

## U.S. DEPARTMENT OF COMMERCE

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NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION  
(NOAA)

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## COUNCIL COORDINATION COMMITTEE MEETING

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FRIDAY  
OCTOBER 13, 2023

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The NOAA Council Coordination Committee met at the Hilton Arlington National Landing, 2399 Richmond Highway, Arlington, Virginia, at 9:00 a.m., Kevin Anson, Chair, Gulf of Mexico Council, presiding.

## PRESENT

GULF OF MEXICO COUNCIL:  
KEVIN ANSON, Chair  
J.D. DUGAS, Vice Chair  
CARRIE SIMMONS, Executive Director

NEW ENGLAND COUNCIL:  
ERIC REID, Chair  
RICK BELLAVANCE, Vice Chair  
CATE O'KEEFE, Executive Director

MID-ATLANTIC COUNCIL:  
WES TOWNSEND, Chair  
MIKE LUISI, Vice Chair  
CHRIS MOORE, Executive Director

SOUTH ATLANTIC COUNCIL:  
CAROLYN BELCHER, Chair  
TRISH MURPHEY, Vice Chair  
JOHN CARMICHAEL, Executive Director

CARIBBEAN COUNCIL:  
CARLOS FARCHETTE, Chair  
VANESSA RAMIREZ, Vice Chair  
MIGUEL ROLON, Executive Director

WESTERN PACIFIC COUNCIL:  
WILLIAM SWORD, Chair  
KITTY SIMONDS, Executive Director

PACIFIC COUNCIL:  
BRAD PETTINGER, Chair  
PETER HASSEMER, Vice Chair  
MERRICK BURDEN, Executive Director

NORTH PACIFIC COUNCIL:  
ANGEL DROBNICA, Chair  
BILL TWEIT, Vice Chair  
DAVID WITHERELL, Executive Director

ALSO PRESENT:  
JOHN ARMOR, Director, Office of National Marine  
Sanctuaries  
MICHELLE BACHMAN, Subcommittee Member, New  
England Fishery Management Council  
MATTHEW BROOKHART, Eastern Regional Director,  
Office of National Marine Sanctuaries  
JANET COIT, Assistant Administrator, NOAA  
Fisheries  
ALEXA COLE, Director, Office of International  
Affairs, Trade, and Commerce  
KELLY DENIT, Director, Office of Sustainable  
Fisheries  
TANYA DOBRZYNSKI, Division Chief, Office of  
Protected Resources  
LEEANN HOGAN, Regional Operations Coordinator,  
Office of National Marine Sanctuaries

LISA HOLLENSEAD, Fishery Biologist, Gulf of Mexico Council  
EVAN HOWELL, Director, Office of Science and Technology  
ADAM ISSENBERG, Assistant General Counsel for Fisheries, NOAA Office of General Counsel  
JON KURLAND, Regional Administrator, Alaska Regional Fishery Office  
JESSICA KONDEL, Director of Policy, Office of National Marine Sanctuaries  
SARAH MALLOY, Acting Regional Administrator, Pacific Islands Regional Fishery Office  
EMILY MENASHES, Deputy Assistant Administrator for Operations, NOAA Fisheries  
EMILY MUEHLSTEIN, Public Information Officer, Gulf of Mexico Council  
DAN NAMUR, Director of Financial Assistance, National Marine Fishery Service  
BRIAN PAWLAK, Chief Financial Officer & OMB Director, NOAA Fisheries  
MICHAEL PENTONY, Regional Administrator, Greater Atlantic Regional Fishery Office  
SAM RAUCH, Deputy Assistant Administrator for Regulatory Programs, NOAA Fisheries  
KATHERINE RENSHAW, Section Chief, NOAA Office of General Counsel  
RYAN RINDONE, Lead Fishery Biologist, Gulf of Mexico Council  
ANDY STRELCHECK, Regional Administrator, Southeast Regional Fishery Office  
JENNI WALLACE, Sustainable Fisheries  
CISCO WERNER, Director of Scientific Programs and Chief Science Advisor, NOAA Fisheries  
DAVID WHALEY, Independent Consultant

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Adjourn

1 P-R-O-C-E-E-D-I-N-G-S

2 9:01 a.m

3 MR. ANSON: All right, good morning,  
4 everyone. I'm going to start the final day of  
5 our CCC meeting.

6 And just to remind everyone, we had  
7 changed the agenda for a few items. And one of  
8 the changes was to move yesterday's topic to  
9 today as our first topic.

10 And that is Overview of the Fiscal  
11 Responsibility Act and CEQ's proposed NEPA  
12 Regulations. And, Sam, you're going to lead that  
13 off?

14 MR. RAUCH: Yes, thank you, Mr. Chair.

15 Let me introduce two people. Sitting  
16 next to me is Katie Renshaw. She is the NOAA  
17 NEPA coordinator. And then behind me is Steve  
18 Leathery. He is the NMFS NEPA coordinator.

19 So to the extent that we need the  
20 experts, these are the experts. And so Katie's  
21 going to start. She's going to give an overview  
22 of both -- we had a statutory change since we met

1 last which has clear NEPA implications.

2 And CEQ is continuing to finalize a  
3 number of regulatory revisions which may have  
4 NEPA implications.

5 So Katie's going to go over those.  
6 And then I'm going to talk a little bit about  
7 what the implications that might mean for the  
8 council process.

9 Because as you all know, NEPA is well  
10 integrated into the council decision making  
11 process. And the statute at least, we can't say  
12 what the regulations will do yet, but the  
13 statute, at least, poses some potential  
14 difficulties in that regard.

15 And we'll talk about how we might work  
16 on addressing those. But first, Katie, can you  
17 give us an overview?

18 MS. RENSHAW: Great, thanks, Sam. And  
19 thank you for having me today.

20 Okay, got the clicker to work, great.

21 So I'm just going to start with kind  
22 of contextualizing where we are with NEPA. It's

1       been a few years since I think I've spoken to  
2       this group about changes to NEPA. And there's  
3       been a lot going on.

4               First, I'll talk about what CEQ has  
5       been working on. So, as you all may recall,  
6       under the prior administration in 2020, there was  
7       a significant overhaul of the NEPA regulations.

8               After the transition to the Biden-  
9       Harris administration, one of the first acts the  
10      President directed was for CEQ to take another  
11      look at the NEPA regulations and see if anything  
12      needed to be revised.

13              So they've done this in phases. The  
14      first phase, Phase I, was finalized in 2022.  
15      This was a limited change to the 2020 NEPA  
16      regulations.

17              Modification of the purpose and need  
18      requirements, range of alternatives, some giving  
19      back to agencies some flexibility and a  
20      restoration of a requirement to consider  
21      cumulative effects of NEPA analysis.

22              So that was the close of Phase II.

1 CEQ then started working on a much more  
2 comprehensive overhaul which they were calling  
3 Phase II of their process. They kicked that off  
4 earlier this year in January where they sent a  
5 draft to agencies to review.

6 They were working on that, getting  
7 close to publishing a proposed rule when, as Sam  
8 alluded to, under the Fiscal Responsibility Act,  
9 the NEPA statute itself changed.

10 So CEQ kind of had to scramble a  
11 little bit and revise their proposed rule to  
12 incorporate those statutory changes.

13 This was published in the Federal  
14 Register this summer in July. And just a couple  
15 weeks ago, the public comment period on those  
16 rules closed.

17 So what I'm going to do is walk  
18 through both kind of those things that changed in  
19 the statute, what was in the proposed Phase II.  
20 Of course, we don't know what will be in the  
21 final rule, but I wanted to flag those changes  
22 that may be of interest to you all.



1           So the changes come -- and this is  
2 change -- when I say change, I'm talking about  
3 relative to kind of the status quo of the 2020  
4 NEPA regulations.

5           There's four big buckets of changes.  
6 CEQ went about kind of going back to the prior  
7 regulations, the 1978 rules in many places, some  
8 with some tweaks, modernizing language, things  
9 like that, but non-substantive.

10           There were categories of the 2020  
11 regulations that CEQ chose to change, some with  
12 kind of updates.

13           CEQ had, prior to the FRA amendments,  
14 added some new provisions to the NEPA  
15 regulations. And then, of course, they had to  
16 make some changes that were just solely in  
17 response.

18           So the first kind of set of changes I  
19 want to kind of highlight for your awareness is  
20 the threshold determinations.

21           So under the new statute, there is a  
22 requirement to, before you start comparing the

1 NEPA analysis, determine whether NEPA actually  
2 applies.

3 So this was a part of the 2020  
4 regulations. And but, with the changes to the  
5 FRA, it's been a bit modified.

6 The thing I just wanted to flag for  
7 awareness is, under the 2020 regulations, there  
8 were a bunch of different kind of threshold  
9 factors of kind of how you define what a major  
10 federal action is.

11 Some of these are being proposed to be  
12 changed by CEQ.

13 One is they are proposing to eliminate  
14 the idea of a functional equivalence exception.

15 So under the 2020 regulations, if an  
16 action that a federal agency was taking was the  
17 functional equivalent of a NEPA analysis, NEPA  
18 did not apply.

19 CEQ is proposing to eliminate that.

20 I'm going to go a little bit more into  
21 a major federal action.

22 So this is now defined in the statute.

1 And so the CEQ is looking to kind of propose to  
2 exclude things in parallel.

3 Most of these, I don't think are going  
4 to be germane to Magnuson-related actions. They  
5 do have a lot of impacts for federal agencies  
6 looking at funding actions and non-federal  
7 actions with no or minimal funding or no or  
8 minimal federal involvement, things like that  
9 where there's going to be a lot of implementation  
10 questions about how much federal engagement kind  
11 of will bring something in under NEPA.

12 I'm going to go to the next bucket of  
13 changes. And these, I think, are going to be of  
14 interest.

15 So time limits, so you may recall,  
16 under the 2020 NEPA regulations, CEQ had imposed  
17 time limits for both environmental assessment and  
18 environmental impact statements.

19 For environmental assessments, the  
20 time limit was one year from the time at which  
21 the agency determines that they will prepare an  
22 EA to kind of the FONSI, the end date, or two

1 years for an environmental impact statement from  
2 the notice of intent to prepare an EIS to the  
3 record of decision.

4 Those time limits now are in the  
5 statute. So NEPA now, by law, requires one year  
6 for an EA and two years for an EIS.

7 Under the prior 2020 regulations,  
8 there was a provision that a senior agency  
9 official could waive time limits for projects.  
10 And that is something we had applied quite  
11 broadly to all council-related actions.

12 Because these time limits are now  
13 statutory, there -- the Phase II proposes to  
14 eliminate the waiver process.

15 However, that -- although these time  
16 limits are required by statute, the statute also  
17 anticipates a way to extend time limits.

18 So at the outset of a project or an  
19 action, the agency kind of must say, okay, we're  
20 going to try to do this in one year or two years.  
21 But they can determine, and if there is a project  
22 sponsor, in consultation with the project

1 sponsor, that an extension is necessary.

2 So there is kind of a path to extend,  
3 but it's on a project by project basis.

4 Also related to time limit, the  
5 agencies, in particular, for EIS's, must develop  
6 kind of detailed project schedules and time lines  
7 that are going to be publically available.

8 So at the outside of kind of starting  
9 the NEPA process, communicating to the public,  
10 you know, we're starting this EIS. This is when  
11 we're going to see the NOI, the DEIS, et cetera,  
12 kind of mapping it out along with any other  
13 related statutory, regulatory processes that are  
14 going to go along for the approval of that  
15 process.

16 I will note that the statute is kind  
17 of a little ambiguous about the specific start  
18 and end dates of those two year and one year  
19 processes. And that's something that CEQ is  
20 working on kind of adding a little more clarity  
21 to in the forthcoming regulations.

22 So similar to the time limits, the

1 2020 regulation had page limits for NEPA  
2 documents for environmental assessments. They  
3 were set at 75 pages.

4 And for environmental impact  
5 statements, 150 pages or 300 for a complex EIS.

6 Those page limits are now in the  
7 statute. So those are in NEPA itself.

8 And in similar to what happened with  
9 time limits, because those are now in the  
10 statutes, the prior waiver process to kind of  
11 waive those page limits, it doesn't exist  
12 anymore.

13 I will note that page limits are  
14 exclude appendices. So the page is just kind of  
15 the bulk of NEPA document.

16 So if you've been looking at agencies  
17 that have been complying with page limits, you'll  
18 see the appendices tend to be swelling a bit as  
19 the main NEPA document kind of fits into these  
20 page limits.

21 I'm going to touch briefly, this is a  
22 bit of a mess, what's going on in categorical

1 exclusions.

2 I know that there are some categorical  
3 exclusions you all apply, but this -- most of the  
4 changes for categorical exclusions are directed  
5 at agencies and how to kind of develop new  
6 categorical exclusions.

7 So CEQ is proposing to allow agencies  
8 to develop categorical exclusions jointly,  
9 alternate paths to develop a categorical  
10 exclusion outside of a NEPA procedure, for  
11 example, through a programmatic EIS.

12 And then, this, what I have here, the  
13 four 1501.4(d)(2) experimental categorical  
14 exclusions to see if they work or not.

15 The FRA also had some changes to  
16 categorical exclusions to allow agencies to adopt  
17 categorical exclusions from another agency's NEPA  
18 procedures.

19 So for some agencies, you know, that  
20 are starting a new program, they can look and  
21 see, has another agency does this already and  
22 made the determination that this category of

1 actions doesn't have potential significant  
2 impacts and just adopt it from them.

3 The way -- again, this is the drafting  
4 is a little confusing. There is shifting of  
5 language between applying categorical exclusions  
6 versus adopting categorical exclusions.

7 And that's a place I anticipate seeing  
8 some more clarity as the Phase II regulations  
9 move towards finalization.

10 So, now, into the type of work that  
11 you all do more frequently.

12 So environmental assessments, this was  
13 one place where there was a lot of change in the  
14 2020 NEPA regulations over the baseline 1978  
15 regulations, really integrating environmental  
16 assessments into the regulations in a way that  
17 they weren't before.

18 And as I say here, most of the  
19 language on EAs is retained.

20 I did want to flag that CEQ is  
21 proposing to add some language to talk about  
22 public comment for EAs.



1           You may be familiar, under the current  
2 regulations, agencies have quite a bit of  
3 discretion on whether they get public comment on  
4 environmental assessments.

5           The proposed rule says that, if an  
6 agency publishes a draft environmental  
7 assessment, then the agency shall invite public  
8 comment and consider those comments.

9           So that is a change from the current  
10 regulations. It's in the proposed rule. So we  
11 will see if that makes it to the final.

12           There is a change under the FRA saying  
13 that if multiple agencies are taking a related  
14 action, they need to use a single EA.

15           And then, finally, I wanted to flag  
16 that, for mitigated FONSI's, which were addressed  
17 in the 2020 regulations, CEQ is adding kind of a  
18 little more strenuous -- a stringency to the  
19 requirement to demonstrate that any monitoring or  
20 mitigation provisions that they're using to kind  
21 of get a mitigated FONSI, which is, you know, a  
22 determination that, but for these mitigation

1 measures, there may be significant impacts.

2 But because there's mitigation,  
3 there's a finding of no significant impacts.

4 It basically -- it needs to be real,  
5 that the agency needs to demonstrate that they  
6 have actual enforceable commitments to get there.

7 Okay, for EIS's, a lot of the new  
8 provisions that CEQ is proposing relate to  
9 integrating climate change and environmental  
10 justice into NEPA documents.

11 So these are -- CEQ would likely argue  
12 that these aren't necessarily substantive  
13 changes, but making clear that including terms  
14 related to climate change and environmental  
15 justice are the types of consequences and impacts  
16 that an EIS must address.

17 Some of this is related to, you may  
18 have seen, CEQ put out an interim guidance  
19 document on climate change and considering  
20 climate in NEPA documents.

21 And this is kind of their attempt to  
22 codify that, to kind of reinforce to agencies

1 that you -- agencies do need to consider those  
2 kind of climate impacts, any risk reduction  
3 mitigation for climate and environmental justice  
4 in their documents.

5 Okay, so more new provisions.

6 For alternatives, this first one is  
7 kind of a restoration of language from the 1978  
8 regulations that requires that agencies can look  
9 at alternatives, even if they're outside of the  
10 agency's jurisdiction to do.

11 There are some edits to incomplete or  
12 unavailable information. Kind of methodologies  
13 related to scientific accuracy about kind of how  
14 to have good, you know, what is the scientific  
15 integrity and best available science requirements  
16 for NEPA documents.

17 I'm going quickly. I know you all  
18 have these slides, so I thought it would be good  
19 to have a resource, I'm not just going to sit and  
20 read them to you.

21 Oh no, got it, yes.

22 (Simultaneous speaking.)

1 MS. RENSHAW: Okay, so for the EIS  
2 provisions from the FRA, just wanted to flag a  
3 few of these things where the statute now has  
4 changed for the EISs.

5 One is that, under the current  
6 regulations and current statute, agencies are  
7 required to identify the environmental and  
8 preferable alternative in the record of decision.

9 This now changes that they need to do  
10 so in the EIS itself.

11 Similar to environmental assessments,  
12 if there are multiple agencies taking a related  
13 action, they are required to prepare a single  
14 EIS, and where possible, a joint record of  
15 decision.

16 There's now an explicit requirement,  
17 although agencies have been doing this, to  
18 include the effects of the no action alternative,  
19 including any adverse environmental effects.

20 This is particularly important for  
21 climate related actions. So kind of if an agency  
22 is proposing to take something with climate

1 benefits, they're supposed to look at, you know,  
2 what the downside is of not taking those actions.

3 And then, similar to those kind of  
4 regulatory changes I was flagging, that their  
5 agencies are supposed to ensure that our  
6 documents are prepared with scientific integrity  
7 and reliable data.

8 Okay, the next set of new  
9 requirements, these are all kind of, again, mixed  
10 from the regulation and the statute, are new  
11 tracking and disclosure requirements.

12 So agencies will need to develop a  
13 unique ID number for all EAs and EISs so that,  
14 you know, the public and other agencies can kind  
15 of track them through the process.

16 If you've ever tried to pull up NEPA  
17 documents, you can see that the titles are not  
18 always very obvious what they are. So this is  
19 kind of just to help public engage.

20 Similar to that of health of the  
21 public, agencies are supposed to be providing  
22 websites and IT tools making transparency around

1 NEPA procedures and all EAs and EISs that are in  
2 development.

3 And agencies are encouraged to post  
4 all environmental documents to websites.

5 So the FRA also made several changes  
6 to programmatic environmental documents.

7 So the -- there is a new provision  
8 that says that, you know, yes, agencies should  
9 use programmatic environmental documents. But if  
10 that document is more than five years old, the  
11 agency must kind of ensure with every time  
12 they're applying that programmatic document that  
13 it's still valid.

14 This is basically codifying a best  
15 practice that's in CEQ's guidance to make sure  
16 that those things are still fresh and reliable.

17 But now, there is kind of a statutory  
18 requirement to be demonstrating that  
19 determination.

20 I spoke a bit about mitigation  
21 previously, but there's a few other kind of  
22 broader language on mitigation.

1           So similar to kind of the language  
2 highlighted about climate and environmental  
3 justice, there is now specific language  
4 encouraging agencies to incorporate mitigation  
5 measures to address adverse harm for  
6 environmental impacts that disproportionately  
7 adversely affect communities with environmental  
8 justice concerns.

9           And then, as I said before, that, if  
10 you are going to rely on mitigation as part of a  
11 proposed action, there must be language to  
12 demonstrate that there is a plan to actually do  
13 that.

14           Okay, a couple other just notable  
15 revisions.

16           There are new language about the  
17 responsibilities for the various lead, joint lead  
18 cooperating agencies to make sure everyone knows  
19 that their role and responsibility is.

20           That there are procedures -- this is  
21 to allow an applicant or a project sponsor to  
22 prepare an environmental assessment or

1 environmental impact statement.

2 I note here that, even if someone who  
3 is not the agency is preparing the environmental  
4 document, the agencies still are the ones who are  
5 responsible. We are the ones that are going to  
6 get sued if we fail to take -- to comply with  
7 NEPA.

8 Just a couple other things that got  
9 changed from -- that CEQ was planning to change  
10 prior to the FRA.

11 There was a section in the 2020  
12 regulations on proposals of regulations I thought  
13 was confusing. It's been deleted. It's being  
14 proposed to be deleted. I think that will be  
15 helpful.

16 There are some amendments to adoption  
17 sections, mostly for readability and clarity.

18 And there's a new section which I  
19 think will be interesting to see how it's applied  
20 on innovative approaches to NEPA reviews to  
21 address extreme environmental challenges.

22 This is framed in a way that's a



1 little similar to the emergency provisions where  
2 CEQ can approve kind of an outside of the norm  
3 approach to applying with -- applying for NEPA in  
4 an extreme context.

5 It's, again, kind of an experimental  
6 provision to see if we need to -- if agencies  
7 need to take a different approach, but it would  
8 be through kind of a lot of CEQ oversight.

9 Okay, agency compliance and  
10 procedures.

11 So what is this going to mean for the  
12 agencies?

13 Well, agencies will have 12 months  
14 from the effective date of the final rules to  
15 propose updates to agency NEPA procedures.

16 This will be an extensive process for  
17 NOAA and for NMFS and for all of the agencies to  
18 figure out what changes might be necessary to  
19 comply with the FRA and the regulations.

20 There are within it some language  
21 about how we're going to, you know, need to kind  
22 of review our categorical exclusions every ten

1 years.

2 I also flagged here, just FYI,  
3 agencies will be designating a chief public  
4 engagement officer to facilitate community  
5 engagement.

6 That's it, okay. So, yes, so I guess  
7 I'm going to turn it over to Sam to talk about,  
8 in those next 12 months, what are we going to be  
9 grappling with.

10 MR. RAUCH: Yes, let me make a few  
11 statements and then, we can have comments on  
12 both.

13 So Katie laid out the requirements  
14 that -- the statutory requirements, just as a  
15 reminder, those are set. Those will not change.  
16 That is the statute and we have to comply with  
17 it.

18 The -- a number of things that Katie  
19 identified are things that are in the proposed  
20 NEPA regulations and those still have to go  
21 final.

22 So we don't know what those are going

1 to ultimately be. So there's still some  
2 uncertainty with how they're going to finalize  
3 those.

4 They were proposed with the statute in  
5 mind. So the statute had already passed when  
6 they proposed.

7 So they are supposed to be consistent  
8 with the statute as proposed. But I don't know  
9 how they're going to finalize. So that is still  
10 somewhat uncertain for us.

11 And then, once they are finalized,  
12 we'll have to go through that process of updating  
13 our NEPA regulations.

14 But the statute is applicable now.  
15 Those proposed NEPA regs are not applicable yet,  
16 but we expect that they will be applicable soon  
17 and we'll have a year to implement the  
18 regulations. But the statute is immediately  
19 effective, if that was clear.

20 So some of the things that we should  
21 pay attention to in Katie's presentation is  
22 because, the statute in particular which limits

1 what you can do.

2 I mean, you can offer exemptions to  
3 the NEPA regulations, but you can't exempt  
4 yourself from the statute.

5 Creates some problems for the way we  
6 do NEPA in the council process.

7 As you all are well aware, the -- NEPA  
8 is designed to inform the decision maker and to  
9 bring public involvement.

10 We try to make sure by integrating  
11 NEPA into the council process, that you are  
12 informed as well.

13 I mean, technically, under the  
14 Magnuson Act, the Secretary of Commerce is the  
15 decision maker. So, ultimately, the agency  
16 responsible for NEPA, at the end of the day, is  
17 the Secretary of Commerce. Right?

18 So NEPA has to be, no matter what  
19 happens before it gets to the Secretary, NEPA has  
20 to be complete and complied with at the  
21 secretarial level because the Secretary is the  
22 ultimate decision maker.

1           But we've tried very hard to push the  
2 elements of NEPA down so that both the council's  
3 public engagement process is coincident with the  
4 NEPA public engagement process and that you all,  
5 as well, are being informed in the NEPA process  
6 as well as the Secretary later in the process.

7           And that has worked very well. I  
8 think this partnership that we have on NEPA it  
9 has worked for the public. It has worked for you  
10 all. It has strengthened our decision making  
11 documents.

12           It will be hard to do that continuing  
13 under these statutes for several reasons.

14           One is the time lines. It's one year  
15 to do the EA from when it starts, two years to do  
16 the EIS, unless there's some mechanism to extend.

17           And Katie indicated there might be a  
18 mechanism, it's not clear to me how -- whether  
19 we'll be able to take advantage of that or not or  
20 exactly what the parameters for that are not.

21           If we cannot, almost every action that  
22 you all start that leads to an action that we

1 eventually implement is probably longer than a  
2 year for many of these actions in terms of an EA  
3 and longer than two years for an EIS.

4 So that makes it really difficult to  
5 compress both the council process and the  
6 secretarial process in those NEPA time lines.

7 There are some ways around that which  
8 we could separate out NEPA from the council  
9 process and have it be inform the Secretary which  
10 we may have to do. I hope we don't have to do  
11 that because it undermines the very principles  
12 that we talked about.

13 You know, if NEPA is only informing  
14 the Secretary, it doesn't inform you all.

15 The council's public engagement  
16 process is misaligned with the NEPA public  
17 engagement process, creating difficulties. But  
18 we're going to have to address that.

19 So this is something that we and you  
20 all will have to grapple with in terms of when  
21 does the formal NEPA process start given that we  
22 have statutory time frames?

1           And then, how does that integrate with  
2 the Magnuson Act process?

3           And I think it will look different in  
4 the coming years than it currently looks now.

5           Similarly, the pages, the pages I  
6 don't think will be such a difficult issue.

7           Right now, we have integrated  
8 documents where you cannot honestly look at that  
9 -- a document which is an integrated NEPA  
10 document and consequent amendment and say, here's  
11 where NEPA starts and stops and here's where the  
12 council plan amendment addition starts and stops.

13           But most of -- not most, many of your  
14 council documents then are over the page limits  
15 and we can't waive them.

16           So I think that we're going to have to  
17 look at that, and in those situations, we're  
18 going to have to be a lot clearer that the NEPA  
19 part of the document starts and stops here, which  
20 is more difficult.

21           It creates some degree of risk  
22 because, you know, we often look at the other

1 things the council does and it feeds into the  
2 NEPA process. It makes everything more robust.

3 And by artificially somewhat  
4 constraining the NEPA process to a part of that  
5 analysis, I think it does a disservice, but it is  
6 what it is. Right? We have to deal with it that  
7 way.

8 But there is a work around that, but  
9 it will require both you and us to sort of  
10 isolate where NEPA starts and stops in order to  
11 meet the page limits. And I regret that, but  
12 that is the case.

13 There are potentially some public  
14 engagement issues. Because as Katie indicated,  
15 for an EIS, there's always public engagement and  
16 we're going to have to work on that.

17 For an EA, there's not always public  
18 engagement, but there is this statement that  
19 says, if we put out a NEPA for -- if we release a  
20 draft EA for the public, we shall take public  
21 comment. We don't have to release a draft EA.

22 But in the council process, we almost



1 always release the draft EA. And so that  
2 triggers that public comment process.

3 And the council comment process is not  
4 necessarily the same as NEPA public comment. So  
5 we'll have to figure out how to work those two  
6 together.

7 I mean, that's always been the case,  
8 right? We've always known that EA -- I mean,  
9 NEPA public comment and council public comment  
10 can be supportive and can be happening at the  
11 same. But they are actually two different  
12 processes.

13 And then, the final thing which may or  
14 may not come to pass, Katie mentioned some  
15 changes to the substantive requirements. I don't  
16 think the changes to the range of alternatives  
17 will be that difficult for sort of what we're  
18 looking at it before.

19 But there are some new ways to phrase  
20 climate change, the way you look at that, the way  
21 you look equity, environmental justice.

22 I think the councils do most of this

1 to begin with, but maybe not using that exact  
2 terminology and those exact categories.

3 So there will be a need for either you  
4 or us to start thinking about it in those ways.  
5 But those are, right now, the proposed NEPA  
6 documents. So I don't know how this could end  
7 up.

8 So there are some challenges to how we  
9 do it. The simplest way to address those  
10 challenges, which is not my preferred way, is to  
11 say that the NEPA document is the Secretary's  
12 document. And it starts somewhere after the  
13 council process.

14 Because once the NEPA process starts,  
15 we have one year for an EA, two years. And I  
16 could make this work if I say that, you know, the  
17 council process is going to go on at some point  
18 in the council process, we start that and the  
19 clock is on the Secretary's time. That works.

20 But it undermines those principles of  
21 public engagement, informed decision making.

22 So I'd rather not have to do that.

1                   We may be forced to do that which, if  
2 we are, we would look to create some NEPA-like  
3 process in the council such that the council does  
4 some sort of proto- or pseudo-NEPA documents that  
5 can just become the NEPA document at the end of  
6 the day.

7                   Because I really don't want to lose  
8 the advantages of the sort of partnership we have  
9 and, you know, those things.

10                  But this -- we will be challenged and  
11 we're going to have to think about how to do  
12 that.

13                  So I don't know, if we do that, the  
14 NEPA process, in practice, can look similar to  
15 what it looks like now. But some of the  
16 documents may be titled differently. Some of the  
17 procedures may be thought about differently and  
18 we'll have to work through that.

19                  As I said, we currently have to comply  
20 with the statute, although there's, again, we  
21 practice a little bit of grace time as we figure  
22 that out.

1 MS. RENSHAW: I can speak to that.

2 MR. RAUCH: Yes.

3 MS. RENSHAW: Yes, and that's  
4 something we are working on in at least for  
5 internal guidance.

6 There is very limited guidance on  
7 CEQ's website to agencies about how do we apply  
8 the FRA to ongoing actions, you know, it doesn't  
9 logically make sense if you're in year three of  
10 an EIS that you need to apply a two year time  
11 line.

12 So there is a -- they've advised  
13 taking a fact based determination of why if there  
14 are any of the provisions of the FRA that are  
15 impractical to apply. And we're working on  
16 internal to NOAA some guidance on how to actually  
17 apply that.

18 Because you can't do it midstream for  
19 everything. So more to come on that.

20 MR. RAUCH: We have some EIS's that  
21 are over two years right now.

22 So, yes, so these things that we're

1 working through, and ideally, we would have soon  
2 a final CEQ reg that would fill in the gaps and  
3 we can work through that.

4 But we're going to need to work with  
5 councils on rethinking our NEPA processes. And  
6 we have started thinking about it on our end. We  
7 want to include the councils.

8 I would be really interested to see  
9 the path the councils has had a NEPA CCC subgroup  
10 that we've been able to work with like -- much  
11 like the ESA one to work through some of these  
12 issues.

13 But however the CCC or the councils  
14 want to do it, we do want to work through them  
15 because it does have the potential to restructure  
16 how we do decision making. And we want to do  
17 that.

18 The last thought I will just say,  
19 philosophically, a lot of these provisions are  
20 designed with the idea that you are applying NEPA  
21 to a project.

22 Somebody wants to build something on

1 the landscape and they need a federal permit to  
2 do that, and there is a perception that federal  
3 permits take too long to get.

4 And so almost all of these things that  
5 you're talking about here are -- really are  
6 addressing the length of time and the complexity  
7 of sort of infrastructure development, the permit  
8 for people who want to build and do things.

9 They don't really work for regulatory  
10 agencies. I'm not sure Congress wanted to speed  
11 regulations as long through as much as this would  
12 seem to speed the regulations through, to speed  
13 up the federal agency regulatory process, but  
14 yet, here we are. Right? There's no sort of  
15 distinction.

16 But that is -- I mean, when you ask  
17 why is that? It seems to be directed towards  
18 those kind of project situations and address that  
19 problem.

20 But it is -- it addresses it very  
21 broad-brushed so that it affects even the council  
22 NEPA process, which I think has been a huge

1 success given from where we were in the '90s to  
2 where we are today. I think it is one of the  
3 strengths of the council process.

4 But it is going to be difficult to  
5 maintain it as it's currently situated going  
6 forward.

7 So with that, any final thoughts  
8 before I open it up for questions? Because we're  
9 happy to take questions.

10 MR. ANSON: Great, I have a couple of  
11 questions first. Process questions, I guess,  
12 related to the time lines for the EA and the EIS.

13 That includes the comment period as  
14 well as the process? Okay.

15 And then, the other is, Sam, as you  
16 mentioned it, a lot of this is really designed or  
17 for those folks that want to do things, build  
18 things and such.

19 So when you look at the EIS and the  
20 opportunity for the lead agency to extend  
21 deadlines, who's the project sponsor, I guess?  
22 How would that work on the council process?

1 MS. RENSHAW: Yes, it's -- the  
2 interpretation of the federal agencies who've  
3 been looking at the FRA language that when there  
4 is no project sponsor, then the lead agency can  
5 just do so.

6 They need to be transparent in doing  
7 it, but that there is no kind of consultation.

8 I don't know if that's something that,  
9 potentially, if we were to develop revised  
10 procedures that talk about that council.

11 I imagine there would be a role for  
12 the councils to be part of that conversation, but  
13 not necessarily as the project sponsor.

14 MR. ANSON: Thank you. Any -- Bill?

15 MR. TWEIT: Good morning, Ms. Renshaw.

16 Thanks, Mr. Chair.

17 Following up on the time limits  
18 questions, we got -- the North Pacific Council,  
19 we've got a bit of a briefing at the council and  
20 also a little bit more in depth briefing at one  
21 of our committee meetings.

22 And at that committee meeting, one of



1 the committee members asked about the statutory  
2 language that says that the agency may extend the  
3 deadline in consultation with.

4 And said, well, isn't that just, you  
5 know, our ability? And the reason this person  
6 was asking that is, our recognition that, in our  
7 integrated process as Sam was describing it, as  
8 we work to incorporate in that process, Western  
9 Alaskan Native entities, tribal governments and  
10 others, we recognize that we're adding another  
11 stage of sort of iterative process.

12 Compressed time frames are not our  
13 friend in that, particularly at the beginning as  
14 we're experimenting with that.

15 So they were asking that, thinking  
16 about the complexities this added in terms of our  
17 ability to work in partnership with them.

18 So they weren't just looking for an  
19 out, they were really struggling with that.

20 And so they, as they asked about that,  
21 the answer I thought I heard was that, yes, the  
22 agency can do that, but there is a reporting

1 requirement to Congress.

2 MS. RENSHAW: That's correct.

3 MR. TWEIT: And the person who was  
4 answering it speculated that agencies may,  
5 particularly initially, initially, be reluctant  
6 to report much, if any, overages, initially, in  
7 terms of the time frame.

8 And so you've confirmed that there is,  
9 indeed, an annual reporting requirement.

10 I'm wondering if you can describe that  
11 and maybe describe how that might have some  
12 impact on the agency's abilities to use some of  
13 the flexibilities that appear to be built in to  
14 the statutory language?

15 MS. RENSHAW: Yes, in the statute  
16 itself, it does require that, on an annual basis,  
17 two agencies must report every determination to  
18 extend the time line to, I think, it's the House  
19 Natural Resources Committee.

20 That itself, though, doesn't -- I'd be  
21 hesitant to speculate that that means agencies or  
22 that NOAA wouldn't, as appropriate, extend time

1 lines when there are reasons to do so.

2 The report includes not just every  
3 time you'd extend it but why and the rationale  
4 for why.

5 So as Sam was saying, a lot of these  
6 kind of time lines are geared at problems that  
7 what your extensions are looking at are not the  
8 same kind of problem. Right?

9 It's not we had to extend it because  
10 the agency took too long processing this  
11 application or whatever the kind of fiction is as  
12 to why the time lines are necessary.

13 So I, although as person who probably  
14 has to write the report, I'm not really excited  
15 about it since I'll be doing it. I don't think  
16 that's a reason to not extend time lines when  
17 there is a rationale given.

18 MR. RAUCH: I will just say, we don't  
19 know yet how available that process is going to  
20 be, how we would do that, what guidance you might  
21 or might not give us on that.

22 This process is fairly unique in the

1 federal government. And so maybe that is an  
2 avenue and that's why we raise it, but maybe it  
3 won't be either, particularly in the early years  
4 and we need to think about how to do that and  
5 whether or not --

6 At the moment, it's unclear whether we  
7 would get, even it were available, whether we get  
8 some across the board exception or still have to  
9 make an onerous case by case determination.

10 So we don't know yet. Right? And --

11 MS. RENSHAW: Yes.

12 MR. RAUCH: -- so these are things  
13 we're working through and we do want to work that  
14 through with you all.

15 MS. RENSHAW: And it's a place that,  
16 yes, we expect that there may be some more  
17 guidance in the forthcoming CEQ regulations.

18 They are also looking to agencies to  
19 kind of create processes. And what's unclear  
20 what CEQ -- because every agency NEPA procedures  
21 needs to go through CEQ for approval, unclear  
22 what they will approve and what is going to meet

1 kind of the statutory requirements and what --  
2 agency to agency what kind of level of  
3 consistency there's going to need to be.

4 I think that's why there is some  
5 question mark around it.

6 MR. TWEIT: Still on the time lines,  
7 so the agency has a formal policy on tribal  
8 consultation.

9 And I'm still sort of a little  
10 uncertain as to how that fits into our current  
11 integrated approach or our pre-FRA integrated  
12 approach, I should say.

13 I'm even less certain, you know,  
14 again, given my comments about the amount of time  
15 to truly be able to integrate and partner with  
16 tribal entities.

17 I'm even less certain how that formal  
18 tribal consultation policy is going to fit in, if  
19 it's going to change the role of councils.

20 And so I'm just -- I'm sure that  
21 there's not a firm answer to that yet, but I'm  
22 wondering how that's going to be sort of worked

1 through?

2 I would assume there's going to have  
3 to be a lot of consultation with tribes about  
4 changing the agency's formal consultation policy.

5 MR. RAUCH: Yes, much like NEPA  
6 itself, the current obligation to engage in  
7 government to government consultations with the  
8 tribes rest with the Secretary of Commerce and  
9 the federal entity.

10 But much like NEPA, and you know, your  
11 region is one of the regions, we are trying to  
12 push those discussions, where appropriate, down  
13 into the council process, recognizing that we  
14 want to use -- I think we all want to use the  
15 council process as a way to vet decisions and to  
16 address issues of concern early in the process.

17 And so if you wait until the  
18 Secretary's review, quite a lot has happened by  
19 then. And it is not as efficient.

20 And so this is something that we are  
21 addressing in the North Pacific and elsewhere is  
22 to what does that mean in the context of the

1 actual treaty rights and the government to  
2 government consultation requirement.

3 And it's, much like NEPA, it's not as  
4 clear as it might be and we are working through  
5 those issues.

6 So, but I view that consultation  
7 requirement and the council's involvement to be  
8 the council in their Magnuson Act role and, you  
9 know, there is -- so theoretically that may mean  
10 that the Magnuson Act process takes more time  
11 because you've got to involve the tribes in that  
12 issue.

13 That creates a potential conflict with  
14 this NEPA issue as to whether we have more time.

15 But that complicates this with regards  
16 to whether you're doing tribal consultation or  
17 not.

18 I mean, unless we get an extension, we  
19 have a conflict between these accelerated NEPA  
20 time frames and the council process in most  
21 instances in general.

22 And so there are ways to -- so, I

1 mean, if we get an extension, that's not a big  
2 deal. If we don't get an extension, we're going  
3 to have to go to one of my less favorite  
4 alternatives and somehow shift the NEPA process  
5 to a more secretarial process.

6 And it's still that wouldn't  
7 necessarily shift the tribal consultation  
8 process. I still think there is a role for that  
9 and a role for the councils in that early in the  
10 process.

11 Because there is great value in moving  
12 a lot of the -- I mean, much like we talked about  
13 the ESA yesterday, there is a lot of value in  
14 having the discussions while the council  
15 deliberations are ongoing as opposed to after the  
16 fact when the Secretary's looking at it. So we  
17 would like to do that.

18 It is a related but somewhat different  
19 issue, but I think it -- if we -- if the time  
20 frames are going to be constrained, they're going  
21 to be constrained for a great many things and not  
22 just the tribal piece.



1 MR. ANSON: Chris?

2 MR. MOORE: Thank you, Mr. Chair,  
3 thanks Katie and Sam.

4 I was thinking about PEISs. So given  
5 the changes and the proposed changes, can either  
6 of you speak to the utility of PEISs as it  
7 relates to what we do?

8 MS. RENSHAW: So unfortunately the  
9 time lines do apply to PEISs but there is, you  
10 know, could be a rationale to extend.

11 You know, we have found, in practice,  
12 that, for certain programs, you know, a PEIS can  
13 actually create a lot of efficiencies. It's a  
14 lot -- can create a path to a one year EA or even  
15 shorter if it's done well.

16 So hopefully that is something. You  
17 know, there are new requirements on PEISs but  
18 they're really the best practices on using them.

19 That is frequently pointed to as a  
20 tool for efficiency to kind of find a way to get  
21 to yes faster on things that have been covered by  
22 that.

1           So I think that's a great observation  
2           and, although, yes, it can be difficult, it's  
3           hard to do a good PEIS in two years and there may  
4           be a need to find some way to do that, especially  
5           one that you can use for ongoing actions.

6           That is a tool we've used in other  
7           programs to kind of get to faster EAs.

8           MR. RAUCH: Let me just add that, in  
9           the council process, it -- councils approach this  
10          differently, so this might not apply to you.

11          But we often have large EISs on an FNP  
12          which you might think is programmatic, but it's  
13          on the framework.

14          And in the annual specifications, you  
15          get an accelerated NEPA review and EA or  
16          something as long as you stay within the  
17          parameters of the FNP.

18          That's not really a programmatic  
19          document because you were consulting on the FNP  
20          amendment and the framework, but it is very  
21          similar to a programmatic document, I mean, we  
22          get that.

1           And parameters apply but we still  
2 would look to -- we rely heavily on ways to do  
3 the annual specification processes in most  
4 councils is a way that efficient and can move  
5 through that process quickly.

6           So we would like to continue this  
7 process whether it's a programmatic or an FNP  
8 amendment with framework.

9           Figuring out a way to do that because  
10 we do not want to add more burden on an annual  
11 basis to do things that every council looks at  
12 annually or biannually or something like that.  
13 Right?

14           So that is an issue that we're  
15 concerned about, but it's not always a  
16 programmatic EA, but it looks a lot like it.

17           MR. MOORE: Thank you. Yes, Sam  
18 answered my follow up, thanks.

19           MR. ANSON: Dave?

20           MR. WITHERELL: Thanks. Sam, you  
21 mentioned the possibility of forming a CCC NEPA  
22 subgroup -- work group to assist the agency and

1 figure out the ways to adapt procedures to match  
2 the FRA and potentially the proposed regs.

3 From my stand point, I think that's  
4 essential. I think we better get going very  
5 quickly because the FRA requirements already  
6 apply.

7 And all the councils are going to be  
8 facing this challenge of time limits immediately.  
9 And we're already struggling with EISs that are  
10 underway under the time frame.

11 And so I'm all for that and I hope the  
12 other councils think about that very quickly and  
13 we agree to form that work group with council  
14 staff and working closely with the agency.

15 MR. ANSON: Chris?

16 MR. MOORE: Yes, thanks, Dave.

17 I think we do that. I thought we had  
18 one. Didn't we have one or that dissolve? We  
19 still have one or no?

20 MR. RAUCH: We did have one.

21 MR. MOORE: We did have one, right?

22 So I think it's an excellent idea.

1 Given the time frame, I think we should have that  
2 conversation today. I'm ready to say we should  
3 do it and certainly, I know who on my staff would  
4 participate in that particular work group.

5 So if we're ready to do it today, I  
6 think we should.

7 MR. ANSON: Dr. O'Keefe?

8 DR. O'KEEFE: Thank you. I agree, it  
9 sounds like a very useful idea.

10 I am wondering a little bit in terms  
11 of, you know, the way that we deal with NEPA is  
12 at the regional level with our regional partners.

13 And so just council staff doing this  
14 through the CCC with headquarters staff compared  
15 to involving our regional NOAA staff, I think  
16 they could be very helpful.

17 And I know that, you know, New England  
18 staff works very closely with our Greater  
19 Atlantic regional office on NEPA issues.

20 And so I just wouldn't want to get too  
21 far ahead of the GARFO staff. I would want their  
22 input very much to try to organize on a national

1 level where we're going.

2 So I'm not exactly sure how to do that  
3 through the CCC process. Obviously, our regional  
4 partners couldn't be here because of the travel  
5 restriction for this meeting.

6 But if there's a way to organize this  
7 through CCC but ensure that our regional NOAA  
8 partners can be involved and not just council  
9 staff, that would be really useful.

10 MR. ANSON: Sam?

11 MR. RAUCH: Yes, I'd like to address  
12 that, Mr. Chairman, thank you.

13 So, you know, my vision is the CCC  
14 does a work group as they in the past. It is  
15 made up of CCC members.

16 And then, you engage with us and,  
17 although you only have the two headquarters  
18 people here today, we would include our regional  
19 people in the federal side of that. So that's  
20 who you would be talking with.

21 So, you know, the concerns you  
22 expressed are the same concerns that we have.

1 Right?

2 While we can think about this at the  
3 national level, the councils do things slightly  
4 differently or significantly differently across  
5 the board.

6 And we do need to make sure that we  
7 take that into account as we're thinking about  
8 that.

9 So we were going, you know, that is  
10 our counterpart to your group. Whatever you  
11 decide to form will be both our headquarters and  
12 our regional people working together on these  
13 issues.

14 MR. ANSON: So there was some  
15 discussion about reconstituting or developing a  
16 new group here at the meeting.

17 It sounds like there might be a need  
18 to try to circle the wagons and figure out a  
19 greater audience potentially.

20 But is there any further desire to do  
21 that? Is there a motion that's needed to  
22 reconstitute it?

1 MR. LUISA: So we haven't heard from  
2 the other councils and I don't know where they're  
3 at.

4 If we need a motion, certainly we  
5 could make one. But again, I'd like to hear from  
6 the other councils.

7 MR. ANSON: Merrick?

8 MR. BURDEN: I'll rise to the  
9 occasion.

10 I don't have much to add, I'm  
11 supportive of the work group, I'm just struggling  
12 in the back of my head with who to put on that.  
13 But that's my problem.

14 So I do -- maybe I'll channel some of  
15 our retired colleagues and just say, I am  
16 cognizant of the expanding number of work groups  
17 we have and I'm hoping that we can let some go as  
18 we add some more. So let's just keep that in  
19 mind, please.

20 MR. ANSON: Okay. Bill?

21 MR. TWEIT: Thanks. Yes, we've  
22 already stated we were very interested in it.



1 I think Sam will be interested to know  
2 that the member that we're thinking of appointing  
3 to it is Mr. Chris Oliver, our newest council  
4 member.

5 (Laughter.)

6 MR. ANSON: All right, Carrie?

7 DR. SIMMONS: Yes, thank you, Mr.  
8 Chair.

9 So I don't think we have a NEPA  
10 working group anymore, so we probably should have  
11 a motion if that's the direction we want to take  
12 for the CCC to work on this effort.

13 MR. ANSON: Chris?

14 MR. MOORE: Although folks get nervous  
15 when I make motions, Mr. Chair, I'd like to make  
16 a motion that we form a NEPA working group for  
17 the CCC or a CCC NEPA working group.

18 MR. ANSON: All right, well, the good  
19 thing about Robert's Rules is you need a second  
20 at least.

21 MR. TWEIT: Second.

22 MR. ANSON: So there you go, so you

1 have your second on your motion.

2 Morgan, if we could just -- there we  
3 go, thank you.

4 Cate?

5 DR. O'KEEFE: Thanks. I'm not going  
6 to oppose this by any means, it would help me to  
7 have a little bit more meat around this.

8 What is the goal? What's the  
9 objective? What are our time lines? What are we  
10 doing? What is the type of staff that's going to  
11 populate this?

12 That would just help me understand to  
13 bring home and, you know, if this rolling out  
14 soon, we don't meet again until May, what are we  
15 bringing back to the CCC in May?

16 What are we doing with the work group  
17 between now and then? That's some questions I  
18 just have before moving this forward.

19 MR. ANSON: Bill?

20 MR. TWEIT: Well, I'm very interested  
21 in hearing the agency's thoughts on this.

22 But from our perspective, we've got

1 one pretty complex EIS that's already in process.  
2 So the rules are -- we're having to apply the  
3 rules retroactively.

4 We've got another one, a programmatic,  
5 that's equally complex. Both involve a lot of  
6 interaction with the tribal entities.

7 So we need this to get started soon.  
8 We need clarity. Today's presentation helped a  
9 lot, but I think that --

10 And so I think it needs to be -- get  
11 a lot of work done before our next CCC meeting,  
12 really, and be functioning as well as a body to  
13 help the agency think through the amount of  
14 necessary modifications to our current sort of  
15 integrated approach.

16 It equally needs to be a body where we  
17 can come sort of with questions and everybody can  
18 hear the same answer.

19 That's what can come back to the  
20 individual councils to apply.

21 It can also be a place where, you  
22 know, we're thinking about, in order to maintain

1 the integrity of the integrated approach, trying  
2 to do some more of the work before the formal  
3 NEPA clock gets punched, we need to know fairly  
4 soon what parts of that may work, what parts may  
5 not from the agency's perspective.

6 So we really need this to get started  
7 soon. And I think initially it would be both to  
8 help to work with the agency to develop the  
9 necessary modifications to our current integrated  
10 approach to MSA and NEPA to comply with the new  
11 statutory requirements and anticipate the  
12 additional requirements that are being considered  
13 right now by CEQ.

14 Equally, it needs to be a  
15 communication and a problem solving group, I  
16 think, as each council wrestles with some of the  
17 individual challenges.

18 So I would assume it's going to be  
19 comprised of probably senior EED level or one  
20 level down, the folks who are sort of most  
21 knowledgeable and proficient in the NEPA world  
22 and have the clearest overall view at each

1 council of how the integrated approach is  
2 working.

3 I would equally assume it's going to  
4 be comprised of NMFS leadership that's actually  
5 involved in the -- in working with NOAA to  
6 implement procedures of the agency and rules at  
7 the agency level.

8 And I would hope that it could even,  
9 finally, sorry, this stream of consciousness  
10 spiel is about to come to an end.

11 But I would hope, as well, it could  
12 even, to some extent, inform the agency's  
13 feedback to CEQ about some of the proposed rules.

14 DR. O'KEEFE: Thanks. Just a follow  
15 up. So that all sounds really useful and I, you  
16 know, the idea of a work group.

17 I do think a lot of what's been  
18 identified is specific to the regions and that's  
19 my only concern with, I think, you know, echoing  
20 Merrick's comment that there are a lot of  
21 subcommittees and work groups and I just want to  
22 ensure that, if we're forming another one, that

1 there's a real role for it.

2 And if it's just to say that we have  
3 a subgroup around NEPA, but why?

4 Because I know a lot of the questions  
5 that are associated with the presentation we got  
6 today, I'm going to be dealing with in my region  
7 and not going to be calling Sam and Katie, I'm  
8 going to be calling Mike Pentony and dealing with  
9 it at that level.

10 And it sounds like some of the  
11 complicated EIS issues that you have going on in  
12 the North Pacific, you're going to be dealing  
13 with it in the region.

14 So I just want to be sure that we have  
15 a clear objective for what this work group does.

16 And if it's formulating questions and  
17 if there's a commitment from our federal partners  
18 that they would join this work group and help  
19 identify questions and help identify pathways  
20 that all of us at a national level can work on,  
21 then great.

22 But if this is more, you know, these

1 are the new NEPA regulations. They're rolling  
2 out. We don't really have a say in changing  
3 them, it's how we are now adapting to them.

4 If that's more of a regional thing,  
5 then we -- I think we just need to be clear about  
6 that.

7 And it's not to say that a working  
8 group isn't useful, it could be, but where is the  
9 work happening?

10 I think a lot of the work is going to  
11 happen in our own backyards. And if we come  
12 together as a group, that's fine. But I don't  
13 think we're going to be solving a lot of issues  
14 at the national level.

15 That's just my perspective on it.

16 MR. ANSON: Sam and then, Bill?

17 MR. RAUCH: I hesitate to weigh in to  
18 what I think is a vibrant council discussion and  
19 you will choose what you want to choose.

20 I will say that, at the national  
21 level, currently, the integrated process that  
22 Bill referenced is encompassed in an appendix to

1 the NOAA NEPA procedures.

2 That is a national document which does  
3 not have regional variations. And so to the  
4 extent that there are -- that there's a national  
5 vision for how this happens, there isn't -- there  
6 will be a requirement to revise that document.

7 As Katie indicated, the current --  
8 under the current proposed NEPA regs, we will  
9 have one year from when they finalize it to  
10 revise the NOAA level NEPA procedures which will  
11 have an appendix that will include this sort of  
12 council integrated process.

13 And we're going to have to go to CEQ  
14 and do that.

15 Now, you may be right that there will  
16 be regional variations, but that document is a  
17 national level document that we will have to do.

18 And beyond that, I don't want to --  
19 I'll let the councils debate.

20 MR. ANSON: I don't know, maybe we'll  
21 talk about it.

22 Bill? Dave?



1 MR. WITHERELL: Thank you, Mr.  
2 Chairman.

3 I have just an observation.

4 Previously, when we assisted with the  
5 operational guidelines, there wasn't a work group  
6 with a member from every council.

7 It was a few -- a handful of people  
8 from councils that wanted -- that had knowledge  
9 and could assist with the agency with developing  
10 those guidelines.

11 And I think, in this case, it's the  
12 same thing. It might be, you might have two NEPA  
13 experts on one council and none on another that  
14 have the ability and knowledge and interest to  
15 contribute.

16 So I don't think this necessarily has  
17 to be like we've set up some of the other work  
18 groups where there's a member from every staff.

19 Because some councils may not -- staff  
20 may not have that capacity at this point.

21 So just something else to think about.

22 MR. ANSON: And I guess to carry on

1 the comments that Cate had mentioned regarding  
2 the national flavor versus the local flavor, and  
3 Sam, you also commented that there is some  
4 variation amongst the regions.

5 I mean, how much difference, I mean,  
6 just generally, is it -- you may not know  
7 exactly, but I mean, it probably follows fairly  
8 closely, does it not, amongst all the regions to  
9 the national document or appendix?

10 MR. RAUCH: Every region follows NEPA  
11 in compliance with both the statute, the  
12 regulations, and our guidance document.

13 Within that, though, there are some  
14 variations on how people do things. They are  
15 within the discretionary bounds of those broad  
16 documents.

17 But when we talk about, is there a  
18 role for the councils to be participating in NEPA  
19 at all? That's in that document. Right? It's  
20 sort of -- it builds on -- there's a Magnuson Act  
21 provision that says we're supposed to integrate  
22 NEPA in the Magnuson Act process.

1           But that document represents our  
2 interpretation that there is a role for the  
3 councils in the NEPA process, that they can have  
4 integrated FNPs and NEPA documents and those  
5 kinds of things.

6           How you actually do that, every  
7 council is a little bit different, but they all  
8 comply within that overall sort of structure and  
9 the blessing that document provides that, yes,  
10 the councils can carry out certain NEPA  
11 functions.

12           MR. ANSON: Miguel?

13           MR. ROLON: So I still have this  
14 question, if we want to have this working group,  
15 and we follow what Dave was saying, the working  
16 group will be composed of expert members of all  
17 the councils but the people that we identify can  
18 come to you?

19           And then, we need to tell this group  
20 what exactly we want from them. I believe that  
21 we need what Sam just said, you know, the  
22 national document maybe have to be revised.

1                   And we talked a little bit about these  
2 questions that the regional offices have.

3                   That's about it and then, we can  
4 report back to the council.

5                   I remember, this is a story that I  
6 remember Chris Oliver look at this from council  
7 point of view, from the NMFS point of view, and  
8 he was frustrated all the time.

9                   But it seems that what, you know, we  
10 -- anyway.

11                   I used to be the one to prepare the  
12 EIS for the council and I remember it was two  
13 pages, one agenda for the plan and another agenda  
14 for the EIS and everybody was happy. But that's  
15 not the case anymore.

16                   So I just want to make that clear  
17 because between Kelly and I, we have a transition  
18 and we want to make sure that we have our orders  
19 clear for May.

20                   MR. ANSON: So I guess that's --  
21 there's a couple of comments related to clarity  
22 and the motion.

1 Chris, do you want to -- it's your  
2 motion, do you want to address those comments in  
3 the motion and revise that -- revise the motion?

4 MR. MOORE: Thank you, Mr. Chair.

5 I think, you know, the motion,  
6 obviously, is very direct. We've had a good  
7 conversation around the table as to how things  
8 might work with this working group.

9 I don't think I need to add anything  
10 to the motion. I think we have to have an  
11 understanding that we need, as we all said,  
12 basically, identify who's going to be on the  
13 working group.

14 So typically after this was approved,  
15 we go out to the councils and say, who do you  
16 want to have on this working group? Right? So  
17 then, we have a list of folks.

18 We collectively would have to develop  
19 a charge for the working group and basically,  
20 bring out exactly what we wanted from them over  
21 the next six months.

22 I think we've all identified that we'd

1 like a report out from the working group in May.

2 We've had a commitment from the  
3 service that, in fact, they're going to be  
4 involved with the working group and supportive of  
5 the working group.

6 So I think absent -- well, let me say  
7 this, I don't think there's anything else at this  
8 point that we need to do from my perspective.

9 Thank you.

10 MR. ANSON: Thank you. So, Morgan,  
11 here we go, it was a simple motion, but just to  
12 have it up on the board for everyone. Is there  
13 any other discussion on this motion?

14 All right, is there any opposition to  
15 the motion?

16 Seeing none, the motion carries.

17 Is there any other questions or  
18 comments related to this topic?

19 All right, seeing none, we are  
20 scheduled for a break. And so we'll go ahead and  
21 do that.

22 For folks that haven't checked out of

1 their room, go ahead and do that. And we'll come  
2 back in, let's say, what, 10:20.

3 (Whereupon, the above-entitled matter  
4 went off the record at 10:03 a.m. and resumed at  
5 10:26 a.m.)

6 MR. ANSON: All right, folks, let's go  
7 ahead and reconvene or get back to the table.  
8 We've got just a couple of more items before we  
9 conclude today's business.

10 Okay, so moving on in the agenda, we  
11 have a public comment period set up. And,  
12 Morgan, there is no one in person nor anyone  
13 online that has requested to speak, correct?

14 MS. COREY: We'll give folks a minute  
15 to raise their hand and comment.

16 (Pause.)

17 MR. ANSON: So, no one? Okay.

18 All right, well, then, we'll go to our  
19 next item, and that's the wrap up and other  
20 business.

21 So we'll do the wrap up. You can go  
22 to the next slide, please.

1           So we began the meeting on day one and  
2 the major topics were NOAA Fisheries Updates and  
3 Priorities. There were no actions or outcomes  
4 that came of that session.

5           The budget and 2024 outlook, again, no  
6 action items or outcomes were -- that came of  
7 that. The NOAA Fisheries Science Update, no  
8 actions or outcomes. And the legislative  
9 outlook, no actions or outcomes from those  
10 topics.

11           Next slide, please?

12           Day two topic, NOAA Fisheries Policy  
13 Regarding Governance. There was a motion to  
14 recommend that NOAA fisheries engage the councils  
15 and CCC to develop a revised version of the  
16 policy directive to effectively address cross  
17 jurisdictional fisheries governance issues. And  
18 that passed.

19           And the IRA Climate Ready Fisheries  
20 Council Funding Priorities and Process, some of  
21 the outcomes or actions were requested  
22 modifications to the template for council RFA



1 proposals in FY 2024, track changes were provided  
2 to Ms. Bennet from the regional management  
3 council directors and she will aim to incorporate  
4 those within the requested two week time frame.

5 And then, moving into the subcommittee  
6 updates on day two, the climate subcommittee  
7 postponed timing of current working group  
8 objectives and exploring the possibility of  
9 pulling some of the survey questions out for  
10 assessing climate ready data needs of regional  
11 councils was the outcome.

12 Next slide, please?

13 Continuing on for day two topics, the  
14 habitat subcommittee, move forward with proposed  
15 meeting and objectives that were outlined during  
16 the presentation.

17 Communications, move forward with  
18 proposed in person meeting in 2024 and planning  
19 for Magnuson-Stevens Act 50th anniversary  
20 celebration.

21 CMOD, move forward with proposed 2025  
22 in person meeting in Vancouver, Washington.

1 EEJ suggested to push proposed  
2 national EEJ workshop to 2025.

3 Area based management supported final  
4 products and efforts from the work group.

5 The SCS meeting, supported moving  
6 forward with proposed meeting and themes that  
7 were presented.

8 The Process for Establishing Fishing  
9 Regulations in Sanctuaries, during that agenda  
10 item, there was a motion that passed that the CCC  
11 requests that NMFS meet with the working group as  
12 soon as possible to discuss the current draft  
13 change to the policy director prior to NMFS  
14 completing the revisions with regions and general  
15 counsel.

16 The CCC further requests that NMFS  
17 work with the working group to develop a draft  
18 revised policy directive for CCC's endorsement at  
19 the May 2024 meeting.

20 Next slide?

21 And then, today, during the Overview  
22 of Fiscal Responsibility Act and CEQ's Proposed

1 NEPA Regulations, there was a motion that also  
2 passed to form a CCC NEPA working group.

3 And other business, we are currently  
4 -- at the time I sent this in, there was no other  
5 business.

6 Are there any problems with what's  
7 been provided as the wrap up?

8 All right, seeing none, we'll move  
9 into then the 2024 CCC meeting.

10 MR. ROLON: Thank you, Mr. Chairman.

11 The meeting will be held in San Juan,  
12 Puerto Rico the week of the -- well, it will be  
13 21st, 22nd, or 24th May.

14 Then, the second meeting will be 16  
15 and 17. This is the two days that we consulted  
16 with the ED, Mr. Morgan, you selected those days  
17 to accommodate the traveling needs, especially of  
18 the North Pacific.

19 And that May 18 venue will be selected  
20 as this one by National Marine Fishery Service.

21 MR. ANSON: All right, thank you.

22 All right, so we'll -- Sam had asked

1 for a few moments. So, Sam?

2 MR. RAUCH: Yes, so as we are wrapping  
3 down, thank you, Mr. Chairman, for recognizing  
4 me.

5 Janet could not be here this morning  
6 because, late yesterday, we've got notice that  
7 the House has asked for the third -- second  
8 congressional hearing in two weeks in which she  
9 may have to testify. So she had to rearrange and  
10 get ready for that.

11 She wanted to be here but she asked me  
12 to make sure that, on her behalf, I thank  
13 everyone for the attendance and for the valuable  
14 dialogue, and particularly the Gulf council and  
15 Kevin for chairing the meeting.

16 We realize that this was a difficult  
17 meeting given the uncertainty of the government  
18 funding situation at the last minute.

19 And the, at least for the federal  
20 perspectives, the travel restrictions that have  
21 limited our participation here.

22 So we really appreciate the patience,

1 but the dialogue has been very good. I  
2 appreciate all the constructive engagement.

3 We found this very valuable. This is  
4 one of the most important meetings we have all  
5 year. And so I do appreciate that on behalf of  
6 Janet and myself, thank you all for attending.  
7 And we look forward to continuing to have good  
8 meetings in Puerto Rico next year.

9 MR. ANSON: Thank you, Sam.

10 Don't have anything on other business,  
11 but giving the opportunity for anyone to add or  
12 want to discuss any items.

13 Seeing no hands, I'll go ahead then  
14 and adjourn. Thank you, everyone.

15 (Whereupon, the above-entitled matter  
16 went off the record at 10:33 a.m.)

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This is to certify that the foregoing transcript

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Before: NOAA

Date: 10-13-23

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