



New England Fishery Management Council

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

DATE: DRAFT September 17, 2018
TO: Council
FROM: Thomas A. Nies, Executive Director
SUBJECT: Summary of September 5, 2018 Executive Committee Meeting

Attendance: The Executive Committee met in Wakefield, MA. Executive Committee members attending were Mr. Quin, Mr. Stockwell, Mr. Grout, Mr. Alexander and Mr. Kendall. Also attending were Mr. Nies, Mr. Pentony, Mr. Christopher, Dr. Hare, Ms. Boelke, Mr. Reid, Ms. Etrie, and Mr. Kellogg. The committee discussed the agenda items below.

1. Executive Director's Report

Mr. Nies provided the committee the following updates -

- a. **Budget & staffing** - Ms. Bernier, who had been providing administrative services under a contract was hired as the council's Administrative Officer. The summer internship of Mr. Mundy had ended, and Mr. Quartararo will continue to help Ms. Bachman on habitat documents and other tasks. The Executive Director expects to advertise for an economist in the fall with a hiring decision by the end of the year.

The current funding level is adequate for the current year's anticipated expenditures and the Council is on track to spend close to that amount. Surplus funds from prior years in the 5-year funding cycle are expected to be committed some outstanding Council priorities such as an MSE for the EBFM amendment, the groundfish catch shares review or contract support for the RSA review. Funds for state participation on Council bodies has been distributed to all states except Connecticut, which has difficulty in accepting small levels of external funds. There is no reliable information about the 2019 Council funding levels, although a draft Senate bill calls for an increase.

- b. **Audit Overview** - The audit report found that all filings required of the Council were done on time. Changes to sick leave payout provisions for terminally ill employees should be added to the Council SOPPs and the staff will begin that process. Although this account is not funded at 100% of the council's liability because once transferred to this account the money cannot be recommitted, and the relatively young age of many staff members the auditors did make an adverse finding. No issues of similar significance were identified in the audit.

2. Management timelines

Mr. Kellogg reviewed updates to the Council action timelines. Mr. Pentony commented that the implementation of Scallop FW 30 would be delayed if a proposed change in the trip limit for the LAGC IFQ fishery were too controversial. In the discussion of the Amendment 23 timeline, Mr. Pentony explained there are major problems with the ASM program that include a lack of ASM monitors, intentional avoidance behavior, and non-compliance with PTNS requirements. He mentioned that he would talk about these problems at the upcoming Council meeting. Mr. Nies commented that the analysis of the alternatives proposed by the Habitat committee in August for the surf clam fishery exemption in the Great South Channel Habitat Management Area would not be completed in time for the September Council meeting but that it was unnecessary for the Council to determine a range of alternatives under the framework process. Instead, the Council could analyze and approve the measures suggested by the committee. For the IFM amendment, Mr. Pentony explained that the proposed rule would be published in the fall. Mr. Nies requested that because of concerns about its progress, GARFO should report on the progress of the electronic monitoring project for herring mid-water trawlers at its next opportunity, and Mr. Pentony agreed. In the discussion about the EBFM amendment, Dr. Hare commented that it would be important to hear from the NOAA Sustainable Fisheries national office about what might be permissible under the MSA National Standard 1 guidelines in terms of managing stocks at an ecosystems level before an MSE approach is developed.

3. RSA Program Review Update

Mr. Nies explained, based on his memo to the committee, that he was concerned at the lack of progress being made on the RSA Program Review. This review was first adopted as a priority for 2017 and renewed as a priority for 2018. The Council considered hiring an outside contractor but chose to form a small panel of NEFMC, GARFO, and NEFSC staff, chaired by Dr. Sissenwine. The initial plan was for a report to be delivered in June 2018 and then changed to December 2018, which meant the review would not have any impact on the 2018/2019 RSA cycle. Mr. Nies also reported that a lot of work remained to be done on the report that would make it difficult to complete by December. After discussing several options, the committee decided that the current review panel should report their recommendations at the January 2019 Council meeting, but no later. The report should provide a broad range of suggestions for addressing identified issues. While any consensus views should be reported, the report should not be limited only to consensus recommendations. The panel should provide brief discussions of the pros and cons of the suggestions and not be limited to minor changes if more substantial changes are better. The Executive Committee did not want to form a Council committee to oversee the completion of the review at this time but will consider how to address any recommendations, and whether another process is needed after the Council receives the panel's report in January.

4. Herring Planning

a. Amendment 8 and 2019 Specifications

The Committee discussed the timelines for upcoming herring actions. Mr. Pentony stated that that unless the Council advised otherwise, NMFS would set the ACL as in its recent 2018 in-season action, so that the probability overfishing would not exceed 50% - and consult the Council on how the catch limits might be allocated for areas and seasons. Mr. Pentony also commented on the need for the Council to take final action on choosing an ABC control rule for Amendment 8, and with guidance from the SSC, pending the approval of the amendment, to provisionally develop the ABC recommendations for 2019 – 2021. Executive Committee

members commented that determining area and seasonal allocations under reduced catch levels would be controversial.

b. ASMFC Herring Section Update

The Committee discussed the ASMFC offer to change the Atlantic Herring Section to an Atlantic Herring Management Board to allow the Council and NOAA Fisheries to have voting seats on the Board conditional on the Council's adding ASMFC representatives to the Council's Herring Committee and Plan Development Team. The Executive Committee recommended accepting the ASMFC offer.

5. Stock Assessment Process

Mr. Kellogg briefly described the changes being considered by the NRCC to northeast stock assessment process and that will be considered by the Council at its September meeting. Issues of concern to the Council for the management track assessments included the some of the details about the role and timing of the Assessment Oversight Panel, how to provide public input, the need for a monkfish assessment update in 2019, the possible need for a two-year interval for Atlantic herring updates and the flexibility to schedule assessments to meet unforeseen needs. Concerns about the research track assessment process include the decrease in the number of research track individual stock assessments compared to the number of CIE peer-reviewed benchmark assessments under the current process, whether subject-based workshop topics will provide enough benefit to justify decreasing the number of individual stock assessments, a proposed research track schedule that does not include timely assessments for Atlantic sea scallops, southern red hake, GB and GM cod, GB haddock, and stocks jointly manage by the U.S. and Canada EGB cod and haddock.

6. RPB/NROC Changes

Mr. Nies explained that Executive Order 13840 Ocean Policy to Advance the Economic, Security, and Environmental Interests revoked the previous national ocean policy (EO 13547), eliminating regional planning bodies, and stating that the 2016 Northeast Ocean Plan is no longer controlling policy for federal agencies. However, the new EO supports federal participation in regional ocean partnerships (ROPs), and the federal guidance developed for the new EO states that "ROPs representing the Northeast (Northeast Regional Ocean Council) and the Mid-Atlantic (Mid-Atlantic Regional Council on the Ocean), where such plans exist, may request that federal agencies coordinate on implementing specific actions contained in those plans and support the data portals created in conjunction with those plans." As a result, NROC is convening the Regional Ocean Coordination Committee (ROCC) which is not subject to Federal Advisory Committee Act requirements and therefore the Council can appoint anyone, not only public officials, would be allowed to represent the Council on the ROCC. The Executive Committee agreed to designate a representative to serve on the ROCC.

7. Program Review Recommendations

Mr. Nies summarized the main recommendations of the Council Program Review panel and explained that with the Committee's approval, he would present the recommendations at the September Council as outlined in the document provided. He noted that he assigned the priority level under the column "Council Priority Level" as a way of starting the Council discussion and these were not the necessarily the same as the review panel recommendations. (The Review Panel had only described the priority level of a recommendation as high or left it blank). He reminded the committee that the Council agreed the Executive Committee and staff would form the basis of working group to recommend how the recommendations might be implemented and he asked

GARFO and the NEFSC to designate two people to serve on this working group. Also, he reported that he some steps were taking on recommendations that involved only the staff or that the staff or Council was already working on. Mr. Stockwell and Mr. Grout agreed to serve on the working group.

8. Offshore Wind

Mr. Quinn reported on the Aug 28 meeting that he, Mr. Stockwell, Mr. Nies and Ms. Bachman had met with wind power representatives from the Shell Oil Co. The Shell representatives had explained that their company had not yet acquired any leases but was interested in understanding and minimizing problems for the fishing industry at the outset. Messrs. Quinn, Stockwell and Nies had conveyed concerns that have been so far identified by the council concerning wind energy development and that the Council could provide some assistance should the wind developers and fishing industry want to get together and work through some issues. The spacing of wind towers within a generation area was identified as a possible topic of concern. Mr. Nies reported that he and Ms. Bachman talked with Mr. Moore and Ms. Coakley of the MAFMC staff, but so far, no specifics had been planned for the NEFMC/MAFMC Wind Power Workshop. Mr. Grout commented that that before the Council spent its resources on the workshop, it should determine what a workshop would accomplish other than providing for another forum for a wide range of already known opinions. Mr. Pentony mentioned the formation of a regional team that include GARFO, the NEFSC, the MAFMC and the Council and which could provide technical information on wind energy issues that impact fisheries.

9. Observer Policy Committee

The Ex Comm discussed one of the Council priorities related to the Observer Committee, Ms. Etrie asked whether the Council really had the time or interest in a broad scale look at the monitoring of discards, particularly given other ongoing monitoring activities. The Executive Committee deferred a decision until the discussion of 2019 priorities. The Ex Comm re-affirmed that if this task is under-taken ,the Committee membership should be changed to consist solely of Council members and NMFS staff.

10. Aquaculture

Mr. Nies reported on the draft Senate bill (S. 3138) to promote offshore aquaculture in the EEZ. The bill would establish an Office of Marine Aquaculture which would not be required to formally engage with regional management councils and proposes a 25-year term for aquaculture permits. Its definition of aquaculture does not include fishing; therefore, the fisheries management councils would not be able to regulate aquaculture in the EEZ and its the definition of an aquaculture facility is very broadly defined to include s “an area of the seabed, water column or sediment used for offshore aquaculture”. At present, only the Gulf Council has an aquaculture FMP and it prohibits the culture of shrimp and corals. Mr. Nies added that the Council had developed an aquaculture policy in 1995 that made numerous recommendations including council review of aquaculture projects, but that has fallen in to disuse.

11. Initial Council Priorities

Mr. Nies explained that the Council would develop an initial list of priorities at the September meeting to be informally ranked by correspondence and would determine its 2019 priorities at the December meeting. In addition to ongoing priorities and regulatory requirements, the new priority list might include program review recommendations, staff involvement in wind energy issues,

TRAC quota trading, implementation of measures for fisheries affected by new MRIP numbers and responding to the Biological Opinion findings for the North Atlantic right whale.

12. Other Business

- a. Surf clam update** - Mr. Grout informed the committee that the habitat committee had recommended a new alternative that could not be analyzed in time for the September meeting and might be difficult to complete for final action in December. He also noted that the Habitat committee recommended that any EFP for mussel dredging, if allowed, should be restricted to operating only in the areas that might be exempted for clam dredging.

- b. Catch of GOM cod in research project** - Mr. Nies reported that the groundfish PDT noticed an anomaly of about 20 mt in the research catch of GOM cod and asked Mr. Pentony how a research project could have been approved without restricting the catch. Mr. Nies added that the research might have been funded under the S-K program. Mr. Pentony responded that due to an exemption for scientific research in the Magnuson-Stevens Act, GARFO could only issue a letter of acknowledgement (not authorization) for this project and not restrict any catch.