMPA included removing the False Killer Whale Take Reduction Plan regulations, reinstating the seasonal contraction of the MHI longline exclusion zone and implementing any future Take Reduction Plan regulations through the MSA Council process and rulemaking procedures to allow greater transparency and flexibility. Recommendations under other statutes were regarding the Billfish Conservation Act, renegotiations of the Compact of Free Association and the Lacy Act.

Muna-Brecht commended the staff on developing a comprehensive list and said that the Compact of Free Association and delisting ESA species are also priorities for Guam.

Gourley, Soliai, Watamura and Sakoda thanked staff for their efforts in compiling the list.

Sakoda said the State of Hawai'i is opposed to the removal of the fishing prohibition in the Marine National Monuments in the Pacific Islands. While the State sympathizes with the longline industry on its economic hardship, the monuments provide important refuge for target species. The benefit from the protection of these areas outweighs the benefit to the longline fishermen and impact to markets.

Tosatto expressed his opposition to several items on the list of recommended actions and considered some as misguided and factually incorrect in the premise for where the problem lies. He stated that largest problem with the timeliness of MSA actions starts with the Council and Council staff. The Council routinely makes decisions on actions that are not thoroughly analyzed by staff and that NMFS has not required the staff to do the work that is needed for the Council to make decisions so that the decisions can be processed in a timely manner for the Secretary to consider and implement. He said the work needs to be done upfront so that the Council side can deliver a package for NMFS to take timely actions. There is nothing in the NMFS procedure or the operational guidelines to improve these timelines because the work is needed to ensure legal sufficiency for the NMFS decision.

Tosatto said he “violently” opposed the recommended action to exempt man-made and degraded structures from EFH. He considered this action as wrong-minded and potentially violating the MSA. He reminded the Council that its job is to identify habitats that are essential rather than identifying degraded habitats as not-essential. He said that where there is degraded habitat, it is the Council’s job to fix it, not take it off the table. Following this line of thinking, eventually all EFH would be removed because it has been degraded, leaving no fish habitat and no fisheries, which would lead to a conclusion that is a failure of this Council. Tosatto said he will oppose it every step of the way.

Regarding the recusal policy recommendation, Tosatto asked whether the recommendation considers the recent changes to the recusal policy. He said that he would support this issue if the recent policy change has not addressed it.

Tosatto said he was uncertain what the problem is that Council is trying to address, because the ESA Handbook and regulations already requires NMFS to comply with the 135-day statutory timeframe, and NMFS is already required to and does develop RPMs in consultation with the Council. He said the issue with the lengthy consultations is around the information available and the manpower constraints to conduct this complex process, which do not seem to be addressed.

On delisting recovered species, Tosatto said that the green sea turtle situation seems to have been misunderstood, and clarified that NMFS made no delisting consideration for the green turtle and there was never going to be a delisting consideration because the consideration was whether distinct population segments (DPSs) are appropriate and whether that DPS needed to be listed. He said the decision to consider whether DPSs are appropriate is very different from a decision to delist. He said “imminent danger of extinction” is a criterion for a listing determination, whereas delisting is subject to the delisting criteria that are developed and implemented through the recovery planning process. NMFS also applied the DPS process to the humpback whale, with the species broken into DPSs, some of which were not listed. Tosatto said that the DPS and delisting processes are apples to oranges and that mixing is happening with that fruit basket. He said NMFS cannot consider consultation burden when making listing determinations, which have to be based on biology of and threats to the species.

Regarding the critical habitat issue, Tosatto said that he cannot recall an instance where critical habitat added to the length of ESA Section 7 consultations.

Regarding the removal of the False Killer Whale Take Reduction Plan regulations, Tosatto said that the Council staff’s statement that the fishery did not exceed the new potential biological removal is not correct, as in recent years it has been exceeded. He said there is a need to engage the False Killer Whale Take Reduction Team to develop and adjust the plan to meet the current understanding of the false killer whale population and the fisheries. Overall NMFS still has a need to reduce impacts on the pelagic false killer whale stock.

Regarding the implementation of future Take Reduction Plan under MSA Council process, Tosatto acknowledged the flaws with a dated MMPA and many places where it could be improved, but he did not think this item could be accomplished the way Council envisions. He said he believed in managing fisheries within the MSA process, but changes to the Take

Reduction Plan implementation could not be done through policy change and would require a statutory change. He said that the guidelines for marine mammal stock assessments and serious injury determination could be improved as a policy change within the MMPA.

G. Interagency U.S. Seafood Trade Task Force

Fitchett presented on the Interagency U.S. Seafood Task Force established under Section 11 of EO 13921. The Task Force was created to develop a strategy to support fair market access for U.S. seafood products. Three objectives published in the Federal Register are 1) improving access to foreign markets for U.S. seafood products through trade policy and negotiations; 2) resolving technical barriers to U.S. seafood exports; and 3) supporting fair market access for U.S. seafood products. The Council responded to the call for information and addressed the three objectives. The letter encouraged the U.S. Seafood Trade Taskforce to consult with the regional fishery management councils and highlighted the impacts of area closures and the low quota for U.S. longline fishery for bigeye tuna relative to other foreign nations. Fitchett reviewed the notable needs specific to each of the three Task Force objectives, which were outlined in an attachment to the Council's letter.

Watamura expressed concern regarding name branding, using Hawaiian names for fish that are not sourced from Hawai'i. The public should be properly informed on where the fish was sourced. The price of these imported fish also competes with the fresh local fish and drags the price down. Retailers are using Hawaiian names but are deceiving the public.

Rice said that Mama's Fish House on Maui includes the name of the captain who caught the fish on the menu, which adds to the traceability of the fish as well as name branding.

H. Modifications to the PRIA Objectives and Projects in the Pacific Remote Island Areas Marine Conservation Plan (Action Item)

DeMello presented modifications to the Pacific Remote Island Areas (PRIA) MCP objectives and projects. At the 182nd meeting, the Council made a recommendation to approve the PRIA MCP and transmit it to NMFS. During the review and cleanup of the document, staff determined that the objectives and the projects described in the MCP needed to be updated because they do not align with the Pelagic Fisheries Research Plan. Alignment of the MCP with the research plan will help provide potential funds for the projects that will affect the fisheries. The revisions included 1) adding an evaluative criteria to Objective 3 of Project 1, which would develop agreeable compliance and monitoring scheme with international partners to hold international standards to par with U.S. compliance and monitoring standards; 2) supporting cooperative research with U.S. fisheries on evaluating spatial closures and large-scale marine protected areas (MPAs); and 3) supporting cooperative research on tradeoffs between longline fishing targeting adult bigeye tuna and purse-seine fisheries utilizing FADs.

I. Advisory Group Report and Recommendations

1. Advisory Panel Report

Clay Tam, AP chair, presented the AP reports and recommendations

Regarding the Draft Offshore Energy Policy:

- The Hawai'i AP supported adopt the offshore energy policy and recommended its adoption by the Council;
- The Guam AP agreed with the policy and recommended the Council approve it;
- The CNMI AP supported the draft offshore energy policy and recommended the Council adopt it; and
- The American Samoa AP endorsed the policy drafted by the Council.

Regarding the PRIA MCP:

- The Hawai'i AP supported the changes to the PRIA MCP and recommended the Council approve the MCP;
- The Guam AP had no objections to the changes and recommended the Council approve the MCP;
- The CNMI AP supported the changes and recommended the Council accept them as presented; and
- The American Samoa AP endorsed the MCP as it was drafted.

Regarding the EO prioritized list:

- The CNMI AP supported the draft response to EO 13921 and recommended the Council send the response to NMFS; and
- The American Samoa AP endorsed the document drafted by the Council.

2. Scientific and Statistical Committee Report

Justin Hospital, SSC member, presented the SSC reports and recommendations.

Regarding the Council's draft Offshore Energy Policy, the SSC recommended that, when studies are being conducted, research should be done in coordination with the Council and the State or Territory. Studies should examine the impact across different species that would interact with the floating wind turbines in a matter similar to FADs.

J. Public Comment

Tam provided comments regarding the offshore energy agenda item. He suggested considering research from other regions that attempt to quantify sharks and other species that may be attracted to the tuna and mahimahi that aggregate near offshore wind farm facilities. Tunas migrate from juvenile to adult stage and are a prime food for sharks including the threatened oceanic whitetip shark. His fear is that these sharks would migrate to the banks and

forage on bottomfish. He shared the experiences of a local fisherman losing valuable bottomfish to depredation from sharks being attracted to the fishing grounds due to cage tours. He expressed his concerns with FADs creating an ecosystem issue by drawing fish away from traditional fishing grounds. He also commented on the aquaculture issue, noting that tagging the fish prior to stocking the pens (similar to how salmon are tagged) is one way to quantify escapes.

K. Council Discussion and Action

Regarding the development of an offshore energy policy, the Council adopted the Offshore Energy Policy with the following additions:

Add to Research and Monitoring (1): “When studies on offshore energy are conducted, research should be done in coordination with the Council and federal, state and territorial agencies.”

Add to Research and Monitoring (1): d) Implement outreach and training for employees to quickly find and recover protected species efficiently and send them to a rehabilitation facility as needed;

Add to Best Management Practices (3): “to avoid adverse impacts on fish, fisheries, other marine life and habitat.”

Peck suggested replacing “NMFS” with “federal” to be more inclusive of USFWS and Bureau of Ocean and Energy Management and their expertise.

Gourley said that he had reservations because the policy statement was too detailed and does not give the Council the flexibility to modify statements in it. He cited the part of the draft policy that reads “significant buffers for placement of energy devices should be maintained around all reefs, hard bottoms, submerged aquatic vegetation and other high value habitats that include EFH and HAPC”. He said everything is EFH and it would be difficult to avoid running cables across the reef to get the power cable to land. He sought clarification on the basis of a 500-meter buffer around sensitive areas and whether this would apply to every type of offshore power facility. He said that specific language will lock the Council in and he would like to see if there are better ways of addressing some of the issues in the policy statement while providing the Council with the flexibility to modify the policy given the circumstance of the proposed action.

Yamada said that the basis for the 500-meter buffer came from a report entitled Best Management Practices for Shoreline Stabilization to Avoid and Minimize Adverse Environmental Impacts.

Simonds asked whether Gourley’s concern would be met by replacing 500 meters with more flexible wording or whether other aspects of the draft policy also needed to be changed.

Gourley said there is and he would like to revisit and attempt to provide better language. He said the work should be done in concert with the existing regulatory programs that will be issuing the permit for the action rather than recreate the wheel and require things that could be answered by other regulatory programs.

Simonds suggested that the Council postpone the vote on the motion while staff works with the Council members on the revisions and take up the motion at the end of the meeting if not in December.

Moved by Dunham; seconded by Watamura.

Question on the motion postponed until later in the agenda.

Regarding *Electronic Technologies Implementation Plan*, the Council **directed staff to review the draft Electronic Technologies Implementation Plan and requested NMFS PIFSC provide an update at the Council's 184th meeting.**

Moved by Duenas; seconded by Watamura.

Motion passed.

Regarding the report on the Council's response to President Trump's EOs 13921 and 13924, the Council **directed staff to finalize the prioritized list of recommended actions and proposals for initiating actions and submit the list to the Secretary of Commerce as appropriate.**

Tosatto said that given the nature of the recommendation and combining two actions (finalizing the prioritized list of recommended action and the submission of the list to the Secretary of Commerce), he would be voting against the recommendation but noted that his opposition is regarding the prioritized list of recommended actions for which he had specific objections. He noted he supports the second half of the recommendation.

Sakoda said he would be voting no for the same reason as Tosatto.

Peck said that, as a non-voting member, he would like to put on record that if he were to vote he would abstain because of his chain of command with USFWS and Department of the Interior for a letter that would be addressed to the President.

Simonds said that it is her understanding that Secretary David Bernhardt spoke to the President and asked him to approve the request to remove the fishing prohibition.

Moved by Gourley; seconded by Watamura.

Motion passed with Tosatto and Sakoda opposing.

Regarding modifications to the *PRIA objectives and projects in the PRIA MCP*, the Council **rescinded its previous recommendation from the 182nd Council meeting that approved the PRIA MCP.**

Sakoda asked if the changes mentioned in the presentation by Council staff are changes to the draft that was recommended by the Council at the 182nd meeting and not the previous MCP.

DeMello confirmed that the changes were to the previously approved MCP from the 182nd meeting in June 2020.

Moved by Watamura; seconded by Gourley.
Motion passed.

Regarding modifications to the PRIA objectives and projects in the PRIA MCP, the Council approved the PRIA MCP as finalized at the 183rd Council meeting and directed staff to transmit the document to the Regional Administrator for review, approval and publication in the Federal Register. In doing so, the Council directed Council staff to work with NMFS to complete edits on the MCP to implement the Council's action. Unless otherwise explicitly directed by the Council, the Council authorized the executive director and the chair to review the MCP to verify that it is consistent with the Council action before submitting it to the Secretary on behalf of the Council. The executive director and the chair were authorized to withhold submission of the Council action and take the action back to the Council if, in their determination, the proposed changes were not consistent with the Council action.

Sakoda said he will vote no because of the same issues raised at the 182nd meeting.

Moved by Duenas; seconded by Dunham.
Motion passed with Sakoda opposing.

IX. Public Comment on Non-Agenda Items

There were no public comments on non-agenda items.

X. American Samoa Archipelago

A. Motu Lipoti

Soliai provided an update on cannery operations in American Samoa since the 182nd meeting in June 2020. Production is ongoing, and the plant is fortunate to be in operation as other companies have been negatively impacted by COVID-19 impacts. Having the cannery continue its operations to keep up with the sales demand in the United States has been a positive for the economy and the local people; however, there have been many challenges. In the past six months, the cannery has seen an increase in employment in the territory.

Soliai pointed to some issues stemming from the pandemic. For example, professional services contracted for maintenance of the plant's equipment has been put on hold as flights have been suspended to American Samoa. This has forced the cannery to work with what is available. The flight suspensions also forced the cannery to postpone the arrival of professional skilled workers whom the company had recruited but has been unable to fly to American Samoa.

The cannery has had a steady fish supply for the past six months. There have been good-sized skipjack tuna, which have light meat and are good for production. Crew members of the fishing vessels delivering that fish to the cannery have continued to go through screening protocols put in place by the local government. Under the Governor's current emergency declaration, the local Department of Health screens all crew members. Logs of temperatures taken are kept by the local government for all arriving vessels. The Department of Health is

tasked with ensuring that those crew members do not put the local population at risk with unnecessary exposure. That includes quarantine for vessel crews.

Dunham provided an update on American Samoa's island fisheries. He said the company that is leasing the fish market developed by the Council has changed its ownership structure and its name from Island Fisheries Inc. to the Fagatogo Fish Market.

The territory's alia associations on Tutuila and Manu'a have cancelled planned fishing tournaments for 2020 due mainly to a lack of participants because of COVID-19. While 16 alia have been actively fishing, most of the crew members have been stuck in neighboring Independent Samoa as flights have been suspended. A dozen other vessels are awaiting repairs incurred from renovations completed at the American Samoa Shipyard Authority facility in 2017. Improper paint was applied to the aluminum hulls leading to the formation of holes that made the vessels unfit to be at sea. A marine surveyor conducted an investigation, which concluded that the paint caused the corrosion. Five alia owners have filed a lawsuit against the Shipyard Authority seeking payment for damages. The other owners were unable to pay the legal fees. Of those five vessels that joined the lawsuit, one of them has completed repairs and will begin fishing this week.

Two alia owners who possess American Samoa longline limited entry program permits have reported an abundance of albacore and yellowfin tuna. Alia fishermen have also seen an uptick in larger sized skipjack tuna in the range of 25 to 30 pounds, consistent with Soliai's report on fish delivered to the cannery.

Rough seas and poor conditions have contributed to the recent decline in bottomfish fishing effort in the months of July and August 2020. The three vessels that reported bottomfish catch have mainly targeted shallow species in the 300- to 500-foot depth range.

B. Department of Marine and Wildlife Resources Report (Legislation and Enforcement)

Sesepasara reported that DMWR has moved its office to the former Territorial Administration on Aging building in the village of Pago Pago. The building is government owned and rent-free. He thanked the Governor for allowing the move to the new location, which has a large Fale Samoa for meetings. The department is about 75% complete with the move and is working on getting communications set up.

Ochavillo spoke of two recent disease outbreaks that have affected the territory, first the measles outbreak last year and then COVID-19. Both resulted in restrictions to the public and local businesses. Those restrictions also affected DMWR's activities as the office staff was only permitted to spend 50% of its time within the office. This resulted in creel survey time shifts that the department is working with WPacFIN to correct for estimations of the fishery base. Ochavillo has heard that subsistence fishing has increased, and he connected increased fishing effort to times of economic crisis.

Regarding DMWR's Community-Based Fisheries Management Program, in August 2020 when the restrictions of the Code Blue Emergency Declaration were lifted, the fisheries staff

visited with the chiefs of the village of Sailele, which has an active management plan under the program. The department is working to re-engage with their community partners.

DMWR is also conducting reef monitoring surveys. Several sites around the island are being used to monitor coral cover and fish biomass. The project's goal is to understand the impacts of various coral reef threats. Thus far, the department has identified climate change, fishing impacts and watershed quality as the main factors. Wave energy is also a potential environmental condition affecting the coral reef ecosystem. In August, DMWR discovered a bleaching event around the northeast coast of the island of Tutuila, which was categorized as light to moderate with less than 10% of the coral colonies experiencing bleaching. A unique aspect of this bleaching event has been its duration, which ran from March 2020 through August 2020. This bleaching is also occurring during a La Nina year, whereas bleaching events normally take place during El Nino years. Additionally, bleaching normally occurs on reef slopes while this one occurred on the reef flat. A Coral Reef Bleaching Working Group convened two meetings to discuss the event. Surveys are ongoing. The department may work with Coral Reef Watch to understand the mechanisms that may be contributing to this prolonged bleaching event.

One of DMWR's projects is working with a lab in Australia to understand the connectivity of *alogo* (*Acanthurus lineatus*) in American Samoa and Independent Samoa. There are indications that the local stocks of *alogo*, which is the most abundant fish species in American Samoa, are related to those in neighboring Samoa, suggesting that management of the stock management should be the same in the two Samoas. There is, however, no structure for a genetic marker. In 2020, new markers were developed to understand how the genetic structures of the popular are connected. The Council funded a pilot project that began this work, which the department is now continuing.

Shore-based fisheries data collected July through August 2020 indicate that even during COVID-19 restrictions, people were out fishing. During the second and third quarter of this year, the top landed species was *akule* (*Selar crumenophthalmus*). For sustenance fishing, the top species landed were convict tang and *malau* (*Myriphstis berndti*). For the nearshore pelagic fisheries, the top species landed were skipjack tuna and wahoo. The data was collected during that time frame from five active fishing vessels. Ochavillo said it was interesting to hear Dunham's report about skipjack tuna catch and wondered whether a climate-change related phenomenon might be the cause of that uptick.

In the bottomfish fishery, six vessels were active and the top species landed was *asoama* (*Aprion virescence*). Other top landed species were bigeye trevally, humpback snapper, redgill emperor, silverjaw jobfish, blackjack and longtail snapper. In the spearfish fishery, five vessels were active and the top species landed were surgeonfish and parrotfish. DMWR has derived the life history for red-lipped parrotfish, which has a maximum age of 15 years.

DMWR has a project collecting climate data and relating that information to the territory's fisheries. The El Nino and El Nina changes are significant and affect the catch of the nearshore reef gleaning, thrownet and rod and reel fisheries. The department is also looking at the impact of climate variability on spearfishing and bottomfish fishing in American Samoa.

DMWR is working on a project restocking giant clam, which is a local delicacy. The department's data shows that population density is low. In the 1990s, two species were reported locally, *Tridacna gigas* and *T. derasa*, both of which were introduced. Restocking the species has several challenges. Planned imports of *T. gigas* and *T. derasa* from Southeast Asia were stalled when the grant manager informed DMWR that both species are being assessed under the ESA and cannot currently be imported. The only species that can be imported is *T. maxima*, which is the local species. DMWR is exploring options to import *T. maxima* from French Polynesia. DMWR is being careful about introducing organisms and will need to develop quarantine protocols.

The department's FAD program is ongoing. Currently only the B FAD is deployed, which fishermen reported as being a very productive FAD. DMWR is working with a company based in New Zealand that provides pre-assembled FADs to many South Pacific countries. DMWR has ordered three FADs from this company. DMWR is also planning to deploy a FAD in Manu'a and will conduct scoping for the location of that FAD.

DMWR is also working with PIRO to develop a Coral Reef Fishery Management Plan for American Samoa.

Sesepasara provided an update on the disaster relief funds received by DMWR as a result of the tsunami in 2009. It hopes to have completed the use of those funds by the end of the month. The funds supported projects such as the Pago Pago Village boat ramp. A project to repair the alia floating dock is underway; piles are being installed. DMWR is working with the contractors on those two ongoing projects.

Soliai asked about the time period for the fishery data that were presented.

Ochavillo said the data were for the months of April, May and June 2020.

C. CARES Act Distribution of Funds

Sesepasara reported that DMWR's CARES Act spending plan was submitted in June 2020 to the PSFMC. In July 2020, PSFMC provided comments back to DMWR, which were reviewed and incorporated into the second draft submitted in August 2020. DMWR has since received a few more comments that require minor edits. The staff is working to complete the draft plan for submission so that fishing businesses can apply for COVID-19 funds.

Soliai suggested that for the CARES Act application, fishermen and other qualified applicants could be assisted with the process to make sure that they complete the applications when funding is approved.

Sesepasara said DMWR cannot be involved in writing those application proposals because it would be reviewing them, according to PSFMC.

Soliai recommended that guidance on the application process be provided as he anticipated some or most applicants would need assistance.

Sesepasara said he talked to his deputy director. When an approval is received, DMWR will call a meeting with the fishermen to come up with a schedule to cover all the required information on how they can apply for the grant.

D. American Samoa Community Activities

Nate Ilaoa, Council staff, said the American Samoa AP is working with a contractor to produce a public service announcement (PSA) video series. The videos will target middle and high school aged students and provide an introductory level lesson about American Samoa's fisheries. The project will also include workshops to provide those PSAs and other classroom resource materials to local teachers to implement more fisheries-based lessons into their lesson plans. The third component of the project is an outreach strategy for public events such as fishing tournaments and other marine agency public awareness campaigns. The AP will use a spin-the-wheel trivia game with small prizes for answering questions such as species identification and vessel and gear types to raise public awareness of the fisheries.

On the Catch-It Log-It data reporting app, the staff has worked with DMWR and a contractor to manage data in preparation for the training of local fishermen and seafood vendors. On July 30, 2020, the first training was held for DMWR administrators and the contractor. On Aug. 5, 2020, DMWR and the contractor trained and registered the local AP and Council members. They were also trained to assist fishermen with learning how to use the app and get registered. The first fishermen training for the app will be held on Sept. 26, 2020. The contractor and DMWR will host that session. As part of that data collection initiative, the Council is running radio ads from August to October 2020 on local radio airwaves. A variety of flyers, posters and other printed materials were developed to promote improved data collection for American Samoa's fisheries. The ads and printed materials were produced in both English and Samoan.

The *2021 Amerika Samoa Lunar Tide Calendar* was nearly complete. The calendar features prominent fishing locations throughout the territory and highlights the gear types and species targeted at those locations.

Sesepasara thanked Peck and the Sports Fishing Association for the data they provided from their competitions.

Duenas asked what species has been targeted with the woven net in the photograph of the Community Activities Report.

Ilaoa said they were targeting bigeye scad on the north shore.

Sesepasara said that the photo shows a community subsistence for *akule* (bigeye scad). Twice per year the villages weave coconut leaves, which are used to guide *akule* to the shore where they are collected and divided amongst the families of the village.

Watamura liked the idea of the student video project and said he's been pushing for one in Hawai'i. A lot of the younger generation have no idea what fisheries management is about and are influenced by non-governmental organizations (NGOs) that paint fisheries in a bad way,

making people believe that fishermen are depleting the ocean of fish. Getting younger residents to understand the fisheries would be valuable. The data collection chart would help fishery managers do their jobs, he added. He was interested in getting a copy of the chart because he would like to see something similar shared with the Hawai'i fishing community.

Iloa said William Sword (American Samoa AP vice chair) and other AP members identified video learning as a priority some time ago. They fleshed out the PSA project over several meetings to develop a tool to teach fisheries to younger, more visual learners. Iloa said the data flow charts could be translated to all island areas.

Rice asked Soliai if the cannery is receiving enough fish supply to keep up with the current demand during the COVID-19 pandemic.

Soliai said the company has been fortunate enough to have a steady fish supply over the last couple months. Skipjack tuna, which accounts for about 80% of the company's production, has been abundant and of good size. While there is an observer exemption for all fleets, they face a major challenge of being able to fill their crew demands. Longline vessels cannot get crew locally and cannot fly crews in from overseas. Additionally, purse-seine crews are eager to return home but have been unable to do so for the past six months.

E. Advisory Group Report and Recommendations

1. Advisory Panel Report

Sword presented the AP report and recommendations.

Regarding the American Samoa spending plan for the CARES Act, the American Samoa AP recommended the Council request DMWR provide updates to the fishermen and the American Samoa Fisheries Task Force members on the status of the plan.

Regarding training for the self-reporting app, the American Samoa AP recommended the Council request DMWR staff become more involved in the process of training local fishermen and vendors to self-report catch, trip and sales data.

2. Scientific and Statistical Committee Report

There were no SSC recommendations regarding American Samoa.

F. Public Comment

There were no public comments.

G. Council Discussion and Action

*Regarding CARES Act funding for American Samoa fisheries, the Council **directed staff to work with DMWR to assist eligible fishery participants with completing the requirements to submit CARES Act funding applications and provide updates on the proposal status to the fishing community.***

Sakoda suggested changing “qualified applicants” to “fishery participants.”

Sesepasara agreed with the recommendation and also the suggested edit by Sakoda. He said it would be better to use “eligible participants” because not everybody will qualify.

Soliai requested the recommendation include both fishery participants and eligible fishery participants.

*Moved by Dunham; seconded by Gourley.
Motion passed.*

XI. Hawai‘i Archipelago and Pacific Remote Island Areas

A. Moku Pepa

Watamura said COVID-19 has been impacting people’s daily lives through restrictions and fatalities, and the economy is going down the tubes with recovery being a long hard road. To add a little joy and fun back into fishermen’s lives, the Lokahi app has announced a virtual fishing tournament where any small-boat fisherman in the state can participate for free. This monthly and annual tournament is an anyone-can-win concept and is made possible through a randomized weight draw for each of the flagged fish and awarding the winners with prizes donated by many local fishing stores, lure-makers statewide and some restaurants. Year-end grand prizes are from Naoki and custom rod makers. The plan is to expand the tournament to include deep-seven bottomfish as the trolling season wanes and eventually have a shoreline tournament. The idea was brainstormed by the Lokahi Team, which includes the owner Jim Hori and co-administrators Tam, Dean Sensui and Watamura as a fun and enjoyable way for fishermen to provide needed catch and effort data from the non-commercial sector.

The Hawaii Fishers Feeding Families group page on Facebook has been extremely successful. Matt Ramsey reported that from April 15 to Sept. 1, 2020, fishermen posted 10,484 pounds of fish and have helped to feed 11,493 people during the pandemic. The success of the Hawaii Fishers Feeding Families page exemplifies the willingness of fishermen to share their catch with family and friends and their catch information with the community. The unwillingness to share data with government entities is a trust issue, which the Council must do better to address by improving relationships with the fishing community.

During the COVID pandemic fishermen have been fortunately allowed to gather food from the sea to feed their families, friends and community, which reflects on how important fish and fishing is to the island way of life. It is important for the Council to keep open access to the island resources, especially during the global disaster. The Council is here this week is to ensure that the ocean resources are sustainably managed to feed our island communities in future generations and during times of crisis, like this one.

Rice reported that the Hawai‘i charter fleet is still shut down because of the travel quarantine but the fleet was able to hold fishing tournaments this year, albeit with one-third of the entries. The summer is the busiest season so this has crushed the charter fleet. Hopefully the State will open travel this fall so winter will be better for those businesses that have survived.

The harbors in Hawai‘i are the lifeblood of some of the communities. The State needs to take more action to improve the communities. Rice believed that a private-state partnership to manage the harbors would work. A proposal for paid parking at Honokohau Harbor proposed 10 years ago was not popular with harbor patrons; a current proposal to do something similar is still a major issue at Honokohau. There are a lot of improvements that the state needs to do to the harbor, such as providing security, before its users can agree with any type of paid parking. The state can get more buy-in by talking with harbor users prior to making proposals. The homeless problem in the harbor has gotten out of control since the COVID-19 pandemic. He read a letter addressed to the State from Jody Bright, Hawaii Big Game Fishing Club secretary, listing the problems with the homeless. Homeless individuals are now sleeping in cars, walking the docks, breaking into boats, looking for food and drinks and stealing anything that is not tied down.

Rice said the quarantine is devastating to the charter fleet and all of the community-based support businesses because there is no food being bought and no fuel, hotels and rental cars being used. Not only is the charter fleet impacted, but the entire community suffers when the charter fleet does not fish.

Dang reported that much like the charter sector and numerous other industries and sectors in Hawai‘i, the health crisis is still greatly affecting the Hawai‘i longline fleet and its associated local wholesale seafood distribution companies. More than a dozen vessels remain tied up due to financial constraints and uncertainties. Since March 14, 2020, the fleet has lost approximately \$30 million in revenue compared to previous years and is expected to lose up to \$50 million if conditions persist. All of the local seafood distribution companies have had massive layoffs of employees, and their businesses are taking losses above 50% compared to last year. The fishing conditions have also been poor with lower catch rates since mid-June. A lot of effort has been concentrated in the WCPO this year because of the cost of fishing in the Eastern Pacific, which has resulted in the Hawai‘i fleet reaching its WCPO bigeye tuna limit last week and now fishing under the American Samoa bigeye tuna allocation.

The HLA sent a check to NMFS this week for deposit into the Western Pacific Sustainable Fisheries Fund pursuant to the American Samoa bigeye tuna agreement. Another issue that HLA dealt with during the season is that the State Harbors Division has taken a position that the Hawai‘i longline fleet has to evacuate the harbor during hurricane watches. In other ports in the country usually only the super large vessels above 500 gross tons are required to leave port. All of the longline fleet vessels in the fleet are less than 200 gross tons. The State instituted this policy a few years ago, citing its duty to protect the harbor channel and to maintain commerce. Dang said that the harbor is super protected and that sending vessels out into an oncoming hurricane is dangerous not only to the vessel and crew but also to the eventual rescue efforts that may have to be performed later. HLA has been working with the State to allow for safe harbor inside with tighter ropes in port.

On Sept. 18, 2020, HLA attorneys will be arguing against the State and the Hawai‘i DLNR before the Hawai‘i Supreme Court regarding issuing commercial marine licenses (CMLs) to foreign nationals employed as crew. State law requires CMLs to be issued for any fish landed commercially into the state. Hawai‘i longline vessels do not fish in State waters so HLA believes that this case is frivolous and a meritless attack on the industry and the State.

Soliai asked Rice for the average number of people he would normally take out on a charter fishing trip.

Rice said anywhere from four to six people. Shared charters can take up to eight people, but most boats are private six-passenger charters.

Soliai asked if private charters are prohibited from going out.

Rice said, at the beginning of the pandemic, the charter fleet's commercial permits were pulled so they were prohibited from going out. Now, they have their commercial permits again but are not going out because of the lack of tourism. When interisland travel was allowed, charters were occurring but nobody was fishing when quarantine was reinstated.

B. Department of Land and Natural Resources, Division of Aquatic Resources, Report (Legislation and Enforcement)

Bryan Ishida, HDAR, provided the State of Hawai'i report for the reporting period of May through August 2020. The deep-seven bottomfish fishery finished its September 2019-August 2020 season with 333 licensed fishermen; 1,825 trips; and 160,027 pounds landed, which equals 32.5% of the 492,000-pound annual catch limit (ACL). The deep-seven fishery escaped the full impact of COVID-19 because the major economic shutdown did not occur until March and the season of peak demand for deep-seven species (centering around Christmas and New Year holidays) was spared. If tourism does not resume by the upcoming holidays, there may be a more drastically impacted season for the 2020-2021 deep-seven season.

As of Sept. 3, 2020, a total of 28,900 pounds of MHI uku has been caught while in 2019 fishermen usually averaged about 81,000 pounds of uku in the same period. The fishery was likely impacted by COVID-19 due to its heavier demand for the tourism and restaurant industry.

CML issuance and renewals have not been interrupted by the COVID-19 pandemic, and the majority of HDAR staff remained on telework. A lot of the fieldwork has been cut back and only allowed with prior approval. The number of CMLs issued is in decline, likely due to COVID-19. A lot of individuals are opting not to get their CML this year as they move towards subsistence fishing, providing for the communities or potentially just not fishing.

HDAR is responsible for creating the spend plan to allocate Hawai'i's share of approximately \$4.3 million of fisheries assistance from the CARES Act. Some delays were experienced due to the collection of charter fishing sector economic value data, but the process is ongoing.

Three Conservation and Management Access permits were granted for PMNM. New request for permits are down likely due to agencies and institutions adjusting their trips to the PMNM due to COVID-19.

Ishida reported on State FADs lost or recovered in May, July and August. In August alone, 13 FADs were replaced but one FAD was caught on video with what appeared to be bullet holes on the side.

Reginald Kokubun is retiring at the end of the month, and Jason Helyer will take up a lot of his responsibilities. The statistical unit hired an assistant for the bottomfish, aquarium and dealer reports to help with processing and quality control procedures. The HDAR Aquatic Invasive Species Program is awaiting publication of the Environmental Protection Agency's Vessel Incidental Discharge Act draft regulations, which were supposed to come out in the summer of 2020. The HDAR Aquatic Invasive Species Team retrieved the second of 20 Autonomous Reef Monitoring Structures deployed in 2018. The unit just retrieved was from Barbers Point Harbor; processing of these structures is underway to determine what species are present on them.

The State legislature's schedule has been delayed due to COVID-19. Two bills that HDAR was working on did not pass, HB2211 on the commercial marine vessel license and SB2717 on shark protection. Statewide public hearings on the proposed rules for the Mo'omomi Community-based Subsistence Fishing Area were held on Aug. 19, 2020, and DLNR is currently in the process of reviewing testimony received. The crustacean rule amendments that HDAR had been working on are currently awaiting approval from the Governor's Office. This is a consolidation of rules and statutes regulating Kona crab, Samoan crab and spiny lobster to allow the eventual take of female Kona crab through rulemaking.

Rice thanked Ishida for getting the correct information from the charter fleet for the CARES Act noting that the Harbor Offices should have most of that information because the charter vessels pay 3% of their gross to the Harbor Office. Charter fishery participants must have a CML to fish, so those data should also be available. He recommended the State start putting structure under the FADs if it is going to keep putting the buoys out.

Watumura asked how many subsistence permits have been submitted and granted for the PMNM.

Ishida did not know off the top of his head and said he would get back to him.

C. Options for Mandatory Permitting and Reporting for Hawai'i's Small-Boat Fishery (Initial Action)

DeMello presented options for mandatory permitting and reporting for Hawai'i's small-boat fishery, which is part of the Hawai'i pelagic fisheries review recommended by the Council at the 180th Council meeting in October 2019. Staff looked at existing regulations, data, issues and management needs. The small-boat fisheries use non-longline methods like trolling, handlining, spearfishing or other gear used from a boat in the EEZ. Staff conducted public scoping sessions in February 2020 and a virtual Fishers Forum and public meeting in August 2020 to gather comments. A common issue from these meetings was the need for better and complete data that are robust enough to make good management decisions. The MHI bottomfish fishery is an example of how fisheries can be managed with better data.

Based on a review of the available data from HDAR and the CML, the total catch of pelagic species in pounds is higher outside the two-mile grid than inside the two-mile grid, which means most of the pelagic fishing occurs in federal waters. Troll and handline fisheries are the biggest non-longline fishery, and yellowfin tuna is a primary component of the catch. The non-

commercial data from Marine Recreational Information Program (MRIP) also shows yellowfin tuna as the main target of the non-commercial fishery. What is unknown is the amount not reported or if the non-commercial data can be validated.

The Council at its 181st meeting in March 2020 directed staff to develop options for mandatory permitting and reporting in the Hawai‘i small-boat fisheries. DeMello presented the options. Under the No Action option, data collection would continue to depend on the current systems available, which are the Hawai‘i CML and Hawai‘i Marine Recreational Fishing Survey (HMRFS). It would be less of a burden on fishermen who have not filled out these catch reports on a monthly basis or even trip basis. Data gaps and the potential impacts from external factors such as international quotas or protected species interactions would still occur and the Council would need to manage based on the currently available data. The second option would be a mandatory reporting system, requiring federal permits and logbooks for fishing in the EEZ around Hawai‘i. Mandatory reporting could be done by sectors, species, gears or vessels with the benefit being a known universe of fishermen and data available for science and management. The usefulness of the data is unknown, and there is a potential for duplication as well as enforcement issues and a lack of nearshore data for some species. A third option is to develop a registry, basically a phone book of fishermen who fish in the EEZ, which would provide a known universe, with the registry being voluntary but requiring a data collection system. A fourth option would be to develop a pilot project with permitting and reporting in a single area to test the idea and review the results prior to potentially moving it to other areas. This provides a phased-in approach with less impact on fishermen but it would not fill data gaps immediately. These options could be considered for amending the Hawai‘i Archipelago and Pacific Pelagic FEPS.

Rice said that both commercial and non-commercial bottomfish vessels are required to be on a registry with the state. He asked if a boat registry for all boats in Hawai‘i used for fishing would work.

DeMello said that it could work if there were an associated reporting requirement.

Rice said that he was trying to think outside of the box because permitting and reporting for a large number of non-commercial vessels might not work the same as it does for the CML.

Sakoda said that the State and federal partners should figure out a way to have regulations or a requirement that applies both for state and federal waters because that is the best way to get information. He said the state has concerns with anything requiring mandatory reporting because of the burdens on fishermen and the effect it might have on existing systems. HDAR supports the idea of non-commercial marine license but does not have the statutory authority from the legislature to implement it. The State remains open to working with the Council and fishermen to figure out how to get this information.

Watamura said that the HMRFS data looked erratic, which suggests that it is not reliable for fishery management. Several years ago, a group of fishermen working with NMFS PIRO proposed to add a question to the DLNR vessel registration that asked whether the vessel is used for non-commercial fishing and in federal waters. If that registration could be used by the State to send direct emails and communication, that would be an excellent first step.

Sakoda said the last time he inquired with the Division of Boating and Ocean Recreation for a list of non-commercial fishing vessels, it indicated it does not have that information. He said that is a good idea and will work towards looking at the vessel registration.

Rice said one issue is fishermen confidence because data is always being used against them.

Watumura said outreach tools are needed that make it simple for fishermen to understand that providing their data will be advantageous to them.

Tosatto said that the only way forward is in cooperation with the State of Hawai'i. The bottomfish provides a good example of how to manage a fishery across those jurisdictional boundaries relying on each other's strengths. In the past, NMFS rejected a similar recommendation for mandatory permitting and reporting for pelagic fisheries in Hawai'i. He asked what the difference is in this proposed action.

DeMello said that Amendment 14 to the Pelagic Fishery Management Plan looked at commercial fisheries and the request then was to put in a federal commercial license whereas this proposed action is to look at a non-commercial license.

Tosatto said that more data is needed to solve a management problem. There is a management need to know the population of fishermen, particularly the non-commercial fishermen in Hawai'i. Continuing to pursue this information is the right way forward, but NMFS can only require that for fishing within the EEZ. Federal permits for nearshore fisheries have not been getting a lot of applicants; it would have to be enforced on the back end. The permit is the easy nut to crack, but NMFS is not prepared to manage the data that may be received through mandatory reporting. The ability to implement a Council recommendation for permitting and reporting would be a challenge and come with a significant burden on NMFS. The questions to be considered are what is the management need for this information and what are the most viable avenues to get that information. The only way forward is in cooperation with the State of Hawai'i.

Tosatto said that NMFS has completed and is working to review, finalize and publish a recovery plan for the insular false killer whale. Non-commercial and commercial fisheries around Hawai'i are a threat to that endangered species, as is the take by those fisheries of prey from the insular false killer whale. There is a management need. The ESA applies in State waters. If the Council fails to take necessary management action under the MSA, NMFS may be required to take action under the ESA. How much prey is taken, how much catch is taken and what interactions are these fisheries having are all information that tie back to this proposed action. Collecting data is for the fishermen's own good if you look at it in the big picture, but requiring data and permits could lead to requirements to address those interactions with the insular false killer whale.

Watumura said every time a stock assessment is done, a number is given to how much fish is being caught by the non-commercial sector; more times than not, it is a guess. When you do a stock assessment, it is almost imperative to have that information. With any of the fisheries that the Council manages it is important to engage the non-commercial sector. If and when

management were to come down for national quotas for yellowfin tuna, that countries would have to allocate among sectors. The non-commercial fishery has no record so it would not be able to claim its part of the allocation.

Rice said that international fisheries are looking more and more at yellowfin tuna and asked how the non-commercial fishery fits into that picture.

Tosatto said that the work needs to go into identifying the need and the best way to get at that need. The Council authorizes hook and line fisheries as a gear type. The non-commercial fisheries are managed fisheries even if the need for further control of the fisheries has not been identified. That link to further control is what is needed and will help to identify at what cost constituents and agencies can be burdened to meet management needs.

Fitchett said that the volume of catch from non-commercial and commercial handline and troll exceeds the catch of the deep-set longline fishery and also exceeds the total catch levels of many other nations within the regional fishery management organizations (RFMOs). This is a significant amount of fish that is unaccounted for in international stock assessments. The HMRFS and MRIP estimates for the Hawai'i non-commercial fishery also exceeds landings from the troll fishery in California, Washington and Oregon. If future conservation and management measures are needed for yellowfin tuna, it needs to account for this biomass.

Simonds said that the Council has shared resources and that bottomfish is a success but there are many other issues and the Council should take this opportunity to have a meeting of the State, PIRO and PIFSC on some of the issues in addition to data collection. Previous efforts to support data collection resulted in the State needing authority from the legislature that it does not have at this time. Addressing many of the issues was attempted in the past but has been difficult. A meeting would help get support on issues like data collection and endangered species.

D. Main Hawaiian Islands Uku Fishery

1. P-star and Social, Economic, Ecological and Management Uncertainty Working Group Report

Helyer presented the results of the P-star (P*) and Social, Economic, Ecological and Management Uncertainty (SEEM) meetings for the uku fishery in Hawai'i. The benchmark stock assessment on uku presented by PIFSC at the 182nd meeting produced an estimate of overfishing limit that was used for the acceptable biological catch (ABC) specified by the SSC and for the ACL to be specified by the Council. As part of the process, the Council convened the P* and SEEM working groups on July 21, 2020. NMFS and commercial fishermen participated. Non-commercial fishermen were invited but did not participate but hopefully will in future meetings.

The P* Working Group evaluated the scientific uncertainty in the stock assessment to determine if the overfishing limit needed to be reduced from the 50%, which forms the basis for a recommendation for the ABC. The SEEM Working Group evaluated the social, ecological and economic factors to determine if there was a reason to lower the P* further in determining and ACL. The SEEM Working Group also evaluated the management uncertainty, which would be deducted from the ACL and would result in an annual catch target (ACT).

The P* Working Group evaluated the assessment information, uncertainty characterization and stock status, productivity and susceptibility. Each dimension of the stock assessment was scored between zero and 10, with zero being information rich and therefore not requiring P* to be lowered. If there was a concern, a positive score was given and a reduction would occur. While the the stock assessment is considered the best available information, the Working Group had concern about the reliability of the catch history, specifically in regards to the non-commercial sector. The lack of tagging data or studies, no further spatial analysis in the stock assessment and reproduction and environmental influences were concerns. The uku fishery is not overfished and is not experiencing overfishing; therefore, the stock status dimension received a score of zero. The productivity score was provided by the PIFSC Life History Program, which highlighted that uku is a relatively large fish high on the trophic level with a low natural mortality. The susceptibility of the uku fishery was scored by fishermen who noted uku are more susceptible to catch due to seasonal migration and spawning aggregations as well as being incidental catch in other fisheries. The scoring by the P* Working Group resulted in a value of 7.4, meaning that 7.4 is subtracted from the 50% risk of overfishing due to scientific uncertainty, providing a P* level of approximately a 43% risk of overfishing.

The SEEM Working Group looked at social dimension such as cultural importance and whether or not the uku is a main staple for celebrations; economic issues such as market importance and price fluctuations; ecological factors such as uku's role in the ecosystem; and management uncertainty such as how well the monitoring agency can monitor the fishery to prevent exceeding the ACL, which relates to online fishing reports and the ability to close the fishery in time to avoid overage. The results of the scoring from the SEEM Working Group were relatively low for the first three dimensions. In terms of the social dimension, the Working Group discussed how uku is not preferred during special occasions compared to some of the red fish and is also not a main target fish. Therefore, the economic dimension scored low; however, fishermen noted that this may change in the future. In terms of ecological factors, the fishermen said that the uku fishery depends on the ahi fishery and that further study is needed to understand the role of uku in the ecosystem. They decided that this factor did not warrant lowering the overfishing limit. The major positive score came from the management uncertainty dimension due to a lag in commercial reporting as well as compliance and enforcement. The mechanism for shutting down the fishery is available for federal waters only, and there are issues with non-commercial catch data collection. The resulting SEEM Working Group score lowered the risk of overfishing to 41% for setting the ACL and to 36% for setting the ACT.

Rice said spikes in uku catch could be attributed to years when bottom fishing was closed.

Watamura said that prior to those years, fishing for uku was the same as fishing for bottomfish. During those years, when the bottomfish ACL was reached, innovative fishermen developed new, efficient methods to fish for uku.

2. Specifying Annual Catch Limits for Main Hawaiian Island Uku (Final Action)

Sabater presented the alternatives for the Council to consider for setting ACLs for the uku fishery for years 2022 to 2025. He provided a history of the assessment and summarized

information previously presented to the Council noting that the SSC deemed the 2020 benchmark assessment as the best scientific information available. Sabater also provided an overview of the ACL specification process, including the P* and SEEM process and results presented by Helyer. The benchmark assessment estimated maximum sustainable yield (MSY) at 93 mt; the uku stock is not overfished nor experiencing overfishing.

Alternative 1 for the ACL specification is no action; the Council would not specify an ACL for 2022 to 2025 for the uku fishery. This would not comply with the requirements of the MSA, National Standard (NS) 1 and the Hawai'i FEP that requires specification of ACLs. The expected outcome of this alternative would be no adverse effect on the target stock because, over the course of 72 years, catch exceeded the overfishing limit in only two instances.

Alternative 2 is the status quo alternative, which would rollover the current ACL of 127,205 pounds. This does not comply with NS2 because uses the old assessment instead of the current benchmark assessment, which is considered new information. The status quo ACL of 127,205 pounds equates to around 3% to 4% risk of overfishing in the new benchmark assessment. The current ACL is a total catch uses the underwater visual survey estimates for an ACL or ABC; that would have to be split in half. If the current ACL were rolled over, it is expected that the fishery would exceed the commercial component of the ACL half of the year.

Alternative 3 is to use the best scientific information available and specify an ACL at 41% risk of overfishing, which equates to 295,219 pounds. This would comply with the MSA, NS1 and NS2. The P* and SEEM analyses qualified uncertainties as well. The ACL could be split between the commercial and non-commercial sectors, and recent average catch would not hit the commercial limit.

Alternative 4 would also specify the ACL at 41% risk and also sets an ACT at 36% risk of overfishing, which would correspond to 291,010 pounds. This alternative has the same impacts as Alternative 3 except it accounts for the management and monitoring uncertainty. Even at this risk of overfishing, it is not expected that the fishery would be close to or exceed this level of annual catch.

Alternative 5 is the more precautionary alternative, setting the ACL at 41% risk of overfishing but setting an ACT at 10% lower than the SEEM analysis, which would be at 26% risk of overfishing, or equivalent to 281,192 pounds. This alternative would account for additional management uncertainties that was not captured in the SEEM analysis. In terms of expected fishery outcome, the fishery would not be expected to exceed this limit at current catch levels but would be closer to the catch level at the end of the year as compared to Alternative 4.

Sabater reviewed the potential accountability measures (AM) for this fishery should the ACL or ACT be reached. The first potential AM would create sub-ACLs for the commercial and non-commercial sectors and apply in-season tracking and closures for each sector using the stock assessment estimated ratio of 51% commercial to 49% non-commercial or other guidance from the Council. Hawai'i CML reports would have a 40-day availability for data because the fishery is on a monthly reporting level with a 10-day grace period. For non-commercial, HMRFS estimates provided by MRIP in two-month waves would have a 60-day availability. Under this AM, the State would have no fishery management plan to control the catch and close the

commercial and non-commercial fisheries in State waters. The State has also said it intends to keep the non-commercial sector open when the commercial limit is reached. There are questions about the reliability of the non-commercial data being used for in-season tracking.

The second potential AM would consider applying an in-season AM for the commercial fishery only, similar to what is done for the MHI deep-seven bottomfish fishery. The Council would need to determine the commercial sub-ACL at the estimated ratio or higher and would require the use of the State CML reports. There is also no fishery management plan in place for the State to control the catch and close the fishery in State waters. There would be a disproportional management burden on the commercial sector because it is the only managed sector. This fishery could improve its monitoring by requiring fast tracked, trip-level reporting similar to the deep-seven fishery. Parallel management would need to be put in place in order for the State to close its waters when the ACL and ACT are reached.

The third potential AM utilizes a post-season measure where an average of three years of commercial and HMRFS catch data are summed. If the ACL is not exceeded, an overage adjustment would not be needed. If it exceeds the ACL, the Council would need to reduce the ACL by the amount of overage. This AM would only apply for Alternative 3 because there would be no point for an ACT if the catch is not tracked in-season relative to the ACT.

Sabater said that no adverse effects are expected on target stocks because the stock is not overfished, nor experiencing overfishing. In terms of non-target stock, no adverse effect is expected on the non-deep-seven species or sharks as uku is generally the non-target stock. In terms of fishery participation and fishing effort, the number of licenses and the number of trips are relatively stable in recent years with a slight decrease in the last three years; these actions would not be expected to have any adverse effect on fishing participants. The authorized interactions for protected species that are incidental to this fishery are expected to continue at a low level. Incidental vessel collisions with turtles and incidental take and release of sharks are also expected to be at low levels. This fishery has no adverse effects on seabirds EFH, HAPC or MPAs.

Watamura said effort was down during this summer's uku fishery. Many of his fishing friends did not fish for uku because of shark depredation.

Tosatto said that the stock assessment is good; the analyses provided a good process; and the P* and SEEM analyses were appropriate. The Council has not done a fair job of looking at the real issues around managing this fishery under whatever ACL is chosen. The preliminary draft paper begins to lay out what the Council might consider, but it does not provide which of the options are viable or which ones should be the true focus. The good news is that this ACL and AM are targeting the 2022 fishing year so the necessary action is to direct staff to conduct the analysis needed to inform a decision around the pairing of the right ACL with the right AM. He said he would rely on his staff and the Council staff to inform him as a Council member on the data issues and how the fishery operates.

Sabater said that Council staff would form an action team to further analyze the impacts and alternatives that were presented and come back to the Council with the analysis at the March meeting with a fully analyzed and fleshed out environmental assessment.

Tosatto said there is work to be done but he did not want the Council to put itself into too narrow a box as more thinking needs to be done on how to best manage this fishery.

E. CARES Act Funding Distribution

Sakoda said \$4.3 million of CARES Act funding is being allocated by NOAA to the State of Hawai‘i and administered through the PSMFC. DLNR is responsible for developing a spend plan that describes the eligibility requirements and how the funds will be distributed among the eligible fishery participants. HDAR is working with fishery representatives and identified five distinct commercial fishing sectors: longline, non-longline, fish processors, ocean-based aquaculture and fishing charters. HDAR is working on developing the eligibility requirements and completing the economic valuation which will allow for allocation to each sector. When that is completed, HDAR will finalize the plan and provide it to NOAA for approval.

Watamura said that the City of County of Honolulu is also doing some relief funding to the fishermen. He asked if the state was coordinating with them or if that was independent.

Sakoda said that was an independent source of funding and HDAR is not coordinating with the City and County of Honolulu. Funding for commercial fisheries had different requirements including a business license.

F. Hawai‘i Community Activities

Yamada presented the Hawai‘i community activities that the Council has participated in since the June 2020 Council meeting. Poseidon Fisheries Research, contracted by the Council to conduct life history research, launched a virtual fishing tournament to collect samples from fishermen in return for prizes and bragging rights and have partnered with the Waimanalo Small Boat Ramp Papio Tournament and others for prizes. The NWHI Coral Reef Ecosystem Reserve Advisory Council as well as the Hawaiian Islands Humpback Whale National Marine Sanctuary discussed the Promoting American Seafood Competitiveness and Economic Growth EO and passed resolutions in opposition to the Council’s request to remove fishing prohibitions in the marine national monuments. Staff representing the Council on both groups opposed these resolutions. Mayor Kirk Caldwell announced the new Fish-To-Dish to help the Hawai‘i fishing industry during the COVID-19 pandemic committing \$2.6 million in Federal Coronavirus Funds to help the fishing industry get back on its feet. The program will work in partnership with the HLA, United Fishing Agency and the Hawaii Seafood Council to distribute 350,000 pieces of fresh fish to the community through the Hawaii Food Bank and its partners. The Council continued to participate in outreach through the Go Fish with Mike Buck radio program; topics discussed included the importance of data collection, the MHI uku stock assessment, small-boat ER and the virtual Fishers Forum held on Aug. 27, 2020. The Council also published articles in *Hawaii Fishing News* regarding the uku fishery in Hawai‘i and the precious corals EFH.

G. Advisory Group Report and Recommendations

1. Advisory Panel Report

Gil Kualii, AP vice chair for Hawai‘i, presented the report and recommendations.

Regarding mandatory permitting and reporting options for the small-boat fisheries, the Hawai'i AP recommended the Council require mandatory permits and reporting for all fisheries and MUS.

Regarding the uku ACL specification, the Hawai'i AP recommended the Council select Alternative 4, an ACL of 291,010 pounds, with a post-season AM.

2. Scientific and Statistical Committee Report

Lynch presented the SSC report and recommendations.

Regarding setting the ABC for the Main Hawaiian Island uku fishery, the SSC selected Alternative 3, which sets an ABC equivalent to 135 mt (297,624 pounds) based upon a P of 43% and a post-season AM based upon the three-year average for commercial catch and five-year average for non-commercial catch.*

Regarding the options for Hawai'i small-boat fishery permitting and reporting, the SSC recommended a pilot mandatory permitting and reporting project and this project to be conducted on a small scale across all island areas.

Lynch added the SSC agreed that this is an important area to gain data and believed that starting with a pilot project is an appropriate first step to implement this measure.

Watamura asked if the mandatory reporting recommendation was based on looking at possible resistance from the fishing community.

Lynch said that the SSC recognized the challenges of implementing a measure like this on a broad scale and the cost associated with doing it. Given the various challenges, including potential resistance, the SSC felt that a smaller-scale program initially to work out the kinks and get people to buy in would then lead to greater success.

H. Public Comment

There were no public comments.

I. Council Discussion and Action

*Regarding Hawai'i fisheries management, the Council **directed staff to convene a meeting with PIFSC, PIRO and the State of Hawai'i to review the Hawai'i fishery monitoring and management regime to develop a coordinated plan to include draft alternatives for mandatory permitting and reporting to effectively manage Hawai'i MUS and ecosystem components that is consistent between State and federal waters.***

Tosatto said that the recommendation could be interpreted to mean that the intent of the meeting is to find alternatives other than mandatory permit and reporting, but he did not think that was the intent of the recommendation. He committed to participate in the meeting but said it is hard when the outcome is predestined. He preferred to look for a regime that is coordinated and

will effectively manage regardless of what it looks like. He said that he would vote in support of this and that proceeding in a coordinated way is the only way toward a solution.

Moved by Rice; seconded by Dunham.

Motion passed.

Regarding ACLs for MHI uku, the Council selected, as a preliminary preferred alternative, Alternative 4 that specifies an ACL at 41% risk of overfishing corresponding to an annual catch of 295,419 pounds and set an ACT at 36% risk of overfishing corresponding to annual catch of 291,010 pounds for fishing years 2022 to 2025.

The Council directed staff to convene an action team comprised of Council, NMFS PIRO, and NMFS PIFSC staffs to develop alternative AMs for ensuring catch does not exceed the ACL. Recognizing challenges with tracking catch from the non-commercial fishing sector, the Council further recommended the action team also include as an alternative, the following AMs for the fishery:

- a. An in-season AM for only the commercial fishery in federal waters where the commercial catch is tracked through the monthly reports from the Fisher Reporting System by DAR. The commercial and non-commercial fisheries for uku will close in federal waters once the commercial portion of the ACT is projected to be reached.**
- b. A postseason adjustment where the recent three-year average of the commercial catch will be compared with the commercial portion of the ACT. No overage adjustment will be applied to the following year if the average catch exceeded the ACT. If the average catch exceeded the commercial portion of the ACL, the ACL and ACT will be reduced by the amount of the overage.**
- c. For evaluation purposes, the Council directed staff to apply the same AM process using the commercial and non-commercial data to evaluate the overall fishery performance to the total ACT and ACL for potential use as a postseason AM for all fishery sectors.**

The Council directed staff to prepare a regulatory amendment that evaluates the potential impacts of alternative ACLs and AMs for review at the 185th Council meeting in March 2021.

Sakoda asked if selecting Alternative 4 as a preliminary preferred alternative would lock the Council into that or if the Council can later change its preferred alternative.

Sabater said that this is the preliminarily preferred alternative. When staff analyzes the different alternatives, it normally analyzes both the higher and lower numbers. So all of them will have to be analyzed and presented at the Council at the meeting in March 2021.

Tosatto said that he is apprehensive to selecting a preliminarily preferred alternative without seeing a better set of information around the matching of the AM. As worded, and in practice, Council staff does have to fully analyze all of the alternatives so the Council has a full suite of analyses to go forward. The staff seems to be giving themselves the time needed to do the analyses coming back to the Council in March 2021. He said that he will make sure PIRO staff engages as helpfully as they can with others to develop the right AM.

Moved by Rice; seconded by Dunham.
Motion passed.

XII. Protected Species

A. Endangered Species Act and Marine Mammal Protection Act Updates

1. Status of Endangered Species Act Consultations

Adam Kurtz, PIRO PRD, provided a status of the ESA Section 7 formal consultations that result in a biological opinion (BiOp), which may recommend measures to reduce impacts on protected species. The consultation for the Hawai'i deep-set longline fishery is anticipated to be completed by February 2021, purse-seine consultation by November 2020 and the American Samoa longline and bottomfish fisheries for all areas by December 2020.

2. Other Endangered Species Act and Marine Mammal Protection Act Updates

Kurtz provided updates on other ESA and MMPA actions.

NMFS completed the status review and published a 12-month finding in July 2020 that *Pocillopora meandrina* was not warranted for ESA listing. The species is widely distributed in the Indo-Pacific with several tens of billions of colonies extending from Madagascar to Costa Rica. The species is threatened by a combination of worsening global and local threats. These deteriorating conditions will likely result in a downward trajectory of overall abundance in the foreseeable future. However, the species' wide distribution, high abundance and productive life history are expected to allow the species to partially recover and slow this downward trajectory.

NMFS published a global status review and 12-month finding in August 2020 for the leatherback sea turtle and determined that disaggregating the global listing of the species was not warranted. The determination was in response to a petition from the Blue Water Fishermen's Association to identify the Northwest Atlantic population of leatherbacks as a DPS and to list it as threatened under the ESA.

NMFS is expecting to publish a proposed rule to designate critical habitat for ESA-listed coral species in the Territories. A settlement agreement deadline requires NMFS to submit the proposed rule to the Federal Register's office by Oct. 6, 2020. NMFS is also preparing a final rule to designate critical habitat for three listed humpback whale DPSs, but none are proposed in the Pacific Islands region.

For the MHI insular false killer whale Recovery Plan, NMFS is using a three-part recovery planning framework approach developed by USFWS and recently endorsed by NMFS. It consists of three independent documents (a Recovery Status Review, a Recovery Plan and a Recovery Implementation Strategy) intended to make the process more efficient and effective by creating a dynamic and flexible plan. NMFS anticipates announcing the availability of all three documents for the MHI insular false killer whale in September or October 2020, followed by a 60-day public comment period. NMFS will concurrently announce its intent of a five-year status review for the DPS to determine if the endangered status is still appropriate and request public comment. The Recovery Plan is a high-level recovery roadmap that identifies 32 actions to meet the recovery objectives and criteria and will include the estimated time and cost to recover the species. The Recovery Implementation Strategy provides a step-down plan including 63 specific activities. Kurtz presented some examples of the recovery actions related to fisheries, including analyzing non-longline commercial and recreational fishing gear and the mechanics of interactions with fisheries and developing non-longline gear modifications to deter and prevent depredation of catch and bait.

Recovery planning for giant manta rays and oceanic whitetip sharks are also in progress. NMFS anticipates conducting a recovery planning workshop for giant manta rays in 2021, outcomes of which will be used to develop a regional conservation action plan that will precede a national recovery plan for the species.

Kurtz presented updates on false killer whale interactions in the Hawai'i longline fishery, noting two observed interactions with false killer whales in 2020 to date, with one occurring in the shallow-set longline fishery inside the EEZ in May and one in the deep-set longline fishery outside the EEZ in July. The SEZ was reopened for fishing in August 2020.

NMFS published a proposed rule on Aug. 31, 2020, that establishes guidelines for safely deterring marine mammals. MMPA allows for specified persons to employ non-lethal and non-injurious measures to deter marine mammals from damaging fishing gear and catch, damaging personal or public property, or endangering personal safety. The statute requires NMFS to publish these guidelines and also recommend specific measures to non-lethally deter ESA-listed marine mammals. Following these guidelines provides protection from liability under the MMPA for take resulting from such deterrence measures. The purpose of the proposed guidelines is to provide tools for commercial and recreational fishermen and property owners to protect their assets, while also reducing intentional lethal takes and serious injuries of marine mammals. The proposed rule is available for public comment until Oct. 30, 2020.

Kurtz also presented the sea turtle conservation efforts funded by NMFS throughout the Pacific Islands Region for FY2020 and announced that the FY2021 Notice of Federal Funding Opportunity is currently available with a deadline to submit proposals by Oct. 29, 2020.

Muna-Brecht said she is reviewing the funding opportunity for FY 2021.

Watamura asked if enough interactions have been documented between non-longline fisheries and false killer whales to warrant effort and attention toward those fisheries.

Kevin Brindock, PIRO PRD, said that the draft Recovery Plan for the MHI insular false killer whale identifies potential risk from non-longline fisheries and noted that one of the first priorities is to fill in the associated data gaps.

Watumura said that more effort and resources should be directed to the creation of a line cutter as a number of protected species are affected by trailing gear and wondered what the holdup is for its development. He said only one person is working on the development at this time, which is taking longer than anticipated. PRD should be promoting its development if the intention is to save the protected species.

Tosatto said that if the line cutter was a silver bullet, it would be exploited globally. He acknowledged that the line cutter development is important, but the priority is to keep turtle and marine mammals off the hooks. Reducing gear length occurs after an interaction has already occurred; a line cutter would be a last resort effort. A number of national and international efforts are ongoing to reduce bycatch in fisheries.

Ishizaki said that the line cutter development is currently funded through the NMFS Bycatch Reduction Engineering Program. The line cutter differs from the design currently used in that the device is intended to slide down the branchline and cut through the wire leader used in the deep-set fishery to allow release of the animal with only the hook and minimal trailing gear.

Rice said he would like to ask staff to work with Council members to draft comments on the insular false killer whale draft Recovery Plan when it becomes available and noted his concern with the focus on the small-boat fishery. He said recreational, charter and noncommercial fishermen move away from the location when false killer whales are observed because the animals are known to chase the fish away.

Tosatto said that non-longline fisheries were identified as a threat when the DPS was listed. More information on the type and extent of interactions will be needed as NMFS begins to address and implement recovery actions.

Rice said that surveys on the east side of the islands are needed, as false killer whales are likely associating with private FADs located on there. He said he would be lucky to see one pod of false killer whales a year (on the west side) even though he fishes 250 days a year.

B. Tori-Line Demo and Field Trials in the Hawai‘i Longline Fishery

Ishizaki and Holly Naholowaa, Council contractor, provided the preliminary report on the Cooperative Research project to develop and trial tori line designs for the Hawai‘i longline fishery. The project is a joint effort between the Council, PIRO, PIFSC, HLA and longline vessel owners and captains. Ishizaki provided a brief history of seabird mitigation measures and interactions leading up to the project, noting the initial 70%-90% decline in interactions after mitigation measures were implemented and the subsequent gradual increase that has been attributed to a combination of factors including oceanographic conditions. A Council workshop convened in 2018 resulted in the identification of tori lines as a priority measure for further testing in the Hawai‘i longline fishery. The Council subsequently recommended research on tori lines as an alternative bycatch mitigation measure.

The objectives of the Cooperative Research project was to conduct demonstrations and trials of tori lines in the Hawai‘i longline fishery to inform development of minimum standards specific to the fishery and to conduct field trials to collect data using EM on operational practicality and effectiveness in using tori lines under commercial fishing operations. Phase 1 of the project focused on developing designs suitable for Hawai‘i longline vessels and conducted one-day demonstrations with seven vessels to test five tori line designs to obtain feedback from captains and crew. One of those designs was selected for commercial field trials during Phase 2. Preliminary data analysis from the Phase 2 trials was recently completed, and the final report is under development.

Naholowaa presented on the Phase 1 tori line design and demonstration trials. The project team reviewed various fisheries and WCPFC and IATTC specifications, gathered industry input and convened a workshop with experts from New Zealand and Japan. Design development focused on lightweight, streamlined designs that minimize entanglement with the longline gear. The project team explored several different aerial section designs, including streamerless, short streamer and hybrid streamer designs. Dyneema was used for the aerial section backbone as it is a light material that does not retain energy. Naholowaa described the process used in determining drag weight needed for each aerial section design, the process for testing various drag section designs and the resulting combination of aerial and drag sections. Three lengths of the short streamer design and one length of the hybrid streamer and streamerless designs were tested during the one-day demonstrations. The short streamer design was most favored by captain and crew due to the ease of deployment and retrieval. The streamerless design was the least favored due to the perception that streamers are needed to deter birds. The short streamer design with a 50-meter aerial length was selected for the Phase 2 field trials based on captain and crew feedback, sufficient aerial extent coverage and consistency with WCPFC and IATTC specifications. A video of the short streamer tori line deployment during Phase 1 was shown.

Ishizaki reported that Phase 2 field trials were conducted on four Hawai‘i deep-set longline vessels during regular commercial fishing operations. Vessels alternated days with and without tori lines. The tori lines were deployed in conjunction with existing seabird mitigation measures including blue-dyed bait and strategic offal discharge. A total of 18 trips were conducted between February and July 2020. The use of EM video cameras to collect data allowed the trials to continue despite COVID-19 restrictions. Preliminary results from the Phase 2 trials indicate that tori lines significantly reduce albatross attempts and contacts on longline gear and bait. Albatrosses were at least two times less likely to interact with longline gear when tori lines were used. Phase 2 trials were conducted without seeking any exemptions to existing seabird mitigation measure requirements. The results do not provide data to evaluate the effect of replacing blue-dyed bait with tori lines. No tori lines were lost due to entanglement during Phase 2. Captains and crews provided positive feedback on the practicality and ease of use of the selected tori line design.

As next steps, the full report is expected to be completed by November 2020 and 15 additional tori lines and tori poles will be distributed to interested vessels to use on a voluntary basis. Tori lines would need to be used in conjunction with the existing seabird measures until changes are made to the requirements. Ishizaki said the Council should consider in its discussion whether to initiate the process for revising seabird mitigation measures based on the project

results. She reviewed the status of previous Council recommendations on improving seabird mitigation measures and noted that the Council may also consider pursuing an Experimental Fishing Permit (EFP) to test tori lines without blue-dyed bait or other existing seabird mitigation measures. These two actions may be pursued concurrently, as the changes to the required measures will take time and would not be ready for the winter 2020 to spring 2021 seabird season, whereas the EFP may be pursued for the upcoming season.

Gourley asked if an EFP would involve a contract or whether existing fishing captains are willing to collect data on their own.

Ishizaki said that funds would be needed to implement a study under an EFP and that staff are exploring ways to proceed with an EFP.

Gourley said that real-life data comparing tori lines to other mitigation measures would go a long way in determining the value of the tori line.

Watamura asked if swivels were integrated into the lines after the rope tangle occurred (during the design development phase).

Naholowaa said that a swivel is used to connect the aerial and drag sections. The tangle was due to the particular type of material, which was determined to be unsuitable for use as a result of the testing.

Watamura asked if there was a preference to the color of the streamer material. He also suggested using additional swivels in the line if additional twisting problems are encountered.

Naholowaa said that black streamers were used based on availability of the material from a hardware store. Trials in New Zealand tested black and reflective tape as streamers and found that the black material performed well but the reflective tape did not because the holographic material on the tape deteriorated over time and became clear streamers.

Ishizaki said that, during Phase 2 trials, the four participating vessels over 18 trips had little to no entanglement issues with the tori line.

Dang said he supports testing tori lines without the use of blue-dyed bait, noting the difficulty in sourcing the blue dye over the past couple of years. The food dye industry has consolidated and at one point had indicated it would no longer produce blue dye. The typical customers for the food dye companies are likely industrial factory-sized candy makers or food producers rather than a small fishing fleet, and the company indicated that the dye could only be ordered in 55-gallon drums.

Rice agreed with Dang that the Council should be pursuing an EFP to test the tori lines without the blue-dyed bait.

C. Advisory Group Report and Recommendations

1. Advisory Panel Report

There were no AP recommendations regarding protected species.

2. Scientific and Statistical Committee Report

Hospital presented the SSC report and recommendations regarding protected species.

Regarding the tori line demo and field trials in the Hawai‘i longline fishery, the SSC found that tori lines are effective in deterring seabird interactions in the Hawai‘i deep-set longline fishery and recommended that the Council consider including tori lines as an additional seabird mitigation option for all Hawai‘i longline fisheries.

D. Public Comment

There were no public comments.

E. Council Discussion and Action

*Regarding ESA and MMPA updates, the Council **directed staff to draft comment letters in response to the following actions with input from advisory body members:***

- a. Marine Mammal Deterrents Guideline proposed rule; and**
- b. Insular False Killer Whale Draft Recovery Plan.**

Moved by Rice; seconded by Dunham.
Motion passed.

*Regarding tori lines in the Hawai‘i longline fishery, the Council **directed staff to develop an options paper to consider inclusion of tori lines in the seabird mitigation measures, including an option to allow the use of tori lines without blue-dyed bait.***

The Council requested PIRO and PIFSC to support additional at-sea trials for winter 2020-spring 2021 and allow for testing tori line efficacy without the use of blue-dyed bait when fishing north of 23 deg. N under an EFP to inform development of options for revising mitigation measures.

Tosatto said he can provide emotional support for the recommendation, but he would abstain because the review of the EFP package would come to him for a decision.

Moved by Rice; seconded by Dunham.
Motion passed with Tosatto abstaining.

XIII. Pelagic and International Fisheries

A. Hawai'i Longline Fishery Report

Russell Ito, PIFSC, provided the semi-annual report for the Hawai'i longline fishery covering fishery statistics including participation, effort and catch up to July 1, 2020. He emphasized the impact of COVID-19 pandemic on data entry and collection due to the Inouye Regional Center building closure. PIFSC staff made monumental efforts to get all data entered on a timely basis, despite being unable to enter the building freely.

Active longline vessels declined from 144 in the first quarter to 133 boats in the second quarter. Most of the vessels were deep-set longliners with some shallow-setting. The fleet made 874 trips, down 25 trips from the first half of 2019. Of these, 854 were deep-set trips (reduction of 20 trips compared to 2019) and 20 were shallow-set trips (compared to 25 trips in 2019). There is a total of 10,061 sets in the current data, with data entry for approximately 2,400 sets remaining for the first half of the year. The fleet saw a decrease of 11 million hooks in the first half of 2020, from 31.7 million to 22 million hooks, of which about 18 million were set on the high seas.

As far as catches, 106,000 bigeye tuna were caught in the first half of 2020 compared to approximately 113,000 fish caught in 2019. Yellowfin tuna catch was significantly reduced from about 27,000 fish in 2019 to about 18,000 fish in 2020. Bigeye tuna catch per unit effort (CPUE) in the first quarter was 4.21 per 1,000 hooks, which is around the norm, and increased to six fish per 1,000 hooks in the second quarter. Swordfish catch was 4,200 in the first half of 2020, down from 6,700 in 2019. Billfish catches remain highly variable, while striped marlin CPUE has been increasing. Ono catches were a record 24,000 in the first half of 2019 compared to 9,000 in 2020. Ito also highlighted recent developments, including low fish prices and the SEZ closure.

Watamura noted recent news coverage of higher fish prices in Hawai'i due to demand being higher than the supply and asked if that could be attributed to lower catch rates due to vessels being unable to travel farther to the east where catch rates tend to be higher at this time of the year. He asked, based on historical data, if there have been predominance of catch at certain times of the year in the NWHI which is now closed due to the PMNM and whether that may be affecting the lower catch rates.

Ito said that Watamura's comments are on point, noting that catch rates are historically lower in the second and third quarters and that the higher prices typically seen in the third quarter can be attributed to vessels fishing further east in colder waters and catching bigger fish but with lower supply. While the lower catch rate is typical of this time of the year, the CPUE was exceptionally bad in 2020.

Dang said that more boats are fishing in the east but the catch rates are down and spotty. He described the experience of his own vessels catching 20 to 30 fish one night but zero fish the next night and then 20 to 30 fish after moving fishing grounds but zero fish again the next day. His vessels are producing about 50% of their usual levels. He could not recall the deep-set effort around the NWHI in typical summer months but noted summer swordfish fishing grounds in the

NWHI around the PMNM and north of Kauai. He said swordfish landings may be expected in October, which would take some pressure off the deep-set fishery.

Rice asked why blue marlin catches were not shown in the presentation.

Ito said that it is because catches are relatively low compared to other species but said he could provide those numbers to Rice. He noted that 2019 was a good year for blue marlin catch, and it is unlikely that 2020 exceeded the previous years' numbers.

B. American Samoa Longline Fishery Report

Bigelow provided the 2020 semi-annual report for the American Samoa longline fishery. The report covered fishery statistics including participation, effort and catch up to July 1, 2020.

Participation in 2019 was 16 vessels, down to 10 vessels so far in 2020, with some sparse alia activity. The number of trips and sets were also down, with about 326 sets in 2020 compared to 950 sets in 2019, but with 102 sets still unprocessed in 2020. Effort was 918,000 hooks, compared to 2.5 million hooks in 2019. Albacore catch rates were 5.7 fish per 1,000 hooks, compared to 12.8 fish per 1,000 hooks in 2019. Catch rates in January-March are typically low, but the catch rates for 2020 was exceptionally low.

Soliai asked for clarification on the unprocessed sets.

Bigelow said that 326 sets have been processed and an additional 102 sets that have not been processed for the January-July 2020 period. They will be available next quarter and included in the annual report to be presented at the March 2021 meeting.

Sesepasara asked if the unprocessed sets will indicate more catch and effort.

Bigelow said the sets, trips and hooks will be higher, but whether the additional sets would change the CPUE is unknown until the data are processed.

Sesepasara asked if the data presented were all from Class C vessels.

Bigelow said that it included data from Classes C and D, as well as two or three alias.

C. Mandatory Electronic Reporting in Longline Fisheries (Final Action)

Fitchett presented a summary of the draft regulatory amendment for the mandatory longline ER action. The Hawai'i and America Samoa longline vessels operating under the Pelagic FEP limited entry permits must maintain accurate and complete record of catch, effort and other data. Currently, operators are required to record data on paper logbook forms provided by the Regional Administrator or the optional electronic format as specified and approved by the Regional Administrator. Data must be recorded daily within 24 hours of conclusion of each fishing day, and the logbook information must be submitted within 72 hours of the conclusion of each trip. A regulatory amendment implemented in 2007 authorized the optional use of ER.

Since the implementation of the optional ER program, NMFS has developed the Elog-It system for use in the Hawai‘i and American Samoa longline fisheries. The Council initiated consideration of mandatory ER in the Hawai‘i longline fishery in October 2018 and convened an Electronic Technologies Steering Committee to address implementation challenges. The Council at its June 2020 meeting expanded the scope of the action to include the American Samoa longline fishery and recommended separate target implementation dates for Hawai‘i (Jan. 1, 2021) and American Samoa (Oct. 1, 2021). The Council at this meeting will consider taking final action on mandatory ER for the Hawai‘i and American Samoa longline fisheries and reconsider the target implementation dates.

The purpose of this action is to allow near real-time data submissions, which increase accuracy, reduce data processing time and more rigorously monitor and forecast catch limits. Therefore, NMFS can more rigorously monitor and forecast the attainment of international longline catch quotas such as for the existing bigeye tuna limits and any future limits such as for striped marlin. The action would improve the timeliness for catch and effort limits and associated AMs to ensure that these fisheries have the opportunity to maximize sustainable catch for bigeye tuna and other pelagic MUS to meet U.S. demand while streamlining the effectiveness of catch accounting.

Fitchett reviewed the alternatives in the draft regulatory amendment. Alternative 1 is mandatory ER, which would require vessel operators to record and submit logbook data electronically using a NMFS-certified electronic logbook application on a daily basis. Alternative 1 includes contingencies in the event of hardware, software or transmission failures. In the event of hardware or software failures, the operator would be required to record the remainder of the trip activities using paper logbook forms and submit them upon 72 hours of returning to port. If connectivity and transmissions fail, the operator may continue to record the remainder of the trip on the tablet or use paper logbooks, and submit the logbook data after returning to port.

Two sub-alternatives were presented for mandatory ER under Alternative 1. Sub-alternative 1a would require mandatory ER for vessels operating under the Hawai‘i longline limited entry permit, whereas Sub-alternative 1b would require mandatory ER for vessels operating under the limited entry permits for Hawai‘i vessels and American Samoa classes C and D (50 feet or greater) vessels. These permit types comprise nearly all of the longline catches under the Pelagic FEP that affect in-season catch accounting for longline catch limits for U.S. fisheries and/or allocation limits between U.S. Participating Territories and U.S.-permitted vessels. Additionally, vessels operating under the Western Pacific general longline permit and the American Samoa vessel size classes A and B are not required to carry VMS, which is used to transmit data for the existing Elog-It system.

The status quo was presented as Alternative 2, which would be to maintain the current regulations with ER as an option for longline fisheries.

Fitchett presented a summary of impacts, noting that the action is administrative in nature. There are no substantial changes in where the vessels would fish, gear types, access to fishery, harvest levels or any impacts to fishery and protected species or habitat. All costs for mandatory ER would be subsumed by NMFS. Some challenges may arise during training and

initial use, but ER systems remove onerous tasks of data entry. Fitchett also presented implementation considerations, such as maintaining the open program to allow any NMFS-certified ER application to be used and providing data access to permit holders as an incentive.

The Council is currently supporting a Vietnamese translator to assist with tablet distribution and training of the Elog-It system in the Hawai'i fishery. However, in-person training in Hawai'i has been delayed due to the COVID-19 pandemic, and the training completion date is uncertain. PIFSC will translate the training materials into Samoan for the American Samoa longline fleet and will coordinate with the Council and PIRO for the implementation and training of those American Samoa vessels. Fitchett noted that, while the Council may reconsider the target implementation date, proceeding with final action at this meeting would allow the regulatory amendment package to proceed. He presented options for modifying the target implementation date.

Gourley asked if Hawai'i longline captains still support proceeding with mandatory ER.

Dang said the skippers and the captains with whom he has spoken provided great feedback and said they like the system because it relieves some of the paperwork burden, such as filling in latitude and longitude as well as start and end set time and date. Some captains are waiting in line for the tablet to be installed. So far they like the tablet and the ease of use.

Gourley asked if American Samoa longline captains have any reservation.

Soliai had not heard any feedback from the American Samoa longline fleet regarding mandatory ER, but he was aware that the issue is being discussed and that one of the longline vessel owners is represented on the Electronic Technologies Steering Committee.

Sesepasara asked if there is a schedule for the training of his staff and the fishermen.

Fitchett said PIFSC and PIRO are developing a plan to work with the NMFS staff in American Samoa to conduct the training.

Sesepasara asked if the action is for Class C and D vessels and not for alia vessels.

Fitchett said yes and noted that the catch of the Class C and D vessels represents a significant amount counting towards catch limits and in-season monitoring, whereas catch from the Class A and B vessels is minimal. Class C and D vessels also have VMS on board for the data transmission. ER would remain optional for the Class A and Be vessels.

Sesepasara said he understood the ER system would also be for bottomfish fishermen.

Fitchett said this mandatory ER action would apply only to longline limited entry permits and is different from the bottomfish reporting app.

Watamura asked if data is stored for captains to access and noted that the Lokahi app used by small-boat fishermen was set up so fishermen can view their historical data.

Fitchett said PIFSC is working with NMFS Office of Science and Technology to develop an encrypted end-to-end online system through which data would be transmitted from the Elog-It system to a server so that they are available through a web portal to the vessel operators. The data would be accessible so captains can look at records of where they fished that were more favorable and make those decisions based on the historical data. The data will also be stored onto the tablet systems.

Bigelow said the tablet is tied to the individual fishing vessel and each captain has a unique log-in. So a captain can look through his historical fishing performance. If the fishing vessel changed captains, the new captain could not look at other captain's fishing performance.

Tosatto said that COVID-19 is a major issue with timing. Implementing mandatory ER by Jan. 1, 2021, will be difficult and should be pushed back. He wanted to hear from Council members on how far back the date should be pushed. He suggested a single implementation date for both longline fisheries, whether the date is Oct. 1, 2021, or Jan. 1, 2022.

Rice said he was wondering about the dates of implementation. He asked if the effective date could be six months after final rule.

Tosatto said either approach of setting a date or a time after final rule publishes would work on the regulatory side and reiterated that having the same date for both fisheries would allow NMFS to prepare for when the final rule is published.

Rice said the Council recommending implementation date of six months after the final rule and have both fisheries implemented at the same time could be beneficial as the Council would not have to set a date at this time and a change would not be necessary in the event of further delays from another pandemic lockdown.

Soliai asked about feedback on the system from the vessels.

Fitchett said that, from what has been reported, training has gone fairly well and the Vietnamese trainer will expedite the training. Once captains become accustomed to the system, they tend to prefer it. American Samoa implementation should be much easier, given the small fleet and plans to translate training materials into Samoan.

Dang noted that NMFS would be covering all costs and thanked NMFS for doing so, especially during the current economic crisis. He said he prefers a firm date, suggesting July 1, 2021, for all fisheries. He said the training is robust and effective. He was confident implementation could get done and favors a firmed date over delaying it further, such as six months after final rule.

Bigelow said he would prefer July 1, 2021, as it would aid in the 2021 bigeye tuna forecast for the U.S. vessels in the WCPFC. NMFS currently has a 17-day window of uncertainty as to how much bigeye tuna is caught. Mandatory ER would assist the forecast because of near-real-reporting as well as the accuracy of the forecast.

Dang thanked Bigelow and said for the reason Bigelow stated, July 1, 2021, is ideal.

Rice agreed that those reasons were good justifications.

D. Oceanic Whitetip Shark Population Projections

Joel Rice, Council contractor, presented on oceanic whitetip shark population projections for the WCPO stock. The updated stock assessment presented to the 15th WCPFC Science Committee showed that the stock was overfished and experiencing overfishing. It also showed a small reduction in stock depletion and improvements in recruitment and fishing mortality-based reference points under certain catch scenarios. However, since oceanic whitetip sharks are late-maturing and fishing mortality of juveniles is high, uncertainty remains as to the level of effectiveness of the non-retention measure in place for the last four years of the assessment (2013 to 2016) and the impact of the measure on the timeline for recovery.

Future projections demonstrate the effect of a range of post assessment (2017 and on) catch trends on the estimates of population growth rate. Stock projections exhibit significant increases in biomass if catch trajectories into the future are 10% to 20% of levels in 2016, which is the terminal year in the stock assessment. Analyses of likely catches of oceanic whitetip sharks from other reports since the assessment suggest such decreases since 2016, which corroborates these assumptions.

Impacts of the U.S. longline fisheries were presented. These include the impact on spawning potential without U.S. longline fleets as compared with fishing with U.S. fleets. There is a median value of 3% impact on the spawning potential and up to 10% depending on model configuration.

Tosatto said the oceanic whitetip issue is a “double threat,” noting that WCPO is overfished and the species is listed on the ESA. He said the Council needs to be looking at the threats from an ESA perspective and minimize the interactions with the species. He said the projections and the analysis of U.S. impacts are good information to have for that purpose. From the fishery management perspective, the relative impact of the U.S. fisheries on the overfished international stock needs to be considered; the analysis presents a good way to show those effects. The presentation included good information on what the Council might recommend to NMFS to bring to the international forum of what overall international measures might need to be taken. At a minimum, it begins to characterize the scope of what might have to be done to begin to turn the biomass around.

Rice said the international impacts is where the focus should be in reducing overfishing, noting that U.S. fleets does not want to catch sharks and, when they are incidentally caught, the majority are released alive. He said that the trailing gear needs to be reduced.

Gourley asked, if the WCPFC does not act, would the recovery burden for the species be placed entirely on U.S. fisheries, which has minimal impacts on the species,

Tosatto said no, the stock does not have to be rebuilt on the U.S. fishery’s back. For internationally managed stocks, the Council’s obligation is to addresses the relative U.S. impact and then make recommendations to NMFS and the State Department for the international management arena. The nuance is that the species is also listed under the ESA. Even with

minimal relative impact to the stock, the decision-making is different whether the fishery jeopardizes the continued existence of its recovery. The Council might have to respond to measures that are reasonable and prudent as a result of the ESA consultation.

E. Oceanic Whitetip Working Group and Research Activities

Bigelow presented on the oceanic whitetip shark working group formed to prioritize analyses and develop a roadmap for analyses needed for anticipated management actions to satisfy requirements under the MSA section 304(i) and the ESA. The working group is comprised of 16 members.

Bigelow provided an overview of five ongoing projects discussed during the working group's meeting on Sept. 4, 2020. Melanie Hutchinson, Joint Institute for Marine and Atmospheric Research, has an ongoing shark tagging project with four different species. To date, 62 tags have been deployed on oceanic whitetip sharks to look at the post-release mortality after longline interactions. This work should be completed within the following few months.

The Ecosystem-Based Fishery Management project has three phases. The first is to look at the oceanographic covariance into oceanic whitetip temporal and spatial distributions. The second, to be complete in early 2021, is simulation testing to determine utility of the model to predict potential interactions if the fishery distribution shifts. The third is to determine the effect of potential closed areas on fishery distribution and associated effect on oceanic whitetip shark interactions as well as target and non-target species. The expected completion of the last phase is in summer 2021.

Bigelow and Felipe Carvalho, PIFSC, plan to re-evaluate a simulation analysis of longline mitigation measures previously conducted in 2015. The analysis includes U.S. and foreign observer data to simulate potential gear configuration changes, such as converting from Japanese tuna hooks to circle hooks, removing the shallowest hooks and changing branchlines to monofilament. Additionally, Council and PIRO staff will analyze vessel effects on oceanic whitetips. Bigelow said these projects inform two potential path forward, one of which is to reduce catch rates through spatial, temporal or gear measures, while the other is to improve handling practices.

The working group will convene again in October to review the meeting's progress and develop research priorities to inform management and mitigation measures to satisfy MSA requirements. It will be reported out to an inter-sessional Plan Team meeting prior to the December SSC and Council meetings. He also noted other priority items, including a Bycatch Reduction Engineering Program-funded project to develop a tool to cut through the wire leader on longline branchlines and strategies to prevent gear flyback such as a flyback prevention device and different branchline weighting configurations. The working group will reach out to additional members to represent PIRO PRD as well as the small-boat fishery sector.

Watamura reiterated his support for increasing efforts to develop a line cutter given its potential to "change the landscape" in minimizing U.S. fishery impacts on many protected species.

Bigelow said the person in charge of the line-cutter is a local fisherman who will be invited to the next working group or December SSC meeting to report on his progress.

Watamura said the project is too important to have just one person working on it; a committee should be addressing the effort.

F. Reasonable and Prudent Measures and/or Reasonable and Prudent Alternatives for the Deep-Set and American Samoa Longline Fisheries (Initial Action)

Ishizaki provided an update on the development of RPMs or Reasonable and Prudent Alternatives (RPAs) in the Hawai'i deep-set and American Samoa longline fisheries. At the 182nd meeting, the Council initiated discussion on potential RPMs and RPAs, based on guidance from PIRO that the Council should consider measures that could be applicable for oceanic whitetip sharks, giant manta rays and leatherback turtles. Ishizaki briefly reviewed the list of considerations that the Council recommended at the 182nd meeting, which was informed by recommendations from an SSC working group and the AP and which was forwarded to NMFS. Council staff are continuing discussions with PIRO, PIFSC, advisory body members and the industry but has not received any additional new information from PIRO on the amount of impact reduction that may be needed to inform what may be most appropriate or necessary. PIRO also has not provided any draft measures for Council review. As indicated by PRD in its update on the ESA consultations, the target completion date for these ongoing consultations have been further delayed, providing the Council with additional time to consider potential measures.

Ishizaki also reported that staff is monitoring how other regional fishery management councils are dealing with ESA consultations and provided an ongoing example from the Pacific Fishery Management Council with a groundfish fishery on humpback whale interactions. The Pacific Council at its September 2020 meeting is receiving a briefing from the West Coast Regional Office regarding the ongoing analysis and a full range of draft RPMs that are under consideration, prior to the completion of the draft BiOp. The West Coast Regional Office is seeking input from the Pacific Council and its advisory bodies at the September meetings.

Ishizaki said that the Council established an agreement with PIRO that allows for review of draft BiOps, and a NMFS Policy Directive also allows for Council review of RPMs and RPAs in advance of the draft BiOp. The Council had previously requested that PIRO provide the Council with a review of the draft and is standing by for that opportunity.

Soliai asked Tosatto if December 2020 is a realistic completion date for the American Samoa BiOp.

Tosatto said that December is the current estimate and would include the Council's draft BiOp review, if the Council still desires a review opportunity. After a short period of Council review of the draft BiOp, PIRO would take those comments and finalize the BiOp.

Soliai asked if the draft BiOp could be reviewed at the December 2020 meeting.

Tosatto said that review would depend on the timing. The type of review and how it occurs would need to remain flexible to keep the process moving forward.

G. Roadmap to Effective Area-Based Management of Blue Water Fisheries

Fitchett presented outcomes of the International Workshop on Area-Based Management of Blue Water Fisheries convened on June 15-17, 2020. The workshop was chaired by Ray Hilborn, University of Washington, and Vera Agostini, U.N. Food and Agriculture Organization, and included area-based fishery management experts from intergovernmental agencies, NGOs, RFMOs and academia. Participants noted that implementation of area-based management tools (ABMT) such as closures or restrictions are done without weighing objectives, having a proof-of-concept beforehand to achieve these objectives or planning on how to evaluate area-based measures thoroughly through time. These planning steps are critical, especially for highly dynamic ecosystems that support blue water fisheries where “set it and forget it” may not be appropriate. Workshop participants agreed that ABMT are not a silver bullet for managing fisheries or their ecosystems. MPAs are often most synonymous with ABMT but are a single tool in a vast tool box of ABMT that are not strictly about permanent closures. Workshop participants discussed several static versus dynamic ABMTs and their benefits and limitations. Static implies managing an area with a fixed area delineation while dynamic implies managing area(s) that may shift in time and space. Fitchett said that the final workshop report is in preparation. He presented an overview of the peer-reviewed paper resulting from the workshop that will be submitted to *Fish and Fisheries*.

Watamura said that establishment of bottomfish restricted fishing areas in Hawai‘i was done without any baseline against which to evaluate their efficacy. Even bottomfish move around considerably outside those closed areas, and the problem is more evident with pelagic and highly migratory species.

Brakke said he looks forward to the manuscript and asked about the relationship of the workshop with U.N. BBNJ intergovernmental conference. ABMT is one component of the BBNJ negotiations. The BBNJ is considering a holistic approach to international resource management without undermining RFMOs or the International Seabed Authority. Brakke asked if the workshop discussions considered ABMT across different sectors and organization in a comprehensive way or if the focus was purely on fisheries-specific ABMT.

Fitchett said that, in the workshop, deep sea mining was discussed and fisheries are intertwined with other non-fishery objectives. The overarching theme discussed was to identify an objective, then going through a menu of ABMT that would reach those objectives while assuaging concerns of one group and reducing negative consequences to another. The scope of the workshop was broad and not limited to discussion on blue water fisheries in areas beyond national jurisdiction.

H. International Fisheries

1. Update on North Pacific Striped Marlin Rebuilding Plan

Fitchett presented on a rebuilding plan and stock projections of Western Central North Pacific Ocean striped marlin. Jon Brodziak, PIFSC, completed the stock projections, per an earlier Council request. A 2019 stock assessment for these striped marlin found the stock to be overfished and experiencing overfishing relative to MSY-based reference points. The Council needs to address overfishing from domestic impacts and relative international impacts by June 4, 2020, in accordance with MSA section 304(i). The Council previously recommended a catch limit of 457 mt of striped marlin, of which only 434 mt could be retained by the Hawai'i longline fishery. This was in concert with WCPFC Conservation and Management Measure (CMM) 2010-01. The Council also began developing Amendment 8 to the Pelagic FEP to establish a framework to implement RFMO measures including catch limits mandated through the FEP.

The WCPFC at its December 2019 Regular Session endorsed a rebuilding plan for spawning biomass to reach target of 20% unfished biomass levels under stochastic projection scenarios with at least 60% probability of reaching the target. The timeline for the rebuilding plan is 15 years. Stock projections were included the assessment report; however, the target was either reached within four years or never at all based on static catch reductions. The Council alternatively requested staged or phased reduction in catch projections. These improved projections will be used in a U.S.-led proposed measure to develop catch limits for WCPFC fisheries at the December 2020 WCPFC Regular Session. U.S. catch limits arising from any WCPFC measure will satisfy requirements under MSA Section 304(i) to rebuild international stocks and will also be incorporated in Pelagic FEP Amendment 8.

Fitchett presented the phased catch limits for striped marlin, which was 1,951 mt for all fleets in 2021-2024, a 10% decrease from the average annual catch over the last three years of catch accounted in the stock assessment (2014-2017, 2151 mt). He said the Council could suggest potential catch limits for the United States in a proposed CMM to the WCPFC. These included previous Council action of 457 mt per year, 21.8% of suggested total allowable catch (TAC) for 2021-2024 in the stock projections (426 mt), which is consistent with the U.S. proportion of the catch; 25% of the TAC (487 mt); and other average catch levels.

Rice said PIRO staff should use the phased approach presented and develop a draft CMM to the WCPFC. The Council should recommend a catch limit for the U.S. consistent with previous years, 457 mt.

Watamura asked if Japan still had a fishery dedicated to striped marlin.

Fitchett said to his knowledge, Japan currently does not have a directed fishery, but its drift gillnet fisheries in the past had high catches of striped marlin.

Tosatto said he looks forward to the Council's recommendation and taking it up with the rest of U.S. advisors to the WCPFC.

2. Western and Central Pacific Fisheries Commission

a) 20th International Science Committee for Tuna and Tuna-Like Species in the North Pacific Plenary Outcomes

Seki presented on the 20th Session of the ISC held virtually in July 2020, which focused on the benchmark assessments for North Pacific albacore tuna and North Pacific bluefin tuna.

Albacore was deemed not overfished with no overfishing, but there are no fishing mortality-based reference points to more clearly surmise overfishing. The bluefin tuna stocks continue to be overfished relative to the potential biomass-based reference points. These are defined as the median spawning biomass historically on record and 20% of the spawning stock biomass at the hypothetical unfished level. The assessment also found that the recent fishing mortality was estimated to produce 14% spawning potential ratio (SPR). Although no fishing mortality-based limit or Target Reference Points have been adopted for bluefin by the IATTC or the WCPFC, recent fishing mortality is above the level producing 20% SPR. The bluefin stock is subject to a rebuilding plan, which is on time to meet objectives to rebuild the stock.

Striped marlin remains overfished and experiencing overfishing, and a 60% reduction in total catches is needed to immediately rebuild the stock by 2022. The ISC also developed a work plan, including a benchmark stock assessment for Pacific blue marlin. It will conduct the indicator analysis for shortfin mako shark and will advance the biological sampling for North Pacific albacore and sharks. Other issues include catch reporting, management strategy evaluations for the North Pacific albacore stock, shark working group reports, billfish working group report and bluefin tuna management advice. The 2021 ISC plenary meeting is scheduled to be hosted by the United States in Kona.

b) Science Committee

Fitchett presented outcomes of the 16th Science Committee of the WCPFC held virtually Aug. 10 to 18, 2020. New stock assessments on WCPO bigeye tuna, yellowfin tuna, North Pacific albacore and bluefin tuna were presented. Conservation advice and recommendations for these stocks were made through an online forum and teleconference. PIFSC staff included Bigelow, Carvalho and Brodziak, who relayed comments and concerns from the constituents regarding the stock assessments.

During the review of the bigeye tuna stock assessment, the United States noted some over-parameterization in the models. The models did take a long time and are very complex. The stock assessment was deemed best available science, and the stock was not overfished or experiencing overfishing. Growth continues to be an issue of uncertainty in the bigeye stock assessment.

Yellowfin tuna is also not overfished or experiencing overfishing. One of the issues on yellowfin tuna was age and growth and also on independent review of assessments to report to the Science Committee prior to next assessment in 2023.

Western and Central Pacific Tuna Harvest Strategy Analyses was discussed. There was a lot of support and need to look into skipjack tuna Target Reference Points. The analyses to support a Target Reference Point for bigeye and yellowfin was agreed upon, and some stock projections will be coming later on future catch levels and impacts to the stock.

Budget and projects were discussed to develop work plan priorities. The Science Committee also considered recommendations on research projects, including tagging (include sharks), handling of some species and validation of tuna, particularly bigeye tuna, using bomb radiocarbon dating.

Next year the Science Committee will review stock assessments on South Pacific albacore, which is of key interest to fisheries in American Samoa. This will be a Pacific-wide and South Pacific assessment, including overlap and areas of the IATTC. Many of the fisheries reporting, including China, have had lots of fishing effort on albacore in the South Pacific and other areas outside the WCPFC purview, which are still related to that same stock. The Science Committee next year will also see stock assessments on Southwest Pacific swordfish and then further investigations for yellowfin tuna assessments.

Gourley asked who funds research projects and if the United States covers what is not funded by WCPFC.

Fitchett said the United States is major contributor, but WCPFC research is multi-faceted. WCPFC has a research budget based on the contributions of many of the fishing nations, such United States, Japan, Taiwan and China. The earlier project on oceanic whitetip stock projections was a WCPFC project funded by the United States. Some nations use their discretion and voluntarily support projects.

Watamura expressed interest in the bomb radiocarbon dating, citing Jessica Farley's presentation to the SSC the previous week. Bomb radiocarbon work was done by Allen Andrews on opakapaka, giving knowledge to how long the opakapaka live, which made a difference in the stock assessment and the resulting ACL. He said bomb radiocarbon dating on bigeye tuna needs to be prioritized, given the importance of the species and uncertainty in age and growth info. He recalled that the Council recommended that PIFSC assist and support the bomb radiocarbon dating project at the October 2019 meeting. He asked which countries are supporting this project.

Fitchett said that Japan, Taiwan and some other countries made the project a high priority, while the United States listed it as a medium priority.

Watamura encouraged the U.S. delegation to support the project.

c) Technical and Compliance Committee

Tosatto reported that the WCPFC Technical and Compliance Committee will be held virtually from Sept. 23 to 29, 2020. Several anticipated topics of interest include at least one vessel that has been nominated for IUU listing and North Korea's request for cooperating non-member status, He said he would report on the committee meeting at the December 2020

Council meeting, although it would likely be too late to receive any Council feedback in time for the WCPFC annual meeting in December 2020.

d) Permanent Advisory Committee

Stuart Chikami reported on the meeting of the Permanent Advisory Committee (PAC) to Advise the U.S. Commissioners to the WCPFC, convened by teleconference on July 7, 2020. The committee will hold its annual meeting virtually Oct. 14-16, 2020. One of the main issues for the committee is the expiration of the Tropical Tuna Conservation Measure in February 2021. By 2020 there was supposed to be an agreement on the purse-seine effort or catch limits on the high seas. Currently member countries other than the Pacific Islands are limited to allocations contained within the existing Tropical Tuna Measure. Bigeye limits for longline fisheries will also be discussed. For purse seiners, a three-month FAD closure is being implemented under CMM 2018-01 primarily for the conservation of bigeye tuna. Additionally, charter arrangements have been used to take advantage of the domestic qualifications for the exemption and has been utilized by many of the distant-water fishing nations, such as China, Korea and Japan.

EM and ER will be an important topic of discussion as a result the impact of COVID-19 on observer coverage, which has led to a worldwide push to establish data and review standards and begin capacity building. In the past, the emphasis has been primarily on longliners since there is still a significant lack of even basic observer coverage for fleets other than the U.S. fleet. Due to COVID-19 there is a renewed push to establish a complementary EM Program to run in parallel with 100% observer coverage on purse-seine vessels in the WCPFC area.

South Pacific albacore is important for American Samoa, but tropical tuna measures are the priority this year. Harvest strategies maintain some priority this year, as a comprehensive harvest strategy for tropical tunas with harvest control rules would need to be in place by 2021 to fulfill the requirements of Marine Stewardship Council Certification. It is likely that this will need to be delayed or a new harvest strategy workplan with more realistic dates will need to be adopted. Currently, there are agreed-upon Limit Reference Points for all tuna species and Target Reference Points for skipjack and albacore. Another continuing issue of importance to the WCPFC is developing FAD management tools due to impacts on juvenile bigeye tuna and marine debris.

Soliai said he has some concerns about the exemptions being issued to distant-water nations such as China, Korea and Japan, as it puts the U.S. fleet at a continued disadvantage in comparison to how those other nations are operating. He highlighted the need to open the marine national monument waters to the U.S. fleet. He asked if there is any effort to get some exemptions for FAD restrictions for the United States, particularly because of COVID-19.

Chikami said not for FAD fishing and noted that this year's regulations have been set.

e) Northern Committee

Tosatto gave a brief overview of issues expected to be addressed at the WCPFC Northern Committee, which is scheduled to meet virtually on Oct. 7, 2020. The agenda will focus on

addressing Pacific bluefin tuna issues and a new stock assessment on North Pacific albacore. No action on North Pacific albacore is required as the stock is in good shape.

3. Tropical Tuna Allocation Concept Paper

Fitchett presented on a concept note that was developed to address allocation scheme for WCPO tropical tunas as the current CMM-2018-01 expires in 2020. He provided an overview of CMM 2018-01. The purpose of the concept paper is to outline scientific and data-driven justifications to allocate by fishery and flag state the principal WCPFC tuna species, to be used in an official U.S. proposal.

There are two objectives if a TAC scheme is to be used for bigeye tuna to be allocated among sectors. One is to provide options for sequential partitioning of a TAC for the species of interest, in this case, bigeye tuna, and the other is to provide methods justifying partitions that would be advantageous to U.S.-flagged fisheries.

Fitchett presented the following allocation options. The first would allocate by flag states and then by sector. That would look into many types of considerations within the Convention. The second would allocate by sector and then by flag state. Allocating by sector would look at fishery impacts and then at nonfishery-related or non-biotic impacts, such as aspirations, compliance and catch histories and the Articles, themselves, as well as the status quo. The third option would deal with only one sector and keep another one constant. Finally, the option if no deal is made and no measure is adopted or rolled over.

Fitchett presented on regional fishery impacts, noting that longline fishery impacts in temperate waters where the U.S. fleet operates is small, justifying some increases to the U.S. fleet. Stock projections are expected before the December meeting to determine how much fish is available to harvest for the next coming years and how much more can be harvested by sector.

Watamura encouraged more “outside the box” thinking on these matters, as presented.

4. International Fisheries Meeting, Marine Mammal Protection Act Equivalencies and Other Relevant International Issues

Alexa Cole, NOAA Director for International Affairs and Seafood Inspection, presented the status of implementing MMPA import regulations and the High Seas Driftnet Fishing Moratorium Protection Act (Moratorium Protection Act). NMFS issued a final rule implementing the MMPA import provisions in August 2016, with a five-year delay to gather information from fisheries around the world. The goal of the regulation is to reduce marine mammal bycatch associated with international commercial fishing operations. The program sets up a system whereby NMFS evaluates other countries’ fisheries against U.S. fisheries to determine whether the measures that they have in place to reduce marine mammal bycatch are comparable to those of the United States. If they are not comparable, the country would not be able to export those fish or fish products into the United States.

The List of Foreign Fisheries categorizes all of the commercial fisheries from 131 nations into “exempt” and “export” fisheries. Exempt fisheries have a remote likelihood or no known

marine mammal bycatch and are subject to a lower bar for the comparability finding. Export fisheries have more than a remote likelihood of marine mammal bycatch, for which NMFS would do a more comprehensive comparability finding.

These comparability findings will be a Herculean task, given that there are 953 exempt fisheries and 1,852 export fisheries. Additional assistance will be brought on board in the coming weeks. To aid in the process, NMFS has created a database for other countries to log in and enter their information. NMFS has been engaging in hundreds of consultations with countries over the past four years to help them gather and enter the information into the system so they can start requesting comparability findings. The portal for the comparability finding process will open soon. After the rule becomes effective on Jan. 1, 2022, new findings will be issued every four years, with a progress report every two years. Even though the effective date is in the future, the rule has resulted in positive developments around the world and NMFS is working closely with countries.

The Moratorium Protection Act was implemented to address international overfishing and identify countries under three provisions: engaging in IUU, reducing bycatch of protected living marine resources and improving shark conservation. In the latest biennial report to Congress, NMFS gave positive certifications to Mexico, Ecuador and Russia, which had issues identified in the 2017; NMFS subsequently worked with those countries for two years to resolve the issues. If countries receive a negative certification, they are subject to port denials and NMFS may make recommendations to the President for import restrictions. To date NMFS has not put forward recommendations for import restrictions. In the 2019 report, NMFS newly identified Mexico, Ecuador and Korea under the IUU fishing provision and is in the process of consulting with those countries to make their certification decision for the next report due in June 2021.

Cole noted that one of the biggest challenges of identifying countries under the Moratorium Protection Act is the availability of relevant data, especially with the bycatch and shark provisions. There is a negative incentive to provide data as those that do not voluntarily provide data to NMFS would not be identified under this process. NMFS' preference is for countries to provide their data to the RFMOs. NMFS has been concerned about taking unilateral actions through the Moratorium Protection Act that would make it harder to achieve multi-lateral goals at the RFMO level. NMFS is considering ways to take a more robust approach for bycatch to focus more broadly at the fishery level and to engage with countries that participate in those fisheries, rather than a country-by-country approach. The idea would be to get over the first hurdle by sending out pre-identification letters to countries engaged in certain fisheries to gather information about their bycatch mitigation measures.

Gourley asked if other countries are taking these import provisions seriously and how many are working towards compliance.

Cole said that she does not have a percentage, but many countries are taking these seriously and some are struggling to provide the information. It is not an easy task especially for small governments and during a COVID year. NMFS is seeing a mixture of some countries that already have good regulations related to marine mammal bycatch and other countries that are working to develop those regulations. She did not expect to have data on percentages until NMFS gets into the comparability analysis process.

Gourley said that the MMPA rule will likely help everyone concerned, as the United States tends to shoot itself in the foot with conservation measures with which its own fleet has to comply, while adjacent vessels on the high seas do not have to comply with them. He asked if a country does not receive a comparability finding, would it have to wait for two or four years when reports are published or could it be accepted and start exporting product once it complies.

Cole said her recollection is that countries will have the option to request a comparability finding out of cycle. For example, although the MMPA imports regulations have not yet become effective, NMFS has already did a comparability finding for Mexico for the vaquita but then recently withdrew it as Mexico was not properly implementing the regulations.

Gourley asked Cole if she sees the MSA as being a possible future avenue to address issues related to seafood that do not meet U.S. fishing standards.

Cole said MSA is already used that way through the Seafood Import Monitoring Program. The program is basically implementing the provision at 16 U.S.C. 5712, which is a Lacey Act-type provision to address situations where illegally caught species managed under MSA are imported into the United States. That MSA provision was created because the Lacey Act has some exemptions for MSA species, and it has a low civil penalty cap. The same MSA provision has also been used to create an import monitoring program.

Rice asked who would enforce the provisions once the countries are certified to ensure that seafood from other countries are not coming through those certified countries.

Cole said the designation of intermediary nations was created for exactly that purpose. Intermediary nations must show how products are segregated by source so illegal items are not making its way into the United States. If a country cannot provide the necessary information, then those products coming from that intermediary nation would also be banned.

Muna-Brecht thanked Cole for the “Herculean effort” and asked for clarification on what “exempt” means from these provisions.

Cole said exempt means that these fisheries have little to no interactions with marine mammals, as there is either no evidence of bycatch in those fisheries or very minimal levels. NMFS does not require a full comparability finding for these fisheries and simply requires that they have certain regulations in place and that they can demonstrate those regulations.

Soliai asked why China was not on the list of identified countries for IUU fishing practices.

Cole said that NMFS created a special section in the 2019 Report to Congress about China. The definition of IUU fishing under the Moratorium Protection Act does not include illegal fishing in an EEZ outside of the United States, such as in the case of Chinese vessels fishing illegally in the EEZ off Ecuador. However, NMFS felt compelled to make a mention in the report given a sense of pervasive pattern of illegal fishing in other countries’ waters by China. In response, allegations of illegal fishing came in from all over the world, including

Southeast Asia, Africa and the Pacific. NMFS is additionally considering expanding the regulatory definition of IUU to include these situations.

Soliai appreciated the U.S. government position on the issue but expressed disappointment that it should be an international effort because IUU fishing is still IUU whether it is in neighbor's waters or it is in U.S. waters.

Watamura said enforcement seems to be a limiting factor and whether any international agencies would be involved.

Cole said yes, in considering countries to identify, NMFS looks at information from RFMOs, NGOs and information solicited through a Federal Register notice. When reevaluating countries that have been identified, NMFS looks for progress. Cole provided the example with Ecuador, which has started prosecuting cases and passed new laws over time.

Watamura said some of the U.S. laws are over burdensome because other countries do not seem to care as much. The United States is trying to save two turtles, and yet thousands of turtles are being killed in international waters by gillnet fisheries in Mexico. He encouraged pushing further on the international level.

Rice asked Cole would regulate China if it receives a comparability finding to import its fish into the United States but has other outstanding issues about which NMFS is concerned.

Cole said that, under the MMPA imports regulations, the decisions would be made by fishery and not by country, meaning that a country could have the authority to export some fish but not allowed to export other fish species to the United States. However, if the country is negatively certified under the Moratorium Protection Act, NMFS has the ability to forward a recommendation to the President for import restrictions.

Watamura noted that about 80% of Hawai'i's seafood is imported and asked if a large reduction in imported fish is expected after the MMPA import regulations becomes effective and whether there is an effort to expand U.S. fishing effort to compensate for the potential reduction in available seafood.

Cole said the purpose of the program is not to stop imports. The purpose of the program is to get countries to use the appropriate bycatch mitigation measures so that their standards are raised to those of U.S. fisheries. She anticipated many fisheries around the world to receive comparability findings and noted that there has been increased attention on aquaculture.

Dang said Ecuador is the biggest competitor to the U.S./Hawai'i swordfish fleet, as their swordfish season overlaps with Hawai'i's. The Hawai'i fleet is restricted by regulations for turtle interactions, whereas the Ecuador swordfish production is growing, leading to lower prices. Buyers are forced to buy Ecuadorean product to maintain their own price competitiveness. He asked what the Hawai'i fleet can expect in terms of impacts from the international initiatives presented by Cole.

Cole said, if those fisheries have marine mammal bycatch, they would need a comparability finding once the MMPA imports regulations are implemented. However, if the issues is not related to marine mammals, the imports provision is not likely to have a positive impact on the Hawai'i fleet. She added that the Seafood Import Monitoring Program requires certain level of information from harvesting vessels. She was not sure that these provisions solve the competitive edge problem entirely, but she was hopeful that it provides some leveling of the playing field.

Dang asked if Cole's office has compliance and investigative reports on foreign fisheries.

Cole said her office does not have those kinds of reports by fishery around the world.

Simonds said that the IATTC may have some reports from their member countries.

I. Advisory Group Report and Recommendations

1. Advisory Panel Report

Tam presented the AP report and recommendations on pelagic and international fisheries.

Regarding the mandatory ER in longline fisheries, the Hawai'i AP recommended Alternative 1b, with a delayed implementation date; and the American Samoa AP recommended that the Council require mandatory ER for both Hawai'i and American Samoa Class C and D longline vessels.

2. Scientific and Statistical Committee Report

Hospital presented the SSC report and recommendations regarding pelagic and international fisheries.

Regarding the Oceanic Whitetip Shark Working Group, the SSC recommended that updates on the Ecosystem-Based Fishery Management Project with respect to oceanic whitetip sharks, post-release mortality, individual vessel impacts on oceanic whitetip sharks and the line-cutter project be provided to the SSC at its December 2020 meeting and to the Inter-Sessional Pelagic Plan Team Meeting.

The SSC recommended that the Oceanic Whitetip Shark Working Group proceed with investigating Monte Carlo analyses of longline mitigation measures exhibited by Harley et. Al. (2015) and that updates be completed and reviewed by the Plan Team before the March 2021 SSC meeting.

Hospital also reported that the SSC reiterated its previous concerns regarding RPMs that require significant changes to the Hawai'i shallow-set longline fishery despite the minor change rule for federal actions that do not jeopardize ESA-listed species.

J. Standing Committee Report and Recommendations

Dang reported on the Pelagic and International Standing Committee meeting and noted that the Committee deferred recommendations to the full Council meeting.

K. Public Comment

Tam provided comment on the impact of COVID-19 on fishery data and information on catch. He expressed concerns on data gaps impacting future assessments as it has been the experience with the American Samoa bottomfish fishery. He asked how impacts from the pandemic would be considered in the assessment, such as market conditions. He also noted that global shipping has been interrupted, which impacts high value tuna prices and that the lack of NOAA cruises and data collection in the field is causing concerns with information gaps.

David Gershman, Ocean Foundation International Fisheries Conservation Project, noted the presentation of oceanic whitetip stock projections shows some positive news in that it is not too late to help the species. He encouraged the Council and NMFS to consider all of the tools at their disposal to improve the status of this important species, both domestically and with respect to U.S. engagement internationally in the RFMOs. These tools should include improving longline fishing gear using spatial management and improving handling practices to avoid catching oceanic whitetip shark and to ensure that hooked sharks are released alive.

Sword, speaking as a recreational fisherman from American Samoa, said there are problems with dockage at Pago Pago for sport boats as longliners are always docked on main docks. He inquired on status of the extension to the Malaloa Dock and the rehab of the Sports Fishing Dock. He also said a charter boat going to Manu'a spotted a longliner fishing about 20 miles off Ofu and that the State Department is not making a big enough effort for American Samoa vessels. He thanked the USCG, noting that there has been an increase in foreign longline vessels supplying StarKist and that those vessels having trust with the USCG helps with the albacore fishery and the cannery.

Soliai read into the record a written comment from Chikami, which described the hardships of the U.S. purse-seine fleet including difficulty in crew changes, significantly low catch rates and a downward trend in prices. With respect to the suspension of observers onboard purse seiners, there have been a number of issues that have arisen for the U.S. fleet. The American Tunaboat Association, with significant assistance from the American Samoa Government, coordinated a repatriation flight for all the recalled observers who were left without a means to travel to their respective countries. Additionally, vessels that operated out of American Samoa have been unable to utilize fishing access in the IATTC because the observer waiver does not remove the observer obligation for the dolphin safe certificate for fish caught in the IATTC area. This effectively closes the IATTC waters to most fishing vessels and fishing access must be sought in the WCPFC area. The U.S. fleet will fully utilize its high seas allocation before the end of the year. This is extremely important for the fleet operating out of American Samoa since there are historically important and productive high seas fishing areas utilized by the fleet within operational range of American Samoa.

L. Council Discussion and Action

Regarding mandatory ER in the Hawai‘i and American Samoa longline fisheries, the Council recommended as final action a regulatory amendment for mandatory ER for vessels operating under the Hawai‘i longline limited entry permit and vessel size classes C and D under the American Samoa longline limited entry permit (Sub-alternative 1b), which specifies the following:

- a. Require applicable vessel operators to record and submit logbook data electronically using a NMFS-certified electronic logbook application;**
- b. Require daily submission of electronic logbook data (24 hours after completion of each fishing day); and**
- c. In the event of technology malfunction with hardware, software or transmission, logbook data should be submitted by paper or electronically within 72 hours of the end of each fishing trip.**

Further, the Council deemed that the regulations implementing the recommendations are necessary or appropriate in accordance with Section 303(c) of the MSA. In doing so, the Council directed Council staff to work with NMFS to complete regulatory language to implement the Council's final action. Unless otherwise explicitly directed by the Council, the Council authorized the executive director and the chair to review the draft regulations to verify that they are consistent with the Council action before submitting them, along with this determination, to the Secretary on behalf of the Council. The executive director and the chair were authorized to withhold submission of the Council action and/or proposed regulations and take the action back to the Council if, in their determination, the proposed regulations are not consistent with the Council action.

The Council recommended target implementation dates for mandatory ER for vessels operating under the Hawai‘i longline limited entry permit and vessel size classes C and D under the American Samoa longline limited entry permit by July 1, 2021.

Tosatto said he will abstain due to it being a final action but noted that he appreciated the recommendation and that it provides a way forward for implementing mandatory ER.

Moved by Rice; seconded by Dunham.
Motion passed with Tosatto abstaining.

Regarding oceanic whitetip sharks, the Council directed staff and requested PIFSC to provide updates on the PIFSC Ecosystem-Based Fishery Management project with respect to oceanic whitetip sharks, post-release mortality, individual vessel impacts on oceanic whitetip sharks and the line-cutter project to the Intersessional Pelagic Plan Team and the December 2020 meetings of the SSC and Council.

The Council recommended the Oceanic Whitetip Shark Working Group proceed with investigating Monte Carlo analyses of longline mitigation measures exhibited by Harley et al (2015) and that updates be completed and reviewed by the Plan Team before the March 2021 SSC meeting.

Moved by Rice; seconded by Dunham.

Motion passed.

Regarding RPMs and/or RPAs for the Hawai'i deep-set and American Samoa longline fisheries, the Council reiterated its request to review draft BiOps and any applicable RPMs or RPAs for all ongoing consultations for fisheries managed under the Council's FEPs. The Council further requested that PIRO ensure that such a review is timed so that formal review and input from the SSC and Council can be provided through its scheduled meetings.

Tosatto said he would not object to this but would be guided by the NMFS policy on ESA-MSA Integration in meeting this request.

Moved by Rice; seconded by Dunham.

Motion passed.

Regarding North Pacific striped marlin, the Council endorsed the phased projections conducted by PIFSC and directed staff to work with PIRO to develop a proposed WCPFC measure to limit total catch of North Pacific striped marlin from 2021 to 2024 based on total catch levels (1,951 mt) indicated in Phase 1 of the phased reductions.

Directed staff to work with PIRO to incorporate allocated U.S. longline catch limits of North Pacific striped marlin that are consistent with previous Council recommendations (457 mt) into any proposed WCPFC measure on North Pacific striped marlin.

Tosatto said he would not object to the recommendation but noted that the Council's obligation is to address the international overfishing and the associated requirement to provide recommendations to the Secretaries of Commerce and State, rather than an obligation to work with PIFSC or PIRO on a measure. He reminded the Council that, within the WCPFC context, the Council is not PIRO's advisor on international matters. NMFS has the PAC and the Commissioners who serve that purpose. Nevertheless, he said the wording of the recommendation suffices for the intent, and PIRO intends to continue to work with and take input from the Council so the Council can meet its obligation and then work within the WCPFC advisory context on the actual proposals to bring to the WCPFC.

Moved by Rice; seconded by Dunham.

Motion passed.

Regarding WCPFC research project budgeting, the Council requested the U.S. delegation to the WCPFC prioritize and endorse projects that have immediate impacts on

improving the assessment and management of bigeye tuna, including bomb radiocarbon dating.

Moved by Rice; seconded by Dunham.
Motion passed.

XIV. Administrative Matters

A. Financial Reports

1. Current Grants

Simonds reported on the multi-year grant that started January 2020. The Council's largest expenditure is usually travel and due to COVID-19 impacts the Council will continue to conduct virtual meetings for the remainder of the year. The Council has spent \$1.5 million to date out of the \$4.5 million budget. Simonds said the regional fishery management councils will be dealing with add-on funds for the multi-year award differently going forward. Previously the Council received add-on funds under different categories such as ACL Implementation or Council Peer Review. In the future these add-on funds will be rolled into the multi-year base budget.

Simonds reported that the Coral Reef 2019 award ends Sept. 30, 2020, and that the Sustainable Fisheries Fund (SFF) 9 award (also previously scheduled to end on September 30) received an extension approval to Sept. 30, 2021. Some of the workshops under SFF 10 that support CNMI fisheries, training and demonstration will continue into 2021. Another project under SFF 10 is the American Samoa longline dock. Funds were reprogrammed to reimburse the Department of the Interior for the use of the outer Malaloa Dock for commercial vessels. The CNMI fisheries training and demonstration project under SFF 11 continued at-sea trials. Under the SFF 11 award was the American Samoa bottomfish fisheries demonstration and training that was reprogrammed for electronic data collection and the American Samoa fresh fish longline pilot project that was reprogrammed to support a gear diversification project with PIRO contributing funds. The SFF 12 award and updates on outreach tournaments and fishing base improvements were also noted.

Simonds reported on Turtle 2017, 2018 and 2019 funding ending in December 2020 and the bycatch trends in longline fisheries, the tori line cooperative research and continuing education and outreach projects. Staff is currently developing contracts to support protected species and habitat for our fisheries under Turtle 2020, which ends in 2024.

B. Administrative Reports

Simonds said there have been no changes to staff since the June 2020 meeting and that the annual audit, which started on Aug. 17, 2020, is scheduled to conclude at the end of September 2020. The Office of Inspector General audit that was requested by the House Resources Committee, including Reps. Ed Case and Gregorio Kili'i Camacho Sablan, has been ongoing. The Council has been responding to individual requests from the Inspector General's auditors and assisting Territorial fishery agency staff. The Council also received a Freedom of

Information Act request from HDAR for a final report on the Fish Koa Video Survey, which was funded through the SFF. The deadline to respond to the request was Sept. 25, 2020.

Sesepasara inquired if the Council providing funds to help with the Malaloa Dock were new money or funds that were used in the planning.

Simonds said that the report was on funding that had been expended and nothing new.

Soliai thanked Tosatto and those involved for approving the request from the local longliners for the diversification project.

C. Council Coordination Committee Meetings

Soliai said the Council Coordination Committee (CCC) is planning on having its meeting next week and staff will be providing updates on three main issues: NS1, EFH and recusal.

Sabater reported on the NS1 Technical Guidance on Applying Flexibility for Data-Limited Stocks, which is the application of NS1 Guidelines. NMFS formed three subgroups to deal with the different NS1 Guidelines in 2018. Subgroup 1 is developing a document in regards to biological reference points; Subgroup 2 is addressing the Harvest Control Rule and published the Technical Guidance Memorandum; and Subgroup 3 is on data-limited stock. An issue the Council is facing is not having reliable catch data to generate MSY. Some of the regional fishery management councils are using data-limited approaches from the Data-limited Methods Toolkit that NMFS developed, but the South Atlantic, Gulf, Caribbean and Western Pacific Councils are looking for alternative approaches. The Modernizing Recreational Fisheries Act and NS1 provisions are pointing to alternative management approaches. Some of the solutions the Council is looking at uses rate-based approaches rather than weight-based. A request was made to NMFS to work with the Councils at the CCC meeting in defining data limited fisheries, determining alternative approaches based on the Technical Guidance memo and to release that memo for Council review. This was included in the draft response to EO 13921.

DeMello said that he has been working with Gourley on issues regarding EFH and the next steps are to talk with counterparts during CCC.

Mark Mitsuyasu, Council staff, said the final rule on the Recusal Policy is on the agenda for next week's CCC meeting. There are no new issues beyond those that this Council has previously raised. The Council is waiting to hear what NMFS will discuss next week.

D. Council Family Changes

1. Non-commercial Fishery Advisory Committee Terms of Reference and Membership

DeMello said at the last Council meeting staff asked the Council for potential changes to the Non-commercial Fishery Advisory Committee (NCFAC). The NCFAC was originally the Recreational Data Task Force and was reconceived in 2009 and currently has 10 members. Staff proposes to reconstitute NCFAC to develop research priorities, the annual report module and

provide input into the Pacific Island Regional Implementation Plan. DeMello presented the revised membership list for Council consideration, which includes representatives from HMRFS, PIRO, PIFSC and fishing organizations.

2. Fishing Industry Advisory Committee Terms of Reference and Membership

Mitsuyasu said the Council is looking at the membership of the Fishing Industry Advisory Committee (FIAC) as the SOPP terms for this group is a four-year term limit. The goal is to have input into Council actions and other relevant issues from commercial fisheries, fishermen, seafood distributors, processors and gear and tackle shop representatives. Mitsuyasu reviewed current members and recommendations provided by industry and Council members. There is a limit of 40 total members with 10 spots available for each island area. There were opens spots for the Territories. If there are additional members for consideration by the Council, an amendment can be made at the next Council meeting.

Gourley said CNMI would try to identify more individuals for the FIAC Committee.

Duenas said that he reached out to Carlos Herrera from the Hitman's Bait and Tackle on Guam and plans to reach out to a few more people.

Watumura said the Pacific Islands Fisheries Group and the Hawai'i Fishermen's Alliance for Conservation and Tradition were important organizations and should have more than one representative.

E. Meetings and Workshops

Simonds said that members have the draft schedule of meetings for the remainder of the year and noted that they are all virtual.

Tosatto noted WCPFC meeting dates and asked Simonds if the December Council meeting dates will be adjusted as they currently overlap.

Simonds said the Council is thinking about this and asked if the WCPFC dates are firm, noting that she wants WCPFC to meet at least about the conservation measure.

Tosatto could not guarantee those are the dates but said the chair could.

F. Letters to the Administration

Simonds reviewed letters sent to Lawler addressing the objectives of the Seafood Trade Task Force as specified in the federal register notice request for information and the letter to President Donald Trump regarding EO 13921.

Gourley said that he hopes the Council can receive some responses to these letters.

- Kerry Umamoto Hilo Fish Company, Hawai‘i
- Josh Schade Ahi Assassins, Hawai‘i
- Eric Kingma Hawaii Longline Association, Hawai‘i
- Kenton Geer Commercial Seamount Fisherman, Hawai‘i
- Carlos Herrera Hitman’s Tackle, Guam
- Vince Haleck Tautai O Samoa Association, American Samoa
- Lino Tenorio Commercial Bottomfish Fisherman, CNMI
- Dean Sensui Hawaii Goes Fishing, Region

Outgoing FIAC Members:

- Lua Saite Moliga American Samoa Alia Fishing Association
- Basil Oshiro Maui Cooperative Fishing Association, Hawai‘i
- Neil Kanemoto Pacific Islands Fisheries Group, Hawai‘i
- Russell Dunham Tri-Marine International, Singapore
- Bruce Johnson Fresh Island Fish (retired), Hawai‘i
- Brooks Takenaka United Fishing Agency, Ltd., Hawai‘i
- Charles Umamoto Hilo Fish Company, Hawai‘i

Moved by Rice; seconded by Dunham.

Motion passed.

Regarding the CCC issues, the Council requested NMFS Office of Sustainable Fisheries work with the Western Pacific, Caribbean, Gulf of Mexico and South Atlantic Fishery Management Councils to explore alternative approaches to manage data limited stocks pursuant to the NS1 600.310(h)(2) and request NMFS release the Technical Guidance document on data limited stocks as soon as possible.

The Council directed staff to consult with other Councils to assess consistency in the review of EFH in regard to degraded habitat and application of mitigation measures commensurate with impacts.

The Council directed staff to review the final rule on Council member financial disclosure and recusal and report to the Council at the next meeting.

Tosatto said that he hoped that, if the Council staff does engage with other Councils, it will find out how backwards the approach of this Council is on the issue of degraded EFH. He hoped that Council staff will hear from other Councils how they live up to the mandate to improve degraded habitat, which is the requirement of the MSA.

Moved by Rice; seconded by Dunham.

Motion passed.

*Regarding the development of an offshore energy policy, the Council **adopted the Offshore Energy Policy as presented and directed staff to incorporate it into the Council SOPP as appropriate.***

Moved by Rice; seconded by Dunham.

Motion passed.

*Regarding U.S. Fisheries in the Pacific, the Council **directed staff to send a letter to Francis Brooke Jr., deputy director of National Economic Council, requesting, consistent with Council correspondence to the Administration, the National Economic Council to assist U.S. fisheries undergoing economic hardship by mitigating harmful impacts such as removing fishing prohibitions in U.S. Pacific marine national monuments, increasing the U.S. bigeye quota, reducing imports of U.S. targeted fish and leveling the uneven playing field through international negotiations.***

Sakoda noted his opposition to requesting the removal of fishing prohibitions in the marine national monuments. He had no issues with the rest of the motion.

Soliai said U.S. fishermen are at a disadvantage compared to other parts of the world. Unnecessary federal regulations and international negotiations are hampering the seafood trade for U.S. fisheries and in the Pacific Islands. The presentation by Cole showed the challenges in addressing illegal and IUU fishing. Soliai said it is timely to send a followup letter to the White House and he hoped to receive some positive response.

Moved by Rice; seconded by Dunham.

Motion passed with Sakoda opposing.

XV. Other Business

There was no other business.

[Meeting adjourned.]