



New England Fishery Management Council

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

DATE: April, 2020
TO: Council
FROM: Thomas A. Nies, Executive Director
SUBJECT: Summary of April 1, 2020 Executive Committee Meeting

Attendance: The Executive Committee met by webinar. Executive Committee members attending were Mr. Quin, Mr. Reid, Ms. Etrie, Mr. McKenzie, and Mr. Alexander. Also attending were Mr. Nies and Mr. Kellogg from the Council staff, and Ms. Heil from GARFO. Members of the public, other Council members and NMFS and Council staff also attended via webinar. The committee discussed the agenda items below.

1. Executive Director's Report

Mr. Nies provided the committee the following updates -

- a. *Budget* – Mr. Nies reviewed the updated financial statement for this calendar year, noting that the Council had received all its funding for that period under both the 2019 grant among and the no-cost extension, which was approved. The no-cost extensions were extended to the end of the 2020 calendar year. The budget impacts of not holding meetings have not yet been estimated but there will be some reduced expenses from not paying travel or meeting room costs. Some estimate of these should be available by June but because next year's budget still isn't known, these might not have a significant impact.
- b. *Council Program review update* – Mr. Nies reported that no progress on Council Program Review recommendations had been made since the previous Executive Committee meeting. Staff had been busy preparing for the January Council meeting and working on the submissions of specifications for several FMPs until the COVID virus became an issue that for the staff in early March.

2. Management Action Timelines

Mr. Kellogg summarized changes to the timelines. He noted the following: a delay in the preliminary submission of Multispecies Framework 59 due to the Council's remand of the ABC recommendations of four groundfish stocks to the SSC; uncertainty about the implementation dates for Herring Amendment 8 and Framework 6; a delay in the submission date of Monkfish Framework 12; and publication of the final rule for the Surf Clam Exemption Framework were still to be determined; and the final submission of Skate Framework 8. Committee member concerns included Groundfish Amendment 23 implementation issues, the status of the EM pilot program for herring purse seine vessels and the lack progress, on skate limited access amendment including on goals and objectives and adequate data analysis of limited access issues.

3. Medium-term (3-6 months) COVID-19 Response Planning

NE Multispecies Amendment 23 and Scallop Amendment 21

Mr. Nies reviewed a memo prepared for the committee on this subject that summarized the main discretionary and legally required FMP actions and discretionary projects that are underway, such as the development of groundfish ABC control rules, herring spawning closures on GB, the Atlantic Cod Stock Structure Working Group, example FEP, party/charter limited entry example, and the fishery dependent data initiative. He explained that because of the specification cycle, if work on Multispecies Amendment 23 and Atlantic Sea Scallop Amendment 21 multi-year projects are delayed into August, additional substantive work on these projects would be difficult to complete before spring 2021, because of the need to update specifications, and this would delay the implementation of these amendments past the beginning of FY 2021.

He explained that most staff can work from home, but not as efficiently as in office. Council and agency staff are familiar with web-based conferencing, but the Council has rarely held Committee or Council meetings as webinars. Once webinar meeting procedures are refined, much of the Council's work could probably be done remotely. The difficult issue could be public participation. While there are some Councils that routinely hold public hearings and meetings via webinar, the NEFMC has been reluctant to do so except in unusual circumstances. He suggested that the Council might want to criteria or principles to determine which actions to pursue to possibly help triage medium-range activities. And that agreed-upon principles would help answer the following questions:

- What planned activities must occur or be completed?
- Are there additional activities that should be considered to address the health emergency?
- Are there planned activities that should be deferred?

The Executive Committee discussed these issues, particularly in terms of how to proceed with Multispecies Amendment 23. Most of the discussion focused on the question of whether there would be sufficient participation from the public, especially from this fishing industry, if the Council could not hold in-person public meetings. As a result, the committee agreed to the following recommendations for the Council to consider at its April meeting:

- 1) Mandatory actions should be completed as necessary even if final decisions must be made via webinar.
- 2) Final action on discretionary amendments should be postponed until the situation improves.
- 3) It is inappropriate to hold all public hearings for a discretionary amendment as webinars.
- 4) The Council will not take final action on a discretionary amendment via a webinar.
- 5) To the extent possible, work should continue on discretionary actions even if the advisory panel, committee and Council meetings are held as webinars. This includes such steps as developing alternatives, approving draft documents for public hearings, etc.

GARFO/NEFSC Operations

Mr. Pentony reported that in response to NOAA directives, most staff, except those required to be in the office for physical operations, are working from home. Despite the situation, the GARFO office so far has remained fully functional.

Dr. Hare also reported that most Science Center staff, except those required to take care of physical operations and facilities are working from home. In terms of delays in resource survey schedules, he provided the following information. The bottom trawl survey had completed the first leg but that all other segments were put on hold. The Science Center was actively

discussing a delayed July start date for the scallop survey using the RV Sharpe with the University of Delaware, which will be continued to be prioritized over the shrimp and the surf clam surveys. The ecosystem survey scheduled for June has been put on hold while the risk-based plan is being developed. The cooperative bottom long-line survey in the Gulf of Maine has been cancelled. Protected resource surveys have been put on hold. The coastal shark longline survey also has been cancelled.

4. RSA Program Review

The committee discussed the need to determine the membership, terms of reference and the timeline, for the working group on regional strategic scallop survey issues. The Science Center agreed to lead the panel, but the committee agreed that the timeline for the working group was uncertain and would be difficult to determine due to the pandemic. Dr. Hare also suggested, and the committee agreed that the scallop survey strategy would need to take into account the impacts of wind energy development which would change some of the survey methods. Also, he reported that he had asked for legal advice about whether the group could be a Science Center working group or some type of hybrid a Council advisory panel. The committee did not make any specific decisions about the scallop survey working group at this time and also did not discuss the other RSA Working Group to deal with more general RSA issues at this meeting.

5. Empirical Assessment Status Determination Criteria

Mr. Pentony reviewed information on stock status updates in his letter sent to the Council on March 5, 2020. He explained that under the national NMFS status determination approach, where a known determination had previously been provided and a new assessment is rejected or the results are inconclusive, the existing stock status will not change. The status determination will remain until an assessment can provide new reference points and/or numerical estimates of existing status determination criteria or the Council implements alternative status determination criteria. As a result, many stocks with empirical assessments that provide catch advice and do not determine stock status with respect to previous assessments, cannot be used to change status determinations and resulting rebuilding requirements. Mr. Nies noted that this policy was very problematic in terms of having to use status determinations made in the past with assessment models that no are longer considered acceptable by assessment review panels for many reasons including that they are far out of date.

6. Advisory Panel Stipends

Mr. Nies reviewed a brief memo prepared in response to a Council member request that the Council consider paying stipends to advisory panel members. The memo summarized how policies among Councils varied among other Councils. Three Councils paid stipends that ranged from \$80 to \$100 per day and five Councils, including the New England Council, did not pay any stipends. After some discussion, the Executive Committee decided against changing the current policy of not paying stipends to advisory panel members.

7. Council Meeting Preparations

Mr. Nies explained that the staff was preparing instructions for Council members and the public for engaging in Council meetings via webinar. These would include detailed instructions about registration, including assigned numbers for Council members and practice sessions for both the Council and the public.

Mr. Nies also reported that he expected the actions of the highest, in addition to deciding whether to hold in-person public hearings, would be, also scheduling final action on Groundfish Amendment 23 for the June Council meeting, approval of the range of alternatives for Scallop Amendment 21 and probable emergency action requests for 2019 allocation carryovers for scallop groundfish fisheries as a result of the COVID situation. Also, he noted that the Groundfish committee would expect to work with the recreational industry in June to develop measures that might be helpful in response to the COVID situation to allow it to take into account more recent catch information.

8. Other Business

Observer Emergency Rule

Mr. Pentony explained that under emergency action that was effective on March 24th, NOAA\NMFS would be allowed to waive observer requirements under certain conditions. This action also authorized NMFS to waive some training or other program requirements to ensure that as many observers are available as possible while ensuring the safety and health of the observers and trainers. Mr. Pentony explained that in response to this action observer requirements have been waived under both NEFOP and the groundfish ASM programs and that he anticipated that the waiver will be extended beyond April 4. The comment period for the emergency action was scheduled to end on April 27, 2020. Some committee members expressed concern that the waiver should continue longer in northeast in response to the economic situation as well as potentially protect fishermen from exposure to COVID from observers.

9. Closed Session:

- a. Janice Plante Award