



New England Fishery Management Council

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John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

DATE: June 12, 2020
TO: Council
FROM: Thomas A. Nies, Executive Director
SUBJECT: Summary of June 3, 2020 Executive Committee Meeting

Attendance: The Executive Committee met via webinar. Executive Committee members attending were Dr. Quinn, Mr. Reid, Ms. Etrie, Mr. McKenzie, and Mr. Alexander. Also attending were Mr. Nies and Mr. Kellogg from the Council staff, Dr. Hare from the NEFSC and Mr. Pentony and Ms. Heil from GARFO. Also, other Council members and others attended via the webinar.

The Executive Committee considered the following items in the order reported below due to adjustments to the planned agenda.

Executive Director's Report

Mr. Nies provided the committee the following updates:

Budget Overview

Council spending year to date has been about \$100,000 lower than normal because of the reduction in in-person meetings due to the COVID-19 virus.

Program Review Update

Mr. Nies reported that little progress was made on the Program Review follow-up. An SSC review of the economic analyses of a recent management action is planned for the summer. The Chair agreed to consider assigning Ex Comm members to provide advice on recommendations that should be pursued.

Management Action Timelines

Mr. Kellogg reviewed timelines for management actions including those for setting specifications with final Council action in December for Herring (2001-2022) and Groundfish (2021-2022), and final action in January 2021 for Small Mesh Multispecies (2021-2023). He noted that final action for Scallops (2021-2022 default) may be delayed until January 2021 because of delays in the completion of scallop surveys this summer. There were no changes anticipated in the timelines for other Council actions except for Amendment 23 which the committee discussed under a later agenda item.

Skates – The Committee discussed a PDT memo about the goals and objectives for Skate Amendment 5 that would implement limited access. Some committee members were concerned that there is not enough need or industry support for the action. The Committee thought the memo clarified issues surrounding the amendment and would help the Council discussion on whether to proceed with the further development of the amendment.

Executive Order on Promoting American Seafood Competitiveness and Economic Growth

Mr. Nies reviewed correspondence about EO 13291. Mr. Nies noted the deadline for the Council to develop a list of recommendations under the order is Nov. 2. The deadline for initiating actions that the Council identifies under the order is May 7, 2021. Mr. Nies also explained that he already directed staff to brief Council committees and advisory.

There aren't any additional resources provided by this EO, so recommendations must take into account other Council tasks. The deadline for submitting Council recommendations is earlier than the Council's typical decision on priorities in December.

Mr. Pentony explained that all Council regulatory actions taken in response to the order would have to be developed under the MSA processes for regulatory actions. Chairman Quinn concluded the discussion with the suggestion that there could be a one-day October Council meeting to deal with both the executive initiatives and recommendations and other Council priorities.

NEFMC/ASMFC Atlantic Herring Discussion Report

Dr. Quinn explained that the Council had strong legal advice it had the lead for Atlantic herring management in the EEZ. ASMFC and Council leadership agreed to form a small subcommittee to work on how both organizations should interact in terms of regulating herring fishing in the EEZ. The goal is to develop a proposal by late July.

CCC Update

The Chair and Mr. Nies gave a short report on the recent CCC webinar:

- NMFS reported that many NOAA\NMFS employees will continue to telework and telemeet into the fall.
- The CCC agreed to recommend to the agency that if there are future fisheries disaster relief funds, fisheries related entities that receive support from other programs should receive a lower priority than those who could not. The intent was to protect the small operations.
- Executive Order 13291 promoting competitiveness in seafood production
- The Councils discussed the proposal of the Council on Environmental Quality (CEQ) that there may be statutory requirements that are the functional equivalent of NEPA. CEQ has not published its final rule. If this concept is included in the final rule, the Councils are interested in pursuing its use for fishery management actions.
- NMFS technical working groups will produce three draft National Standard 1 guidance documents soon. The CCC was given two days to comment on a policy directive on changing a stock status determination from "known" to "unknown" status, but successfully requested that the deadline be extended to July 1.
- The President has proposed an increase to the Councils' 2021 budget but it is too early to tell what Congress might decide.
- Survey delays are a problem in many regions as in Northeast.
- MSA reauthorization was started but is unlikely to be completed this year.
- Conflict of interest rules might be made final this summer or later this fall.
- Council member ongoing development (CMOD) – The CCC agreed to hold the first session in 2021. The NEFMC is taking the lead on contracting the event.
- The next CCC meeting is likely to be another webinar.

PDT Communications

The Committee discussed including the Vice-Chair on communications between the PDT and the Committee Chair. This will keep the Vice-Chair informed in case they need to run a meeting.

Mr. Nies noted the following concerns:

- All PDT tasking should go through the Chair.
- Often preliminary documents circulated among PDT members are not ready for wider distribution.
- Council member emails with the PDTs may be included in the administrative record and subject to FOIA requests.

After further discussion, the Executive Committee agreed that formal PDT communications and documents sent to the committee chair also should be sent to the vice chair, but that any information should not be shared with others until the PDT indicated the information had received adequate PDT review.

RSA Program Review – Scallop Survey Panel Update

Dr. Hare reported that GARFO staff have been communicating with NOAA General Counsel about who can participate on the survey panel. In response to a question from Dr. Quinn, Dr. Hare indicated there would be broad terms of reference for the panel. Dr. Hare expects to provide the Council more details in the near future.

Medium-Term (3-6 months) COVID -19 Response Planning

GARFO/NEFSC Operations Update

Mr. Pentony reported that GARFO is teleworking with a small staff handling permits and data in the office for paper transactions. There have been some delays in the workflow, but by-and-large the office is handling all the normal responsibilities. There was a spike in the number of dealer applications from vessel owners and two emergency action requests, one for scallops and the other tilefish. GARFO has started planning for how to bring staff back into the office, but still is waiting for NOAA guidance. Chairman Quinn noted things have gone well in the northeast and thanked the GARFO staff.

Dr. Hare reported that the Science Center would not extend the exemption from NEFOP observer coverage beyond July 1. Committee members had questions and concerns about the equitability of observer deployment under reduced coverage levels, logistical concerns about how state quarantine restrictions affect redeploying observers on new boats, and other issues. Chairman Quinn decided that further discussion of these issues should take place at the Council meeting.

Mr. Nies reported that Council office operations are generally following Massachusetts guidelines. He expected many staff will work from home much of the summer. Because of the differing guidelines across states, it is not clear when the Council would be allowed to have in-person meetings. State employees are currently prohibited from out-of-state travel. Some Councils are considering innovative approaches. These include hybrid meetings, with Council members present but the public participating by webinar.

NE Multispecies Amendment 23

The Committee discussed future plans for approval of Amendment 23. It's possible that there may be an extended period when in-person meetings cannot be held – at least in some states. Mr. Nies noted that an extended delay on final action would affect not only the implementation date, but the ability of the Council to address other issues. It may also affect the ability of NMFS to use ASM funds to help mitigate costs if monitoring levels are increased.

Mr. Pentony responded that the sooner the Council takes final action, the sooner NMFS can get working on implementation. Missing a May 2021 implementation means implementation is delayed until FY 2022. NMFS prefers to have more than a year to work on implementation. Because much of the funding for the monitoring is on a five-year grant, those funds will go back to the US Treasury when the grant and any extensions expires. Committee members expressed concern that whatever the funding level, it is important to have a financially feasible monitoring program, because when the funding runs out, the industry will have to pay for it.

Mr. Nies outlined the following as a tentative plan, which the committee agreed that the Council should consider.

- Extend public comment period by 45-60 days.
- Start planning some additional public hearings in July-August as in-person hearings if allowed by state restrictions.
- Brief the Council in June during the groundfish discussion and see what the full Council says about when to plan for a final vote.
- The staff will explore additional ideas for outreach.
- The Advisory Panel and Committee to be asked about timing at their meeting on June 9 and 10.

Sea Scallop Amendment 21

Mr. Nies reported that there may be interest in making final decisions on Amendment 21 in September. Because of probable survey delays, so there is a narrow window to vote on the amendment. If the Council doesn't vote on it in September, it probably won't be done until April and would delay staff working on other issues such as leasing or access to the Northern Edge. The Scallop AP will be asked its opinion of webinar public hearings at its next meeting.

Council Meeting Preparations

Cod Stock Structure Report

Mr. Nies explained that the Council would get a report on the Atlantic Cod Stock Structure Working Group and Peer Review concluding that there are more than two cod stocks. There will be questions at the Council meeting about what will be addressed next. This working group was phase 1 of a 3-phase process. Phase 2 will examine the management and science implications of the revised stock structure. Some of the questions explored will be whether data are sufficient to assess the revised stocks and are changes in management needed. These questions need to be addressed in a timely fashion so that planning can get underway for the research track assessment scheduled for 2023. Ideally, work will begin on necessary management changes as well so that the assessment results can be used in a new framework in 2024. Mr. Nies suggested that two separate groups, a science and management group, should be established by the Chair and the NEFSC. This will be discussed at the Council meeting.

Dr. Hare agreed there was no presumption that management units would change. Atlantic herring is an example of a single resource with a stock complex and what is practical must be considered from both a stock assessment, with the science that can be supported, and management perspective.

The meeting adjourned at 3:00 p.m.