



## New England Fishery Management Council

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# MEETING SUMMARY

## Groundfish Committee

Hilton Garden Inn Logan Airport, Boston, MA

May 9, 2018

The Groundfish Committee (Committee) met on May 9, 2018 in Boston, MA to discuss and make recommendations on: 1) progress on Amendment 23/Groundfish Monitoring; 2) progress on other priorities for 2018; and 3) other business, as necessary.

**MEETING ATTENDANCE:** Terry Alexander (Vice Chair), Rick Bellavance, Libby Etrie, Mark Godfroy, Sarah Heil (GARFO), Steve Heins (MAFMC), Peter Kendall, Meredith Mendelsohn (proxy for Patrick Keliher), Matt McKenzie, Laurie Nolan (MAFMC), John Pappalardo, Melanie Griffin (proxy for David Pierce) and Mitch MacDonald (NOAA General Counsel); Dr. Jamie Cournane and Robin Frede (NEFMC staff); and Jackie Odell (GAP Vice Chair). In addition, approximately 12 members of the public attended, including Chad Demarest, Melissa Errend (NEFSC), Mark Grant, and Emily Keiley (GARFO).

**SUPPORTING DOCUMENTATION:** Discussions were aided by the following documents and presentations: (1) Meeting memorandum and agenda dated April 30, 2018; (2) Presentations: Council and NMFS staff; (3) Draft alternatives for Amendment 23/Groundfish Monitoring; (4) Groundfish PDT memo to the Groundfish Committee regarding development of draft alternatives for Amendment 23/Groundfish Monitoring; (5) Summary of analyses conducted to determine at-sea monitoring requirements for multispecies sectors, FY2018, GARFO; (6) Dockside monitoring white paper, Groundfish PDT, version 2; (7) Groundfish PDT memo to the Groundfish Committee regarding analyses for Amendment 23/Groundfish Monitoring; (8a) Groundfish Committee meeting summary, Jan. 25, 2018; (8b) Groundfish Advisory Panel DRAFT meeting motions, May 8, 2018; and (9) Correspondence.

The meeting began at approximately 9:00 a.m.

### **KEY OUTCOMES:**

- The Groundfish Committee (Committee) recommends that in the draft alternatives in Section 4.1.1.1 (Sector Reporting Requirements), the PDT should refine Option 2 (Streamline Sector Reporting Requirements) to grant the Regional Administrator the authority to modify specific sector reporting requirements for the June 1 Groundfish Committee meeting.
- The Committee recommends moving Section 4.1.1.3.2 (Option 2: Additional Options for Industry Funded Cost of Monitoring) to considered but rejected.
- The Committee requests the PDT under their analysis of quantifying accuracy through observer bias, to review behavior of fishing vessels in certain years (2010-2012) when monitoring and annual catch limits were higher in comparison to recent years.

- The Committee requests the PDT report the scale of missing catch (in pounds and percentages) necessary to account for the retrospective pattern on a stock by stock basis, using available documents.

**OTHER BUSINESS:**

Mr. Bellavance said he had one item for other business related to recreational groundfish.

***PRESENTATION: GAP REPORT, MS. ODELL***

Ms. Odell provided a brief summary of the motions and discussions from the Groundfish Advisory Panel (GAP) meeting held May 8, 2018, which included recommendations for Amendment 23 (A23) development and analyses.

**Questions and Comments on the Presentation:**

Ms. Heil asked to clarify in the motion recommending the PDT provide a stock specific analysis of the scale of missing catch necessary to account for the retrospective patterns, whether this is referring to all commercial catch and whether this includes other sources of mortality. Ms. Odell clarified that this is referring to missing catch to try to understand what percentage of the retrospective error is made up by this outside of other sources of mortality. One Committee member asked to clarify that in the motion recommending analysis of observer bias that this is saying that that if there is a biomass estimate that is wrong, then monitoring is unable to be accurate. Ms. Odell clarified that yes, the idea behind the motion is that observer bias hasn't made any connections to what the biomass estimates are, and that what this is asking is whether observer bias is less if biomass estimates are more accurate.

***AGENDA ITEM #1: AMENDMENT 23***

***PRESENTATION: PDT REPORT ON A23, DR. COURNANE AND MS. FREDE***

Staff provided an overview of the PDT's report on A23, including an update on the timeline for A23 development, an overview of the draft alternatives, and a summary of a PDT memo from April 6, 2018 which included several questions for the Committee to consider regarding A23 development. Staff also provided an update on the work of the Fishery Data for Stock Assessment Working Group, as this group is related to A23 and monitoring. The goals of the Committee's discussion were to provide guidance on development of the draft alternatives and possibly make recommendations to the Council on the draft alternatives and the PDT questions in the memo.

**Questions and Comments on the Presentation:**

One Committee member commented on the section of the alternatives on streamlining sector reporting that there were comments at the GAP meeting on the fact that sector manager data is more timely and accurate than NMFS data, and recommended that it might be helpful to have a more thorough explanation of the sector weekly reporting process for those who are less familiar. Staff said they can include this information but noted that the current alternatives as drafted are more wordy than they should be and that the additional text is provided for background material, and explained that the draft alternatives will be pared down and the additional background material moved to a different section of the document. The Committee member also recommended the PDT keep track of discussions on what could be changed in the annual sector reports.

Public Comment:

Maggie Raymond (GAP) asked what information is available in the annual sector reports and whether the goal is to make them publicly accessible. Staff explained that this action is considering potentially reducing the amount of information included and finding a way to make them more useable, because currently due to confidentiality laws Council members are unable to access the reports. Ms. Raymond also asked about the list of items NMFS recommended for streamlining sector reporting requirements and why these were of interest. Ms. Heil explained that the items that were from the letter from NMFS to the Council on this topic came from a meeting with sector managers, and also clarified that this is not an exhaustive list and there may be additional examples. Mr. Grant further explained that for sector reporting, NMFS would like to find a way to make the process more efficient and effective and that the goal is not to get rid of sector weekly reporting, but to make it more efficient. Ms. Raymond asked if this needed to be in an amendment, and Mr. Grant clarified that this could be done in a framework, just that NMFS needs to be granted the authority, and that it was included in A23 because it is related to monitoring and reporting.

***PRESENTATION: PDT REPORT ON A23 ANALYSES – OVERVIEW OF MONITORING PROGRAMS IN OTHER REGIONS, MS. ERREND***

Ms. Errend (NEFSC and Groundfish PDT member) presented research she is working on to provide an overview of monitoring programs in other regions.

Questions and Comments on the Presentation:

One Committee member said she is interested in the evolution of programs with 100% monitoring coverage and electronic monitoring/electronic reporting (EM/ER), and whether this was implemented right away or slowly increased over time. Ms. Errend said she plans to look into this, and also look into stock status and rebuilding of the fishery and how that fits in with evolution of monitoring programs, and pointed to the example of west coast IFQ trawl program which when implemented started out with 100% coverage. One Committee member agreed that it would be interesting to look into various methodologies that partial coverage programs for multispecies stocks started with and how they evolved and what information they collected to further inform development. He also said he is interested in looking into how lease prices come into play in terms of program design, and asked whether there are any instances of programs that use text message instead of email/VMS. Ms. Errend said she hasn't come across an example of text message use yet but will look into different technologies and said it can be challenging to gather information on this. She also said there is considerable heterogeneity across programs that makes it difficult to compare, but she plans to look at things like EM across programs, and also will consider different gear types within programs.

Public Comment:

Ms. Odell explained that the GAP had provided recommendations for additional items to include in the analysis, such as status of the fishery. Geoff Smith (GAP) said he wanted to reiterate the emphasis that a review of other monitoring programs will be helpful early on in A23 development, and also asked for an explanation of the difference of status of EM between the west and east coast, saying that EM should be described in case studies since it will likely be included in A23 alternatives. Ms. Errend explained that programs listed as having partial EM coverage are those that are in development and will be a final rule this year (e.g. New Zealand) and that she did not characterize Exempted Fishing Permits (EFPs), which is currently how EM is administered in New England. Jonathon Cummings (UMass Dartmouth) asked

whether any of the programs selected technologies/tools with an upfront cost/benefit analysis. Ms. Errend said she didn't come across anything explicitly but can look into this.

***PRESENTATION: PDT REPORT ON A23 ANALYSES – UNCERTAINTIES IN THE CURRENT MONITORING PROGRAM, DR. COURNANE***

Staff provided an overview of the PDT's analysis for A23, which begins by describing the scope of the current monitoring program in the commercial groundfish fishery and any associated uncertainties. Staff explained that the purpose of these analyses is to identify the extent to which there is a need for change in any of the components of the current monitoring program, and to combine and synthesize work on the nature and effectiveness of current monitoring. Staff provided a summary of the analysis on four of the identified uncertainties: 1) Unreported and misreported catches (landings and discards) by species/stock; 2) Disagreement between data sources (vessel trip reports [VTR]/Dealer; VTRs/vessel monitoring system [VMS]); 3) The majority of analytical groundfish stock assessments contain a retrospective pattern, which may be caused in part by missing catch; and 4) Lack of an independent verification of landings may lead to catch reporting conspiracy/collusion between a dealer and a vessel, and has occurred. Analysis on one uncertainty, 5) Fishermen behave differently when observers are on-board, is to be provided at the next meeting, while 6) Incentives exist in any quota-based system for misreporting/unreporting of catch (landings and discards), would be presented later during today's meeting.

*Questions and Comments on the Presentation:*

One Committee member asked to clarify in the figures comparing dealer and VTR weights, whether the variation in haddock weights over time is related to a change in abundance or condition of the stock. Staff explained that the variation in haddock weights may be due to the fact it is difficult to estimate weights at a higher volume. Another Committee member asked what, if any, work on retrospective error has been reviewed by the SSC. Staff said the last work would have been the Wiedenmann paper which looked at issues with the groundfish assessments, but said they weren't sure if the SSC has had a specific discussion on the topic of retrospective errors but that they expect the SSC likely will plan on how to address this. One Committee member said specific to the Carlos case, that it would be helpful to know the details of case and how the Agency [NMFS] figured it out so that this could be used to determine what monitoring could do to help prevent this and what could be learned from this. Staff clarified that this is asking what can be learned from experience to prevent this type of case from happening again, and explained that the PDT has focused on the old dockside monitoring (DSM) program and noted the cautionary mention of the potential for fraud to go undetected if the DSM program was removed. The Committee member asked whether the Agency has some level of explanation of how this was figured out and answers to questions about whether this fraud occurred on trips with an at-sea monitor or with dockside inspections, and said she is looking for guidance on how this could inform monitoring and to know whether DSM would have helped to prevent the Carlos case. Ms. Heil said the best place for this information would be the affidavit and plea agreement for full information, and said that Tim Donovan has committed to giving full detail of the case to the Council at some point.

*Public Comment:*

Ms. Raymond commented on the connection between retrospective error in assessments and monitoring and asked why the groundfish fishery has the highest level of monitoring in northeast but has 8 out of 11 stocks with retrospective error in their assessments, while other stocks like monkfish and dogfish don't have problems with retrospective error and have lower monitoring. Staff responded that the focus of today's discussion is on accuracy and improving accuracy of catch data, and said that the Fishery Data for Stock Assessment Working Group will likely get into the issue of retrospective error in assessments and

any ties to monitoring data. Mr. Smith pointed out that in the GAP's discussion yesterday they had recognized that there are other explanations for retrospective patterns besides missing catch, and also said that Ms. Errend's presentation made clear differences between single species and multispecies fisheries and that multispecies need higher coverage, and so 15% coverage for a multispecies fishery is not high. He said they should consider setting a higher coverage level for the groundfish fishery and evaluating the cost/benefits.

***PRESENTATION: PDT REPORT ON A23 ANALYSES – DISCARD INCENTIVES, MR. DEMAREST***

Mr. Demarest presented an overview of work he and Anna Henry (NEFSC) have done for the PDT A23 analyses to address the uncertainty: 6) Incentives exist in any quota-based system for misreporting/unreporting of catch (landings and discards). In response to earlier discussion, he acknowledged that finding an explanation for retrospective error is difficult because it likely isn't going to be one single number and is more likely to be a change over time.

*Questions and Comments on the Presentation:*

*Public Comment:*

Vito Giacalone (Northeast Seafood Coalition) said he is curious about the conclusion that discard incentives increased with implementation of the sector system, since there used to be required discarding for trip limits but now fishermen have options with leasing, and said he thinks that discard incentive changes with lease prices which is connected to size of the stock. He said this is also connected to retrospective errors and missing catch and recommends this analysis investigate the issue of stock size and retrospective error in assessments. Mr. Demarest clarified that his analysis is examining economic discards, which are different from regulatory discards, and is getting at the fact that there is economic rationalization to discard given a quota-based system and limited availability. He also noted that when looking at other fisheries around world very few have quota prices that exceed ex-vessel prices but in New England that is the case for cod. In response to Mr. Giacalone's point, Mr. Demarest said that the relationship between encounter rates of fishermen and underlying biomass is much more difficult to determine.

One Committee member asked how in other places they combat ex-vessel and quota prices, and whether the science is better in these areas so that it better matches what fishermen see. Mr. Demarest explained that part of it is low monitoring in these places, and so it isn't known if discard rates are representative, and noted that New England stands out in terms of quota stability but doesn't know the explanation for this. Additionally, staff said that Mr. Demarest would be presenting on related work on observer bias at the next meeting.

***PRESENTATION: GARFO REPORT ON CATCH REPORTING COMPLIANCE AND ENFORCEMENT, MR. ST. CYR***

Mr. St. Cyr (GARFO) provided an overview of the process for quality assurance and quality control (QA/QC) with respect to VTRs and dealer reports, in response to a letter from the Council requesting information on compliance with catch reporting. He also explained new auditing rules that are assisting in reconciling data between VTRs and dealer reports. The information presented was for fisheries within the entire Greater Atlantic region and not specifically for the commercial groundfish fishery, although Mr. St. Cyr indicated trends in the information are similar.

Questions and Comments on the Presentation:

One Committee member asked what percentage of trips, both total and those with send-back errors, are from the groundfish fishery. Mr. St. Cyr said he will need to get back on this for a response. The Committee member said he was surprised by the error rate by gear category. Mr. St. Cyr explained that there is a higher error rate for fixed gear, due mainly to issues with gear fields for pot/trap fisheries. Another Committee member asked about errors with multi broad stock area trips. Mr. St. Cyr said that these are not a large percentage of total trips, and that in cases when a vessel has fished in more than one area but only reported one, the one in which they reported has an economic advantage for quota allocation purposes. He noted that this is a problem with self-reported data where they have to take what captain says as the area fished.

***PRESENTATION: PDT WHITE PAPER ON DOCKSIDE MONITORING, MS. FREDE***

Staff provided an overview of the PDT's dockside monitoring white paper, including the objectives of the white paper and a summary of the PDT's problem statement on dockside monitoring.

Questions and Comments on the Presentation:

One Committee member commented on the issue of insurance liability of dockside monitors that is mentioned in the white paper and asked whether this is something that would be decided as to who pays, or whether there is already guidance on this. Ms. Heil recommended the PDT look at the West Coast Groundfish IFQ Program case study for specific information on insurance liability and how it was handled there. The Committee member also recommended that the PDT thoroughly explore and give an answer as to how the IFM amendment fits in with a potential new dockside monitoring program. She also suggested that the PDT consider how far dockside monitoring can go in terms of enforcement and investigate why under FW 45 that NMFS had said that DSM data could not replace dealer data. She noted that during the GAP discussion there was mention of the PDT doing more analysis on dealer/vessel collusion to explore whether there have been other cases of this besides Carlos, and that she is interested in this information when discussing how to handle remote ports, etc.

**Consensus Statement #1**

In the draft alternatives in Section 4.1.1.1 (Sector Reporting Requirements), the Plan Development Team should refine Option 2 (Streamline Sector Reporting Requirements) to grant the Regional Administrator the authority to modify specific sector reporting requirements for the June 1 Groundfish Committee meeting.

Discussion: Ms. Heil said that the PDT should work on refining the sector reporting requirement section by moving the background information somewhere else and instead writing the alternatives as giving authority to the Regional Administrator to streamline reporting requirements in certain cases. One Committee member, referring to one of the PDT questions in the memo, asked if this would include electronic reporting (ER) or whether that would be separate, since ER could streamline reporting. The Committee member clarified that he is referring to eVTR which he thinks should be included as an alternative. Ms. Heil explained that she had been thinking more in terms of frequency of reporting rather than paper versus electronic reporting, since vessels have eVTR as an option. Another Committee member thought that ER should be kept separately, because from the presentation on catch reporting compliance they learned that there are still the same reconciliation problems with eVTR as paper VTRs.

**Motion #1: Etrie/Godfroy**

As it relates to Section 4.1.1.3 (Additional Options for Industry Funded Cost of Monitoring) - while the fishery continues to operate under historically low annual catch limits, the Groundfish Committee does not support approaches that would reduce quota essential to the viability of the groundfish sector management program.

*Discussion on the Motion:* Mr. MacDonald gave a brief update on the legal questions about setting up a quota auction, and said that this may be possible but depends on what the Council is looking for. He clarified that there would have to be a change to the sector system since the regulations are not currently set up to allow a quota auction outside a Limited Access Privilege Program (LAPP), which the groundfish sector program currently is not. Mr. MacDonald also noted the other question of where the funds would go, and explained that funds received by the government go to general appropriations, but that there is a general provision where could they specify a place for the funds to go, such as a sector corporation. But he acknowledged that this doesn't address the issue of not having enough quota to spare.

Motion #1 was *withdrawn* by the maker of the motion *without objection* by the Committee.

**Motion #2: Etrie/Kendall**

To move Section 4.1.1.3.2 (Option 2: Additional Options for Industry Funded Cost of Monitoring) to considered but rejected.

*Discussion on the Motion:* Mr. Demarest said he thinks there are auction options that are feasible that would not violate this motion but would be lost here, if fish were to be found somewhere else outside of uncertainty buffers and ACLs. Staff explained that Ms. Errend is doing background work to examine quota auction mechanisms which could be presented at the next meeting. Ms. Heil said she is concerned that the A23 analyses are already extensive and that this would be a big work lift for the PDT which may detract from A23 progress. Mr. Giacalone agree that while he is not necessarily opposed to this, he is concerned it will be a big lift and so should be explored separately. One Committee member asked whether sector reporting requirements should be taken out as well and A23 be focused only on monitoring. Several Committee members thought that sector reporting alternatives should still be considered since it is a part of monitoring the fishery and that these came out of public scoping. There were some questions about process and whether the PDT should continue to work on this and then decide at the next meeting whether to stop work or not, and whether this could be revisited at a later meeting if the Committee recommended to remove this section today.

Motion #2 *carried on a show of hands* (5/4/2).

**Motion #3: Etrie/XXX**

As it relates to the proposed Amendment 23 timeline as presented, the Groundfish Committee recommends to delay the decision on the range of alternatives to at least the September Council meeting. This would allow for the alternatives to be aligned with completed Plan Development Team analyses and final reports with recommendations offered by the Fishery Data for Stock Assessment Working Group

Discussion on the Motion: The maker of the motion said she is concerned because the Council has taken up monitoring revisions before and has not gotten it right and that A23 is the chance to get it right, and emphasized that she has expressed concern about the timeline from the beginning. She said the PDT analysis brought today and expected for the next meeting is helpful and she would like to see more of this before the Council is ready for selecting alternatives. Another Committee member agreed with this and said the Committee should spend time thinking about what the expectation is for what a suite of alternatives for A23 would look like (ex. are people expecting four alternatives that apply to all of the fishery, or options for sectors to select). Several Committee members emphasized the importance of relying more on the sector system and process to help design monitoring programs rather than having a one size fits all approach, and having the alternatives set up to allow sectors to choose different options for monitoring. The Vice Chair ruled the motion out of order because the Committee can not recommend changes to the timeline of an action, but said this could be revisited in June at the Council meeting.

Motion #3 was *withdrawn* by the maker of the motion *without objection*.

**Motion #4:** Etrie/Kendall

The Groundfish Committee requests the Plan Development Team under their analysis of quantifying accuracy through observer bias, review behavior of fishing vessels during fishing years 2010 to 2012 when monitoring and annual catch limits were higher in comparison to recent years.

Discussion on the Motion: The maker of the motion explained that this is an industry idea that observer bias was lower when the ACLs matched up with biomass versus now when the ACLs are low and fishermen believe they don't match up with the biomass, and so they are avoiding fish when they have an observer. Mr. Demarest clarified that he is planning to do this in the analysis.

Motion #4 *carried on a show of hands* (4/3/4).

**Motion #5:** Etrie/Kendall

The Groundfish Committee requests the Plan Development Team provide a stock specific analysis of the scale of missing catch (in pounds and percentages) necessary to account for the retrospective pattern on a stock by stock basis.

**Motion #5a** as friendly amended: Etrie/Kendall

The Groundfish Committee requests the Plan Development Team report the scale of missing catch (in pounds and percentages) necessary to account for the retrospective pattern on a stock by stock basis, using available documents.

Discussion on the Motion: The maker of the motion said she understands this is done by assessment scientists and is beyond the PDT but hopes the PDT can pull out anything that would be helpful in explaining this. Mr. Giacalone said he supports having the PDT mine available data and documents to help explain retrospective errors, and said he is looking for a report in layman terms and not analysis. One Committee member clarified that this seems to be asking for how many pounds of fish would have been discarded to make up for the percentage of change to account for retrospective patterns, and also wanted

to emphasize that A23 is also about improving compliance and not just about monitoring that improves assessments.

*Motion #5a carried on a show of hands (9/0/2).*

**AGENDA ITEM #2: FRAMEWORK ADJUSTMENT 58**

**PRESENTATION: FW 58 INITIATION, DR. COURNANE**

Staff provided a brief overview of Framework Adjustment 58 (FW 58), which will be initiated at the June Council meeting. Staff explained that the draft scope of FW 58 will include: to set specifications for FY2019 for US/Canada stocks (Eastern Georges Bank (GB) cod, Eastern Georges Bank haddock, and Georges Bank yellowtail flounder); to revise/establish rebuilding plans for several stocks (ocean pout, GB winter flounder, witch flounder, Gulf of Maine/GB windowpane flounder, and Southern New England/Mid-Atlantic yellowtail flounder); to address Status Determination Criteria issue when analytic assessments fail; to provide additional guidance on sector overages; and to revise other management measures, if necessary.

Discussion: One Committee member asked whether the Council has received any further guidance on sector overages. Staff responded that they haven't received anything yet but expect more information in June from the Carlos case. Ms. Heil said that NMFS will have an additional rule to address Sector VII and IX and expects to provide guidance at that time if there is any additional information.

**AGENDA ITEM #3: OTHER BUSINESS**

Mr. Bellavance raised an issue with the published FW 57 and recreational measures as something that may want to be considered for FW 58. He reminded the Committee that FW 57 authorized the Regional Administrator to set recreational measures for Georges Bank cod to keep to a target catch and use this to evaluate performance of fishery, and that NMFS had used a three-year period of data to evaluate fishery performance relative to the target and as a result put new measures in place. He is concerned, however, that if a three-year period is used next year that the fishery will have further measures, which was not the Council's intent, as even with zero catch this year they will already be over the target, and asked whether there is any guidance on this.

Staff asked if the Council can be more prescriptive on this, if the Council has a different method to use for evaluation instead of a three-year average. Ms. Heil explained that the Council can do that for 2019, and then NMFS would again evaluate whether additional measures are needed.

The Groundfish Committee meeting adjourned at approximately 3:00 p.m.