



New England Fishery Management Council

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

DATE: January 17, 2020
TO: Council
FROM: Thomas A. Nies, Executive Director
SUBJECT: Summary of January 14, 2020 Executive Committee Meeting

Attendance: The Executive Committee met in Wakefield, MA. 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, Ms. Heil from GARFO, Mr. Simpkins from the NEFSC and Mr. Lapointe. The committee discussed the agenda items below.

1. Executive Director's Report

Mr. Nies provided the committee the following updates -

a. *Budget* - Council spending exceeded its 2019 budget by a very small amount which was covered by carryover from preceding years. It also was granted a no-cost extension to expend the balance of carryover funds for some projects that were not completed in 2019. Despite the approval of Council budgets for 2020-2024, the amounts of these awards may change at any time in that period depending on the availability of funds, and the amount the Council will receive for 2020 probably won't be announced until May. The Council should expect a slight decline in the amount of the 2020 award because the line item for Councils and Commission in the appropriations bill is lower than for 2019.

b. *Program review update*

Due to other priorities the subcommittee to monitor the progress on the Program Review recommendations that the Council has prioritized did not meet this fall. The Executive Committee decided that due to retirement and change in the Executive Committee membership, the make-up of the subcommittee should be reconsidered.

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 until January or early February due to the medical leave of a key PDT member working; final rules for the Deep-sea coral Amendment and the Surf Clam exemption Framework were still to be determined; Skate Framework 8 final submission would be in January; Deep-sea Red Crab Specifications preliminary submission was on January 2, which had been delayed TO include an EA instead of a Supplemental Information Report under NEPA; the time frame for NEPA. Concerns of the members included Groundfish Amendment 23 implementation issues, goals and objectives and adequate data analysis and for the skate limited access amendment; the status of the EM pilot program for herring purse seine vessels, the process for deal with any differences in with the MAFMC should the Council choose a different

time period for the submission of commercial eVTRs; and the EFP request for surf clam gear in the GSC Habitat Management Area.

3. RSA Program Review

Mr. Nies reviewed a memo on how to begin the implementation of the Executive Committee recommendations from the RSA Program Review. The memo outlined the formation of two groups. The RSA Program Review Implementation Team would focus on the ten concerns identified in Recommendation #2 of the program review's final report and consist of 2 council members, 1 staff member, and 1 person from each of the NEFSC and GARFO. The second group, the Sea Scallop Survey Advisory Panel to be chaired by the NEFSC, would design a strategic approach for sea scallop surveys and explore mechanisms for implementation, would consist of two scientists from the NEFSC, two Council members, one staff member and four to five members from survey providers and public.

With respect to the Program Review Implementation Team, Committee members raised the following issues. 1)The team should not be dominated by a single fishery or subgroup. 2) It might help to have an outsider facilitator help lead the discussion if the Council had adequate resources. 3) The council still has not received an answer to the questions it asked NOAA GC including whether some of the projects could be managed through contracts instead of using a competitive grant process. The Committee decided that Council staff could begin organizing the working groups to accomplish what they could pending a response from NOAA GC to the Council's questions.

4. Council Meeting Preparations

Mr. Nies explained that most of the Council meeting documents including those for the Draft Amendment 23 would be distributed Friday, Jan. 17. The draft would include most if not all of the economic impact analysis. Minor parts of the draft such as the impacts on habitat and protect resource, which are not expected to be substantial, would be completed later. Mr. Nies noted that the Council received a letter a lawyer representing the NEFSC questioning whether the document would be sufficiently complete in time for the Council discussion. Mr. Nies also explained that the habitat discussion would include a presentation on wind energy development in the Gulf of Maine and that the Council sent a notice to NH state representatives to alert them about this presentation. Ms. Etrie expressed concern that the industry did not understand how limited the Council's role is, i.e. that stakeholders think Council is more involved in the process than it really is, when it participates in wind energy discussions at NROC and other meetings. The committee agreed that the Council should continue to participate in wind energy meetings and discussions but more adequately explain the council's role to stakeholders. Finally, Mr. Nies explained that at the request of NOAA, Dr. Rubino would give a presentation on NOAA aquaculture policy followed by a video about a U.S. Scallop Delegation Visit to Hokkaido, Japan.

5. Public/Staff interactions

Mr. Nies noted that one Council member had concerns that some public interactions with staff were not appropriate and that the Council should develop guidelines to ensure that interactions do not interfere with staff work. After a discussion of these issues, the committee decided that staff with guidance from supervisors as needed are adequately able to handle these interactions without adverse consequences

6. Employee Handbook and Council Operations Handbook Updates

Mr. Nies explained that the thought it was important to make the Executive Committee aware of the Council Employee Handbook and some of its contents since it included substantive rules for the staff. He also alerted the Executive Committee to changes in the Council travel rules. Foreign travel may now be approved by the Executive Director instead of by GARFO. Also, the handbook now states that *“From time to time, the Council may issue detailed Travel Policy clarifications and additional guidance which will be provided to authorized travelers and included on all Travel Reimbursement Voucher forms”*.

7. Director and Officer’s Liability Insurance

Mr. Nies explained that several other councils provide liability insurance for their leadership who are not exempt from litigation arising from making decisions involving Council staff principally related to hiring, dismissal or compensation and possibly should they choose to hire legal assistance for a matter related to Council business in which they chose not to be represented by NOAA legal counsel. The committee agreed that given the relatively low cost, the Council should consider purchasing a “director’s and officer’s liability policy” providing there is sufficient clarification about what the policy covers.

8. Other Business

Advisory Panel Stipends

Ms. Etrie asked the committee to consider whether the Council should pay all its advisors some type of stipend in addition to travel expenses on the grounds that many were losing a day of fishing or compensation for another activity they had to forego to attend a Council-related meeting. Ms. Etrie also stated that it would improve communications and the relationship between the Council and fishing industry members. Mr. Nies noted that three Councils paid advisors small stipends, although others had decided not to. Others committee members stated that they did not have any concerns with not getting compensated when they were advisors and thought that no change was needed because advisors attend meetings because they think the benefits of attending already are worth it to their businesses. Additionally, because of the overlap between New England and Mid-Atlantic FMPs, some committee members thought any policy involving compensation for advisors should be consistent in both regions and possibly with the ASMFC. This issue will be revisited at the next Executive Committee meeting.

VMS Issues

Ms. Heil reported the steps that GARFO was taking to facilitate the approval of replacement VMS units for vessels that currently use BOATRACS VMS. Committee members commented that a major problem would be getting new units installed due to the limited number of installers and the time required for VMS installations. Ms. Heil further explained that GARFO would update the Council at its January meeting.

9. Closed Session:

In a closed session the committee discussed Scientific and Statistical Committee (SSC) and advisory panel (AP) appointments.