



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116

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

PUBLIC HEARING SUMMARY

Amendment 23 to the Northeast Multispecies Fishery Management Plan May 21, 2020, 4-6pm Webinar Hearing

The Council held public hearings to solicit comments on the alternatives under consideration in the Draft Amendment 23 to the Northeast Multispecies (Groundfish) Fishery Management Plan. The amendment will adjust the groundfish monitoring program to improve the accuracy and accountability of catch reporting in the commercial groundfish fishery.

Hearing chairman: Terry Stockwell (Groundfish Committee Chair)

Council staff: Jamie Cournane, Robin Frede, Melissa Errend, Tom Nies, and Janice Plante

Attendance: 24 audience members (including four Council members); one commenter

The hearing began at 4:04 pm.

Mr. Stockwell opened the hearing, introduced Council staff in attendance, and commented on the Amendment 23 process. This included updates to the Amendment 23 timeline as a result of recent Council decisions to postpone final action and scheduling additional public hearings due to the COVID-19 pandemic. Ms. Frede and Ms. Errend briefed the audience on the purpose of the amendment, alternatives under consideration, draft impacts analysis, and amendment timeline and next steps. After an opportunity to ask questions for clarification, public comments were taken on the measures proposed in the amendment.

Questions:

George Lapointe asked if there has been any discussion or examples of how phased implementation would work. Staff answered that there has been some discussion by the Council, and that phased implementation could depend on the coverage level selected, for example, a phased-in approach in coverage towards the selected target coverage level. This could also depend on which programs are selected, for example, if the Council did select a dockside monitoring program the requirement may not be in place right at the implementation of A23 as additional time might be needed to develop and establish the program. Staff explained that these implementation questions will be discussed by the Council and staff as development of A23 moves forward, and also noted that GARFO has an implementation team that will form ahead of final action to think about implementation and bring up any issues to the Council.

Maggie Raymond asked a follow-up question about phased implementation, stating that it was her understanding that the Regional Administrator has been talking about phasing in the coverage levels up to the coverage level selected, and asked whether the RA has advised the Council of how this would work and what the timeframe would be for phasing in coverage levels. Staff answered that there has not been specific guidance at this time and would expect more discussion and guidance further on in the development of A23 and by the implementation team. Staff noted that the RA has acknowledged the 2020 coverage level which is a large increase from 2019 and can be an initial idea of what this could look like in terms of phasing in coverage. Ms. Raymond said this would be an important detail for industry to have during public comment, and suggested the Council could inquire of the RA. Ms. Raymond also asked with respect to removing the uncertainty buffer and the potential benefits, if staff could walk through how this would occur, as the selected coverage level is still a target and it won't be known until the end of the fishing year whether or not that target level is achieved, and asked when the management uncertainty buffer would get lifted. Staff answered that the Council has had some initial discussion on this at the January Council meeting, with the thinking being that eliminating the buffers would occur at the beginning of the fishing year and be in place for the full year. Then the Council could evaluate at the end of the fishing year as far as how realized coverage levels met target levels or what impact 100% coverage had on catch data. Staff explained that the management uncertainty buffers alternative does not change the current process by which the Council can consider changes to the buffers as they evaluate any number of the criteria related to management uncertainty, which can be done under specifications or other management actions. Staff said they again would expect more discussion on this to occur with the implementation team to discuss implementation issues as development of the amendment continues.

Jackie Odell reiterated that with regard to phased implementation that additional information from the Agency [NMFS] would be helpful, and asked whether the Agency has provided any information as to the metrics that would potentially be used for the option for the three-year review of the coverage level, which is to see if improved accuracy in catch data is being achieved through this action. Staff answered that there has been some initial discussion amongst GARFO and PDT Council staff to understand what the metrics could be, and as discussed in the DEIS staff noted the metrics may depend on the selected coverage as these may be different for 100% coverage vs. a lower coverage, noting that there are some examples and thoughts on this within the DEIS. Staff explained that as currently outlined in the DEIS the metrics would be developed once there is more of an idea of which coverage level the Council will select as its preferred alternative, and said they expect additional discussion on possible metrics would occur further in the development of A23. Staff also noted that as currently outlined in the DEIS the review will be led by the PDT with heavy input from GARFO staff. Ms. Odell asked to confirm that the review does not have any actionable item attached to it. Staff answered that this is correct, that there is no further action connected to the review process, but the review could be used to inform future Council actions.

Comments:

Geoffrey Smith (Marine Program Director for The Nature Conservancy in Maine): I want to start by saying that the Conservancy appreciates the effort the Council has made over the last

several years to improve accuracy and reliability in the groundfish monitoring program through development of Amendment 23. We believe timely and accurate information on catch and discards is a critical component of successful and sustainable fisheries management programs, because it provides managers the information they need to ensure catch limits aren't exceeded and it gives scientists the data they need to develop accurate and reliable stock assessments. Accurate catch information is especially needed in output-based management systems like the groundfish sector program, since many of the effort controls that were used historically to limit fishing effort were eliminated in 2010. Unfortunately, the groundfish monitoring program in New England is badly broken right now. The entire program was built on an assumption that we can monitor a relatively small percentage of trips, assume that those trips are representative of unmonitored trips, and then apply the catch and discard rate from the monitored trips to the unmonitored trips to give an accurate picture of total removals in the fishery. I think that the extensive work that has been done by the PDT over the years has really demonstrated that that basic assumption is fundamentally flawed. The numerous studies and statistical analyses that have been done have shown that observed trips are not representative of unobserved trips, that there are differences between trip duration, revenue, catch of groundfish generally, and catch of Gulf of Maine cod specifically, between observed and unobserved trips, and that there are strong economic incentives to misreport catch under the current management program. These analyses really validate what fishermen from Port Clyde to Point Judith have been telling the Council since the early days of sector management – and that is that constraining quotas on key species have created intense economic pressures on fishermen that has resulted in wide spread discarding of legal-sized fish, high-grading, and blatant misreporting of catch. Fishermen and scientists don't often agree on a lot of things, but it's clear that many of them do agree that the monitoring program is not working as intended and that the health of our stocks and fishing businesses are suffering because of it. The ineffective monitoring program is really undermining the sector management system, it is preventing us from effectively keeping catch at sustainable limits, and it's feeding bad information into the stock assessments that can make the issue of choke stocks even more severe. This is the problem that Amendment 23 has been designed to fix, and we can't wait any longer to do it. I have heard a lot of people say that for anyone talking about these problems in the fishery they are saying that everyone is cheating, and I don't believe that's true, and I believe that most fishermen are doing their best to follow the rules. But I think the problem is that the current program is rewarding the fishermen who are willing to break the rules and it's punishing those fishermen who are following them at their own economic peril. And I think that's just wrong, and I think the Council needs to finish the work of Amendment 23 to fix these problems once and for all, and to provide a level playing field so that the fishermen who are following the rules have a fair chance to compete.

As far as the alternatives in the amendment, the Conservancy will be submitting detailed written comments later on, but I would like to touch on a couple of them today. First, we support the preferred alternative for moving away from the current CV standard setting coverage rates and replacing that with a fixed rate, and we also support the Council's preferred alternative of 100% coverage, and removal of the management uncertainty buffers. The analysis that is presented in the EIS has shown that the current monitoring coverage rate of around 25% is allowing for the observer bias and the misreporting that this amendment is trying to fix. And it also shows that increasing coverage rates to 50% may actually make the problem worse by increasing economic incentives to misreport on unobserved trips. So that really leaves the Council with a choice

between 75% and 100% coverage rates, and we support 100% coverage because it does the best job of meeting a key objective in the amendment, which is to minimize the effect of monitoring bias while also providing an actual benefit to the fishermen by removing the uncertainty buffers and giving the fleet more fish to catch. We also support the Council's preferred alternative for formally approving electronic monitoring as a tool to meet FMP monitoring requirements. As you all know, the Conservancy has been working with NMFS and GMRI, and fishermen from Maine to Rhode Island for several years now to field test electronic monitoring systems. Through that work we have demonstrated that electronic monitoring systems can work to identify groundfish species, to determine their lengths and weights, and to estimate catch for quota monitoring. We also support the preferred alternative of approving EM because the analysis in the DEIS has shown that EM is substantially less costly than human at-sea monitors and can help the fleet meet the FMP monitoring requirements for about half the price. Given the economic constraints on the fishery right now, I think the Council should be doing everything it can to provide fishermen with cost-effective tools, and that approving EM is one of them. Through the course of development of Amendment 23, I have heard from a lot of fishermen and other people who say that there is no way they will put cameras on their boat, and I do think it's important to note that there is nothing in this amendment that would force them to do that. The EIS states clearly that each sector will be given the flexibility to choose the at-sea monitoring tools that best meet the needs of its members. And if they choose to deal with the logistics of getting observers to their boats for more and more trips and wanting to pay more money to meet the FMP monitoring requirements, they are welcome to do so. But we believe that fishermen should have a choice of using a more cost-effective tool to meet their monitoring requirements without having to go through the EFP process to do it. The pilot projects have demonstrated that the EM systems can collect the information needed for catch accounting, and we think it's time for the Council and NMFS to formally approve their use.

Lastly, I want to recognize the valid concerns that many have raised throughout this process about the cost of a new monitoring program and the industry's ability to pay. I want the Council to know that the Conservancy recognizes these concerns and that we are committed to helping address them when Amendment 23 is implemented. We have invested a lot of time and money into developing EM systems over the last five years because we knew industry needs a more cost-effective tool to meet monitoring requirements. We have also supported numerous efforts to secure congressional funding to offset monitoring costs ever since the sector program started a decade ago. We are committed to continuing to do what we can to help secure the funds to offset industry costs moving forward. This includes supporting federal funds where appropriate and exploring opportunities for innovative public-private partnerships as a financing option. We just think that if we are going to continue to invest public and private money into the costs of the groundfish monitoring program, we should fix it first so that it actually meets the objectives of the FMP. We think Amendment 23 is our chance to do that, and we urge the Council to finish the work on this amendment as soon as possible. Thank you for the opportunity to speak today, and we look forward to continuing to work with the Council to finalize this important amendment as soon as it can.

The public hearing closed at approximately 5:08 pm.

**Amendment 23/Groundfish Monitoring
Public Hearing
Webinar**

Audience List

Date	May 21, 2020
Start time	4:04 PM
End time	5:08 PM
Number of participants	24

Groundfish Committee Chair: Terry Stockwell

Council Staff (5): Jamie Cournane, Robin Frede, Melissa Errend, Tom Nies, and Janice Plante

Participants (taken from webinar list during presentation)

	<u>Name</u>
1	Allison Lorenc
	Amanda Cousart
	Andy Jones
	Brooke Wright
	Cate O'Keefe
	Chris McGuire
	Claire Fitz-Gerald
	Debra Duarte
	Geoffrey Smith
10	George Lapointe
	Gib Brogan
	Jackie Odell
	Jeff Taylor
	John Hoey
	John Pappalardo
	Katherine Dziedzic
	Katie Almeida
	Laura Singer
	Libby Etrie
20	Maggie Raymond
	Mark Grant
	Scott Olszewski
	Spencer Talmage
	Terry Alexander