



New England Fishery Management Council

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

MEETING SUMMARY

Groundfish Committee

Webinar

August 6, 2021

The Groundfish Committee (Committee) met on August 6, 2021, via webinar to discuss and make recommendations on: 1) Framework Adjustment 63/Specifications and Management Measures; 2) Progress on 2021 Council Priorities for Groundfish; 3) Atlantic Large Whale Take Reduction Team schedule and measures; and 4) other business, as necessary.

MEETING ATTENDANCE Terry Alexander (Chair), Rick Bellavance (Vice Chair), Vincent Balzano, Pete Christopher (Greater Atlantic Regional Fisheries Office (GARFO)), Tony DiLernia (Mid-Atlantic Fishery Management Council (MAFMC)), Libby Etrie, Matt Gates (proxy for Peter Aarrestad), Melanie Griffin (proxy for Dan McKeirnan), Matt McKenzie, Scott Olszewski, John Pappalardo, Cheri Patterson, John Quinn, Dan Salerno, Mike Sissenwine, and Megan Ware (proxy for Patrick Keliher); Dr. Jamie Cournane and Robin Frede (New England Fishery Management Council (NEFMC) staff); Mitch Macdonald (NOAA General Counsel (NOAA GC)); and Marissa Trego (NOAA). In addition, approximately 19 members of the public attended, including Mark Grant, Liz Sullivan (GARFO); Chris Kellogg, Tom Nies, and Janice Plante (NEFMC staff).

SUPPORTING DOCUMENTATION: Discussions were aided by the following documents and presentations: (1) Meeting memorandum dated July 30, 2021; (2) Agenda; (3a) Framework Adjustment 63/Specifications and Management Measures - Draft alternatives outline and timeline; (3b) Memo from Groundfish PDT to Groundfish Committee re discussion questions to consider when developing measures for FW63; (3c) Memo from Nies to Council re Background Northeast Multispecies (Groundfish) Default Specifications; (3d) Memo from Council Staff to SSC re Groundfish ABC Control Rule and Issues to Consider; (3e) Council staff presentation; (4a) 2021 Council Priorities; (4b) Council staff presentation - 2021 Council Priorities for Groundfish; (5a) Large Whale Take Reduction Team – Background presentation; (5b) Background TRT scoping ideas; and (6) Correspondence.

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

KEY OUTCOMES:

- The Groundfish Committee tasks the Groundfish Plan Development Team to develop an analysis to support developing alternatives to the current default specifications process that:
 - Explore a duration of 3, 4, 5, or 6 months.
 - Explore a percentage of ACLs of 50%, 75%, or 100%.
 - Analyze maintaining the no holdback provision.
 - Establish two-year TACs for cod and haddock in the US/CA area.

- The Groundfish Committee tasks the Groundfish Plan Development Team (PDT) to focus on Gulf of Maine cod and Southern New England/Mid-Atlantic winter flounder when developing additional measures to promote stock rebuilding. Initially, the PDT should summarize the factors impacting rebuilding and report back to the Committee.

AGENDA ITEM #1: FRAMEWORK 63/SPECIFICATIONS AND MANAGEMENT MEASURES

PRESENTATION: FW63, DR. COURNANE

Staff provided an overview of development of FW63, including the range of alternatives, a timeline for the action, and recent PDT discussion on developing the alternatives. Specifically, the PDT had discussed initial ideas for developing alternatives for the default specifications process and for additional measures to promote rebuilding and offered questions and feedback for the Committee to consider. Staff explained the PDT is seeking input from the Committee today on developing these alternatives. The goal for the Committee was to discuss and make recommendations on draft measures for the PDT to develop.

Questions and Comments on the Presentation:

The Committee took questions and discussed the draft measures by section, beginning with the default specifications process. One Committee member asked why FW58 took four months to be approved as this seemed longer than in other years. Ms. Sullivan explained that this year had the 35-day federal government shutdown which caused significant delays in reviewing the action. Another Committee member asked if there are other options on the table besides changing the default specs duration and amount, such as changing the timing of the entire process. Staff answered that the timing challenge is mainly due to the assessment process occurring late in the year and the Council not having enough time to consider the assessment information. Mr. Christopher added that GARFO does look at the timing of assessments and tries to consider it within specifications timing for different Fishery Management Plans (FMPs). He also emphasized that four months is a normal timeline to review actions, when considering having a 30-day comment period and the time needed to prepare the proposed rule and final rule and said the Council should be careful not to fall into a routine of putting a lot of extra pressure on staff to get these actions done in less than four months. Another Committee member asked if three months is a reasonable amount of time to complete the annual specifications actions and the delays in recent years have been a result of unforeseen circumstances, or if the Council has set up a timeline that is not achievable. Staff answered that it has always been difficult to make May 1 for the start of the fishing year, which was the reason for the request for default specs to allow a little bit of extra time in case of unforeseen administrative issues, but that in practice almost all actions have required default specs because of issues like the government shutdown, split final action, the SSC remand, and COVID delays. Staff explained that sometimes the PDT and Council staff have had to go back and do substantial analysis after final action because the Council selected modified alternatives, which results in delays, and that the biggest driving factor is when the Council receives information as it is tough to receive information and act on it at the same meeting. Mr. Christopher added that the expectation of final action in December gives four full months for May 1 implementation and seven months before the default specs expire which should be enough time, but the issue is when this timeline is disrupted by delays in final action or additional analyses requiring a late submission.

Ms. Jackie Odell commented that when looking at the timeline of various groundfish actions it seems that the information has been slowed down, that in the past more information was available in December for the Council to review and that the stock assessment information was ready by the September Council meeting, and she wondered if there is any way to speed up this process. Staff answered that the year-end

catch reports have been taking longer than normal in some years, the issue being that final catch numbers can trigger accountability measures (AMs) and so there is a lot of work to verify the catch estimates, though the PDT does have preliminary catch data to work with. Staff also noted that the Center and GARFO are working on data modernization with a new catch database (CAMS) and it is not clear what impacts this could have on timing of information. Staff explained that one alternative approach to consider for the sub-components analysis may be to look at prior years' data and not use the most recent year's data. Mr. Christopher added that GARFO has had issues with catch accounting in last few years, for example two years ago with halibut catch accounting, and that they prefer to present all catch data together. He acknowledged that COVID has also caused issues with lateness of catch reporting which is something GARFO can look to improve. He said that while he isn't sure how CAMS will impact catch accounting timing it is supposed to improve the reporting process overall, and is especially important to the groundfish fishery with new monitoring requirements coming with Amendment 23. One Committee member asked if an alternate approach could be to look at sub-components differently such as using historic catches and what impacts this would have. Staff explained that for sub-components the PDT typically looks at the three-year catch average to see if the percentage for state and other sub-components should be adjusted, so for this year the challenge would be if the fishing year 2020 data is not available until late. Staff said an alternative is that the Council wouldn't adjust sub-components this year or could use a different process that doesn't require waiting for the updated data. Ms. Griffin added that the Massachusetts Division of Marine Fisheries (MADMF) has been working with the Center to vet the state waters estimates, particularly for cod.

One Committee member asked whether the PDT had any detailed discussion about seasonal fisheries yet, or if they would plan to look into this if the Committee prioritized options to change the duration and amount of default specs. Staff noted that the PDT has heard from industry about seasonal fisheries like those on eastern Georges Bank in the summer, and that the PDT will look at trends in catch rates over the years, looking at a finer scale than stock level to understand these fisheries. Another Committee member commented that he hears complaints about the 35% amount for default specs, especially from fishermen fishing on eastern Georges Bank where 35% could be the result of a bad tow. He explained that many gillnetters didn't even set gear out this year because it was not worth the risk with low catch amounts and suggested that something to look at when the quotas are ratcheted down for default specs is to see how many fewer fishermen are actively fishing.

A Committee member said that regarding the PDT questions she thinks the Committee should focus on first two bullets: adjusting the duration of default specs along with the percentage for default specs and thinks the PDT should look at incremental amounts. She also suggested considering two-year US/CA total allowable catches (TACs), as those who fish out there are impacted a lot by the 35% default. Another Committee member agreed with adjusting the duration and percentage for default specs and noted that most actions have had default specs triggered, and that even keeping in mind outstanding circumstances they still need to have the timeline preserved to keep specs actions on track. She also thought the PDT should look at finer scale catches and timing of catches by the fleet and should consider using two-year specs any place not already used. While she didn't have specific percentages to recommend exploring, she didn't think the Council would want to manage the entire fishing year by default specs. Another Committee member agreed with these comments and emphasized the important of not moving the timeline back more. He also suggested considering different percentage amounts by stock, as he didn't think the Council would want to have higher percentage default specs for stocks with the annual catch limit (ACL) going down a lot in the new year. In response to a question, staff clarified that currently the default specs include a provision that they are not to exceed the current year recommendations in order to prevent overspecification, and a Committee member noted that this provision would seem to protect against any risk from rolling over 100% for default specs. Another Committee member agreed and said she thinks a four or five month delay is what might be needed. She thought a stock-by-stock basis for

default specs would be too complex and create uncertainty. Additionally, she said the Council need to be careful not to push back the timeline of actions and expressed her appreciation for all the work Council and GARFO staff put in to keeping these actions on track to publish in time. Several Committee members agreed with increasing the percentage for default specs to provide stability for the industry.

One Committee member said she thinks it would be worth investigating the ability to adjust assessment timing to conduct assessments earlier in the spring or summer using older data, since they may find having more timely data is not adding that much value. Another Committee member said they should have a larger discussion about changing the fishing year timing, since they are constantly running up against May 1 and the July 31 default specs deadline. A Committee member thought that looking at assessment timing and fishing year timing are beyond this framework and are something more for the Northeast Region Coordinating Council (NRCC) to discuss. One Committee member thought this might require large changes to the process timing and that the Committee would need to consider the reliability of science, and said they think before considering using older data there should be studies to determine potential impacts. Mr. Nies pointed out that the assessment timing is challenging to move earlier because the Center has indicated that if held any earlier then they cannot use the most recent catch data, and said the Committee should consider whether they would be comfortable using older data in order to have earlier assessments, noting that this is something the NRCC was reluctant to accept in the past. He explained that the catch information is not available until May or June, which is often due to a delay in state waters catch data, and is more of an issue for analytical assessments where catch at age data is needed.

Public Comment: Ms. Odell (Northeast Seafood Coalition) said it is important to get the quotas out there quickly for industry and that operating under default specs is not efficient. She agreed with allowing a little bit of wiggle room but worried about delaying further and thinks the focus should be on increasing beyond 35% and not going beyond six months for default specs. Maggie Raymond (Associated Fisheries of Maine) thanked the Council and Agency for addressing default specs as it has been an issue for awhile, and said she thinks the Committee should keep this simple, focusing on the duration and percentage and not any other potential options, as well as considering two-year TACs for US/CA.

The Committee next discussed the draft alternative for additional measures to promote rebuilding. In response to a question, staff explained that one of the example measures the PDT suggested is the use of slot limits, which is when there is a prohibition on retaining fish both below and above a certain size, intended to protect larger more fecund fish, and is used a lot in recreational fishery management. Another Committee member asked if there is a summary available of all the discard mortality assumptions, as this seems important when considering slot limits to ensure this wouldn't just increase discards. Staff explained that the haddock recreational fishery has different discard mortality estimates for different sizes and seasons, and pointed to a summary of commercial fishery discard mortality estimates. Staff noted that the slot limit recommendation came from the Recreational Advisory Panel, but that slot limits have never been developed for cod.

Staff explained that the PDT has some time to work on possible rebuilding measures this summer and that it will be helpful to have direction from the Committee now as opposed to in September. Staff further explained it would be helpful for the PDT to hear what stocks to focus on, or to hear what direction to focus on for different approaches, for example, what fisheries to focus on, or potential gear modification requirements. One Committee member acknowledged that some of these approaches could be helpful while some might not be depending on the situation and could be unnecessarily burdensome, and said he thinks there should be an analysis that looks at a stock by stock basis for why stocks haven't rebuilt within their timelines, for example, are there concerns about unreported discards or catching fish that too small. Staff pointed to the memo on ABC control rules which has a summary of the stocks in rebuilding

plans and where they are at relative to the end date for spawning stock biomass (SSB) and fishing mortality (F), and offered one option for the Committee consider beginning work on those stocks that are close to their rebuilding plan end date. The Committee member said that one question to ask is if F is well below the target but the stock is not rebuilding, if the Committee should explore whether SSBMSY is wrong or whether there could be other environmental drivers at work, for example with Southern New England/Mid-Atlantic (SNE/MA) winter flounder. Staff explained that typically this is a discussion that occurs during the assessment process, and noted that all winter flounder stocks will have research track assessments soon and that SNE/MA winter flounder may be a part of the state space model research track assessment. Additionally, staff explained that the Council is anticipating receiving a rebuilding letter on Gulf of Maine (GOM) cod and SNE/MA winter flounder from the agency. The Committee member wondered why the rebuilding plan wouldn't continue along especially if there is uncertainty with the reference points. Mr. Nies pointed out that the agency sends a notice about making inadequate rebuilding progress, at which point the Council must make adjustments to the management plan.

Mr. Christopher explained that NMFS is required to evaluate rebuilding process and recently determined that GOM cod and SNE/MA winter flounder are not making adequate rebuilding progress. He acknowledged GARFO owes the Council a rebuilding letter but wanted to clarify that this framework action does not need to address the contents of the letter, as they are expecting this work to begin in 2022. One Committee member said this was part of the reason she thought this item should not be included in the framework and had seen this as a placeholder until the rebuilding letter, and would like to hear from those who wanted to keep this measure in the framework as far as what stocks to focus on. She added she is not sure how the Committee would determine measures for certain individual stocks, and thinks they need more analysis to know which stocks to focus on, agreeing that they may need more input on assessments and biomass estimates. Another Committee member said that for stocks that have already had reduced catch and protected habitat and spawning he is not sure what else to look at and doesn't know if the Committee has enough information to proceed. One Committee member felt this is a problem the Council has created for itself, in which there is a lack of basic data about things like spawning protection and gear and information to determine what other fisheries are catching, due to delays with Amendment 23 and the habitat amendment. Another Committee member disagreed and felt some of these problems go beyond this and that the Council is not struggling for a lack of data but is struggling on a stock-by-stock basis to understand how these management measures could benefit stocks because they don't know where these stocks are in their assessments.

Staff offered a suggestion to ask the PDT to focus on cod and to focus on providing input on different types of management measures, which will also be the subject of upcoming cod stock structure management workshops. Staff also suggested the Committee could consider looking at SNE/MA winter flounder. Mr. Nies reminded the Committee that the problems with the cod stocks are not recent and that the letter is based on 2019 assessments, and that the Council has known for a long time that the cod stocks aren't rebuilding as quickly as hoped. A Committee member said she is hesitant to focus on GOM cod for several reasons including that there are upcoming cod stock structure workshops which seems inefficient to start working on rebuilding now. Another Committee member wanted to emphasize the importance of GOM cod for the recreational fishery, as in recent years they have only had a few weeks open and thought the Committee should look at speeding up rebuilding to bring the fishery back. A Committee member said he is supportive of focusing on GOM cod but would like to base this on analysis of potential causes of the stock not rebuilding before jumping into developing management measures. One Committee member asked for Georges Bank (GB) cod how to measure progress towards rebuilding if SSB isn't known and said she is hesitant to include GB cod without a way to measure progress. Several other Committee members supported focusing on GOM cod and SNE/MA winter flounder. One Committee member asked for workload whether one stock was preferred or if two would be okay. Staff responded

that the issue is more that there are 13 stocks in rebuilding plans and so it would be helpful to narrow the focus to one to three stocks and to also focus on approaches.

Public comment: Ms. Odell commented that with Amendment 23 to be implemented in May 2022 the Committee will get to see what improvements to catch data accuracy will be realized in the coming years, and she recommended looking at catches from other fisheries. She also thought they should look at rebuilding on a stock-by stock-basis. Ms. Raymond asked whether additional measures to promote rebuilding could include additional monitoring for other fisheries that catch groundfish. Staff answered that the PDT had briefly mentioned the possibility of monitoring other fisheries but did not discuss this specifically.

Motion #1: Etrie/Bellavance

The Groundfish Committee tasks the Groundfish Plan Development Team to develop an analysis to support developing alternatives to the current default specifications process that:

- a. Explore a duration of 3, 4, 5, or 6 months.
- b. Explore a percentage of ACLs of 50%, 75%, or 100%.
- c. Analyze maintaining the no holdback provision.
- d. Establish two-year TACs for cod and haddock in the US/CA area.

Discussion on the Motion: The maker of the motion explained that her intent is to not overcomplicate this and is limiting the duration to six months so as to not have too much of a delay. Mr. Christopher asked for clarification on the holdover provision component, and the maker of the motion clarified that the intent is to analyze maintaining the current process of not having holdover when defaults specs are in place. One Committee member said the analysis should take into account different components of the fishery and look specifically at different types of sector trips and suggested looking at a finer scale such as a regional or state basis to understand impacts. He also asked which components of the fishery are impacted by default specs and whether this also includes the common pool and recreational fisheries. The maker of the motion clarified her intent is to maintain the normal process for default specs which includes other components of the fishery.

Motion #1 carried on a roll call vote (14/0/2).

Motion #2: Bellavance/Gates

The Groundfish Committee tasks the Groundfish Plan Development Team (PDT) to focus on Gulf of Maine cod and Southern New England/Mid-Atlantic winter flounder when developing additional measures to promote stock rebuilding. Initially, the PDT should summarize the factors impacting rebuilding and report back to the Committee.

Discussion on the Motion: A Committee member asked how GOM cod will be defined with the new cod stock structure. Staff answered that they can share this with the PDT for considering that there are three GOM stocks and can report back when reporting on factors affecting rebuilding. Another Committee member said he appreciated looking at a southern stock and for the PDT to look into catches by other fisheries. Ms. Odell asked if the PDT will consider the impact of precision and accuracy of catch data related to A23 and 100% monitoring. Staff answered that if the motion passes the PDT will discuss factors impacting rebuilding and possible mechanisms that could help these stocks rebuild, and that

before developing management measures the PDT would first report back on factors impacting rebuilding.

Motion #2 carried on a roll call vote (12/0/4).

AGENDA ITEM #2: 2021 COUNCIL PRIORITIES

PRESENTATION: 2021 COUNCIL PRIORITIES FOR GROUND FISH, DR. COURNANE

Staff provided an overview of progress on 2021 Council priorities, including both annual priorities such as setting specifications and other management measures in FW63, and multiyear priorities such as cod stock structure work.

Questions and Comments on the Presentation:

None.

AGENDA ITEM #3: ATLANTIC LARGE WHALE TAKE REDUCTION TEAM UPDATE

Mr. Alexander, who serves as the Council representative on the Atlantic Large Whale Take Reduction Team (TRT), provided a summary of recent work by the TRT, which will focus on measures to reduce the risk to right whales from the gillnet fishery and potentially the longline fishery. He explained that there were TRT meetings held in June and July to put together initial ideas for gillnet measures which will go out to public comment in the fall. Mr. Alexander explained that the risk analysis can currently measure the risk of buoylines on gillnet gear but the TRT doesn't yet have a risk measure for the nets, and that the Council is waiting to hear about the risk from nets before commenting. Ms. Marissa Trego, a member of the TRT, was in attendance to answer questions. She clarified that there will be a scoping period in September/October, followed by a TRT meeting to discuss the ideas from scoping likely to now occur in January, and a proposed rule expected next year.

Questions and Comments:

One Committee member asked about the baseline data that is being used to evaluate reducing endlines for gillnets, since there has been a large reduction in effort over time. Ms. Trego said the TRT is using observer data updated from the previous version of the risk analysis tool, which is combined 2019/2020 data, and said she can provide the details of the baseline fishery data later. Another Committee member asked for more detail on how the risks of nets are assessed given different gillnet configurations. Ms. Trego said the TRT is taking these different configurations into consideration, and that they have information on tie downs and their impacts on height and width of nets, as well as considering whale size and predicting where they are in the water column to predict the chances of encounters with nets. She explained there are other gear configurations being considered, though the TRT is not necessarily considering net mesh sizes other than how this relates to different fisheries. The Committee member offered past research that has shown how tide affects the height of nets. Another Committee member asked with regard to different types of gear, if the analyses will look into seasonality of different gears and asked if information is being borrowed from the lobster fishery for things like breaking strength since there is less information on gillnet gear. Ms. Trego said there is less breaking strength research done for gillnets although there is some which would be used as the basis for the analyses, and that the TRT would test out any new considerations for breaking strength. As far as spatial data she explained that there is

actually more information for gillnets. Additionally, she explained the TRT gear team has been working to identify different gear configurations based on target species and is debating how to combine or split different gear types, something that would be helpful to get feedback on during the scoping period. Mr. Alexander added that one of the ideas is a 1700lb line for weak links and another is the use of net sleeve which still needs to be tested, and that the TRT needs a more definitive idea of whether there is more line in the water from gillnets or the lobster fishery. A Committee member offered that the state of Maine is working on a survey for Northeast gillnet fishermen to understand weight loads on gillnets and has load cells to measure tension on the lines to help provide data.

One Committee member asked how many breeding adult female right whales are left and whether NMFS has data on when the steepest mortality occurred for those females. Ms. Trego answered that there are under 100 breeding females, about a third of the population, and that NMFS doesn't have sex-specific mortality estimates but that the overall species decline occurred beginning in 2010. The Committee member asked about upcoming humpback whale measures and whether the issues are similar for them as for right whales. Ms. Trego answered that humpback whales have a different entanglement risk since their population level is at a higher level, but entanglements have been increasing.

A Committee member asked about process for developing these measures. Ms. Trego explained that the TRT is taking an opposite approach as the last time when developing measures for the lobster fishery where scoping occurred after initial ideas were generated, as this time scoping will be held first to generate ideas. She explained that the aim is to have baseline data available though this may not include threat level analysis on nets until the end of the year. Ms. Odell asked to clarify that the ideas from the TRT meetings are just ideas to bring to scoping and there will be additional input from fishermen and the public during scoping, and Ms. Trego confirmed that is correct. Another Committee member asked what input the Council will have in the process. Ms. Trego said the TRT is looking for input from the Council to help understand things like limited access fisheries and how this could affect effort and will have more details available in September/October during scoping. Mr. Alexander clarified that even after he terms out of the Council on August 10th he has agreed to stay on as a TRT member until the end of developing measures for right whales. Ms. Raymond asked who on the Council will provide comments. Staff said they would circle back with Executive Director Nies, but that typically for actions that affect multiple FMPs staff prepare comments and the Council reviews and approves with public input, though this process could be more formal.

Ms. Raymond also asked if there will be a full economic impacts analysis with the proposed rule. Ms. Trego answered that there will be a full economic impacts analysis for the proposed rule and also the final rule with input on the analyses from public comment. Ms. Raymond asked how likely it is they will have a recommendation for fully ropeless gear or whether this would be an option. She is concerned about feasibility and how to measure impacts on trawl fisheries that cannot identify where ropeless gear is located. Ms. Trego answered that for the lobster fishery proposed rule there was an option to test ropeless gear in closed areas which could be included in this proposed rule as well. She added the TRT hasn't talked as much about ropeless gillnets but has talked about an option to have ropeless gear on one end and regular rope on other, but that there has not been much testing on gillnets yet. She explained that fishermen wanting to test ropeless gear would apply for exempted fishing permits (EFPs). Mr. Alexander added that there is an EFP application for testing ropeless gillnet gear but he did not think it had been approved yet. Ms. Odell asked whether the issues raised on ropeless fishing gear and impacts to trawl fisheries were included in the final environmental impact statement (FEIS). Ms. Trego said the TRT tried to incorporate public comments into the FEIS as best they could, and noted they also have a full volume of response to comments as a separate volume, with additional volumes that have higher level summary information. Mr. Alexander added that the TRT wants to consider soak time and a need to distinguish between day boats and trip boats. He explained the TRT has also discussed new seasonal restricted areas

or hotspots where boats move when whales are spotted in the areas. Staff noted that there will be a full presentation received at the September Council meeting with more details on development of gillnet measures.

AGENDA ITEM #4: OTHER BUSINESS

Ms. Raymond asked a follow up question from the earlier discussion on PDT analyses on measures for rebuilding as to whether considering monitoring for other fisheries is something that could be done in this framework action. Staff as well as Mr. Macdonald answered that it would depend on the type of monitoring requirements as far as whether or framework or amendment is needed, and that some groundwork was done on this with the Industry-Funded Monitoring (IFM) amendment.¹

The Groundfish Committee meeting adjourned at approximately 2:27 p.m.

¹ NOAA GC later clarified through correspondence that development of new industry-funded monitoring programs for a fishery requires an amendment, as per the IFM amendment.