

*Summary of public comments on the Draft Environmental Impact Statement for Amendment 23 to the Northeast Multispecies Fishery Management Plan*

# **Summary of Public Comments**

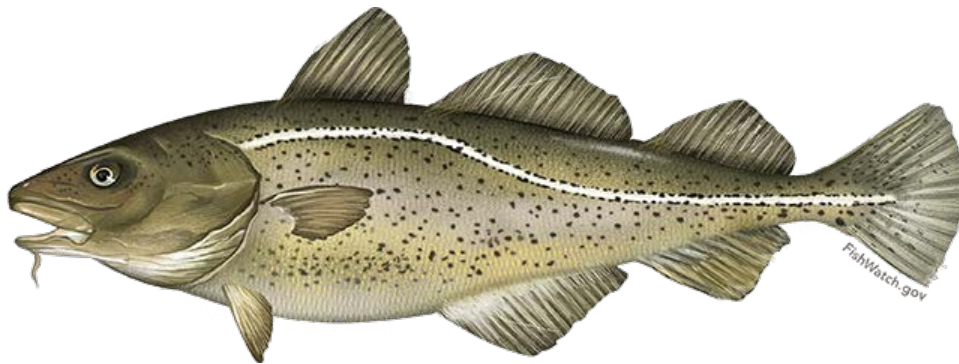
## **On the**

### **DRAFT Environmental Impact Statement**

#### **for**

### **Amendment 23 to the**

## **Northeast Multispecies Fishery Management Plan**



**September 18, 2020**

**Compiled by the**  
**Groundfish Plan Development Team**

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## **1.0 INTRODUCTION**

Between March 20 and August 31, 2020, the New England Fishery Management Council (NEFMC) accepted written and oral comments on the Draft Environmental Impact Statement (DEIS) for Amendment 23 to the Northeast Multispecies (Groundfish) Fishery Management Plan (A23). Written comments were submitted to the NEFMC and nine public hearings were held, moderated by the Groundfish Committee chairman and supported by NEFMC staff. At each hearing, public testimony was taken on the measures proposed in the amendment. All written (letters) and oral comments (summary and audio recordings) are available for review by the NEFMC and public. This report summarizes the demographics of commenters and the key themes of their statements. This report does not respond to the comments. It is intended to serve as a guide for reviewing the comments and should not substitute for reading the comments directly.

## **2.0 METHODS**

All comments received during the public comment period are summarized here. This includes the written comments and summaries of each hearing that contain close (but not exact) transcriptions of the oral comments.

**Demographics:** Each person who signed a letter or spoke at a hearing was entered into a database and classified by demographic attributes such as home state, stakeholder type (eight stakeholder types identified), and comment type (oral and/or written). For the form letters received (three total) demographic information for those who submitted the form letters was also entered into a database. Several commenters stated that they represent multiple stakeholder types. In those cases, a primary stakeholder type was assigned based on the judgment of the reviewer. For those who submitted comments on behalf of themselves and a non-governmental organization (NGO), the primary stakeholder type was assigned as an NGO representative, since

the NGO presumably represents a larger group of people. Demographics of commenters is reported in Section 3.0.

**Alternatives and Additional Comment Themes:** Each person commenting (not for the 1600+ people who submitted one of several form letters) was organized by primary stakeholder type. The text of each comment was assigned (i.e., coded) to the appropriate commenter. As the comments were carefully read, text that stated support for a given alternative was highlighted and coded to the appropriate alternative. There were also comments opposing specific alternatives, particularly for the Council’s preliminary preferred alternatives, that were coded for relevant alternatives. Additional comment themes were created and coded, such as ideas for other alternatives not in Amendment 23, comments on the DEIS, and other ideas for improving sector management. The CLF form letter included brief personal comments from about 83 people. The form letters were coded, but due to time constraints, the personal comments were not. A review of these personal comments confirmed that their themes are consistent with those of their associated form letter.

After all the comments were coded to persons and alternatives or additional comment themes, the total number of comments and people commenting support for specific alternatives by stakeholder type was determined, as reported in Section 4.0. To identify the rationale for supporting, or opposing in some cases, a given alternative, all statements in support of the alternative were read carefully. Rationale for support of a given alternative has been summarized using bullet points (found in Section 4.0) that represent the range of the rationale but are listed here in no order. Many bullets use direct quotes to capture the comments.

## 3.0 DESCRIPTION OF COMMENTERS

### 3.1 ORAL COMMENTERS

**Table 1 - Public hearing attendance**

Location	Attendees <sup>1</sup>	Speakers
April 15 webinar	82	5
May 12 webinar	32	2
May 21 webinar	24	1
July 16 webinar	18	0
July 29 webinar	13	1
July 30 webinar	41	15
August 6 webinar	10	1
August 10 webinar	32	8
August 26 Wakefield, MA	47 <sup>2</sup>	18
<b>Total</b>	<b>154<sup>3</sup></b>	<b>40<sup>3</sup></b>
<sup>1</sup> Includes NEFMC members (counts in meeting summaries). <sup>2</sup> Includes 21 people who attended in person, and 26 people on the webinar (listen only). <sup>3</sup> Duplicates removed.		

In total, the nine public hearings were attended by about 154 unique individuals (not including those who attended multiple hearings), and 40 unique individuals spoke on Amendment 23 (duplicates removed; Table 1). One hearing had no commenters. Oral comments were received from 26 people representing themselves or their business (65%), 13 people representing non-governmental organizations, including groundfish sectors (local to national, 33%), and 1 were government representatives (local, city, 2%).

The following is an overview of each public hearing:

**April 15 Webinar:** This hearing was held in conjunction with a NEFMC meeting and was a little over an hour, including a 40-minute staff presentation followed by several clarifying questions on the presentation and five individual public comments. All five speakers commented in general support of the action. Three speakers commented on the sector monitoring standard alternatives, two supporting Option 2 Sub-option 2D-100% monitoring, while the third speaker recommended the Council consider tradeoffs between costs and accuracy of catch information provided by Option 2 Sub-option 2C- 75% coverage level vs. 100% coverage. Three speakers commented on the sector monitoring tools alternatives, all supporting Option 2: audit model electronic monitoring (EM) and Option 3: maximized retention EM. One speaker commented on the dockside monitoring alternatives, supporting Option 2: Establish a Dockside Monitoring Program. The same speaker commented on the management uncertainty buffers alternatives, supporting Option 2. The speaker also commented on several other alternatives, supporting Option 2 in the coverage review alternatives, Option 2 in the funding and operational provisions alternatives, and Option 2 in the sector reporting alternatives.

**May 12 Webinar:** This hearing was about one hour, including a 40-minute staff presentation followed by two individual public comments. One speaker who had previously commented reiterated general support for the preferred alternatives, but noted concerns about the costs of 100% monitoring, and supported Option 2 in the dockside monitoring alternatives. One speaker commented on the sector monitoring standards on behalf of groundfish fishermen in New Hampshire, and said they did not support 100% monitoring. The speaker also commented on sector monitoring tools alternatives, noting the reluctance of many of the NH groundfish fishermen to use EM.

**May 21 Webinar:** This hearing was about one hour, including a 40-minute staff presentation followed by several clarifying questions and one individual public comment. The speaker commented in general support of the action. The speaker commented on the sector monitoring standards alternatives, supporting Option 2 Sub-option D-100% coverage, and the sector monitoring tools alternatives, supporting Option 2: audit model EM and Option 3: maximized retention EM. The speaker also commented on the management uncertainty buffers alternatives, supporting Option 2.

**July 16 Webinar:** This hearing was a little under one hour, including a 40-minute staff presentation. There were no questions and no public comments.

**July 29 Webinar:** This hearing was about one hour, including a 40-minute staff presentation followed by one individual public comment. The speaker commented on behalf of sector members, who were largely opposed to the action. Comments opposed the preferred alternative for the sector monitoring standard, Option 2 Sub-option 2D-100% coverage, citing concerns about industry's ability to bear the costs of monitoring. Comments supported both preferred alternatives for the sector monitoring tools alternatives: Option 2: audit model EM and Option 3: maximized retention EM, although there was a sense that not many fishermen would choose these options if available. Comments supported the preferred alternative of No Action for the dockside monitoring alternatives. Comments also supported the preferred alternatives for removing monitoring requirements for vessels fishing on a trip that occurs west of 71 degrees 30 minutes west longitude. There were also comments on several other alternatives, including the management uncertainty buffers alternative Option 2.

**July 30 Webinar:** This hearing lasted a little under three hours, including a 40-minute staff presentation followed several clarifying questions and 15 individual public comments. In general, public input at this hearing was generally opposed to the preferred alternative for the sector monitoring standard, Option 2 Sub-option 2D- 100% coverage. Most commenters focused on concerns about the industry's ability to pay for monitoring at higher coverage levels.

**August 6 Webinar:** This hearing was about 45 minutes, including a 40-minute staff presentation followed by one individual public comment. The speaker opposed the preferred alternative for the sector monitoring standard, Option 2 Sub-option 2D- 100% coverage. The speaker also had concerns about operational aspects of sector monitoring tools Option 3: maximized retention EM.

**August 10 Webinar:** This hearing was about two hours, including a 40-minute staff presentation followed by several clarifying questions and eight individual public comments. The speakers who identified preferred alternatives opposed the preferred alternative for the sector monitoring standard, Option 2 Sub-option 2D- 100% coverage. A few commenters were supportive of 100% monitoring only if NMFS was responsible for the costs and not the industry.

**August 26 Wakefield, MA:** This hearing was about three hours, including a 40-minute staff presentation followed by several clarifying questions and 18 individual public comments. The speakers largely opposed the action with the exception of one speaker who supported the action. The majority of speakers who identified preferred alternatives opposed the preferred alternative for the sector monitoring standard, Option 2 Sub-option 2D- 100% coverage. Several commenters expressed concerns about the preferred alternatives for the sector monitoring tools alternatives: Option 2: audit model EM and Option 3: maximized retention EM, particularly Option 3, stating these were not yet ready for use by the fleet. One speaker supported the preferred alternative for 100% monitoring. The speaker also supported the preferred alternatives for the sector monitoring tools alternatives: Option 2: audit model EM and Option 3: maximized retention EM. The speaker opposed the preferred alternative for removing management uncertainty buffers, and opposed any alternatives for removing monitoring program requirements. Many commenters shared concerns about the cost estimates in the economic impacts analysis, feeling that these estimates do not represent costs from their experience.

### **3.2 WRITTEN COMMENTERS**

There were 49 written comments (letters and e-mails) received during the comment period (late comments excluded). There were 21 written comments from individuals or businesses (43%), three from small groups of individuals (7-85 signers, 6%), three form letters (6%), 17 from non-governmental organizations or groundfish sectors (35%), and five from government representatives (city to federal, 10%). One of the form letters (from CLF) was submitted by 1,430 people and 83 of them included brief personal comments. The two industry form letters were submitted by 166 people and 45 people, respectively. The two federal agencies (Department of the Interior and Environmental Protection Agency) indicated they have no substantive comments on Amendment 23. Thus, these letters are not considered further in this summary, which focuses on the stakeholders providing substantive comment.

There was evidence of collaboration and networking among stakeholders in developing comments, in addition to the three form letters submitted by 1,641 people. One letter was signed

by 74 commercial fishermen representing 86 sector vessels. Another letter was signed by 85 members of the general public. A third letter was signed by 7 members of the general public. Of the 49 total written comments, several letters appeared to have the same or similar text. These duplicate or quasi-duplicate letters may have been written by an organization(s) as a template and then distributed.

### **3.3 ORAL AND WRITTEN COMMENTERS COMBINED**

Through the **100 comments** (i.e., 51 oral and 49 written), **217 people** gave input (duplicates removed) on Amendment 23, in addition to the **1,641 people** (duplicates possible) who submitted one of the three form letters. However, many comments were given by people who represent businesses or organizations, and the total number of people those commenters represent cannot be determined.

Of the 217 commenters (excluding the three form letters), 10 people only submitted oral comments, 176 people only submitted written comments, and 31 people submitted both (Table 2). Of the 217 commenters, 197 commented only during the DEIS comment period and 20 (9%) had also commented during public scoping in 2017.

The 217 commenters represented a variety of stakeholder types. Several commenters stated that they represent multiple stakeholder types, so a primary stakeholder type was assigned based on the judgment of the reviewer (as noted above; Table 2). By primary stakeholder type, 194 people commented on behalf of themselves or a business and 23 commented on behalf of an organization (government, non-governmental organization, groundfish sector; Table 2). Several people who commented were sector managers, speaking on behalf of sector members as well as on their experience with the sector program. A list of organizations that commented is provided in Table 3.

Home state could be identified for 215 (99%) of the 217 commenters (excluding the three form letters) (Table 4). Home state could not be identified for the 63 commercial groundfish fishermen who signed one letter (duplicates removed), but they indicated they are all sector members, and so likely hail from New England states, and were classified as “New England.” For NGOs, the address provided was used to determine home state; some NGOs were assigned “New England” region or “National”. All comments were from New England (except for comments from “Unknown” home state or home state listed as “National”), primarily Massachusetts (60%).

Due to time and information constraints, it was not possible to analyze the demographics of the 1,641 people (duplicates possible) who submitted one of the three form letters, at least to the same degree as the other commenters. General characterizations are:

- *Conservation Law Foundation form letter:* This letter was submitted by 1,430 individual commenters with 83 people adding brief personal comments. All individuals were from the U.S., from 38 states. Most were from New England states (85%), with Massachusetts making up 43% of the total (Table 5).
- *“Off course” comment card:* This letter was submitted by 166 individual commenters. All individuals were from the U.S., from 6 states. Most were from New England states (86%), with Massachusetts making up 72% of the total (Table 6).

- *Industry comment card*: This letter was submitted by 45 individual commenters. All individuals were from the U.S., from 3 states. All were from New England states, with the majority from Massachusetts (80%) (Table 7).

**Table 2 – Primary stakeholder type of commenters, n=217**

Primary stakeholder type	Oral only (n=10)	Oral & written (n=31)	Written only (n=176)	Total (n=217)
<i>Representing themselves or businesses (individuals)</i>				
Commercial fishery – groundfish	5	18	70	93
Commercial fishery – other <sup>2</sup>	0	1	2	3
Fishery support services – seafood dealer/processor <sup>2</sup>	3	0	0	3
Other interested public	0	0	95	95
<b>Total individuals</b>	<b>8</b>	<b>19</b>	<b>167</b>	<b>194</b>
<i>Representing groups or governments (organizations)</i>				
Government	0	1	2	3
NGO – Commercial fishery	0	4	5	9
NGO – Environmental national/regional	0	4	1	5
Fishery support services – sector/sector manager	2	3	1	6
<b>Total representing organizations</b>	<b>2</b>	<b>12</b>	<b>9</b>	<b>23</b>
<b>Total</b>	<b>10</b>	<b>31</b>	<b>176</b>	<b>217</b>
Note: Those people submitting one of the three form letters are not included here. Each person assigned here to their primary stakeholder type.				
<sup>1</sup> Includes monkfish, lobster, halibut, and unknown.				
<sup>2</sup> Also includes fishery consultant.				

**Table 3 – Organizations that commented**

<b><i>Commercial fishery interests</i></b>	
Associated Fisheries of Maine	Cape Cod Commercial Fishermen's Alliance
Fishing Partnership Support Services	Gloucester Fishermen's Wives Association
Maine Coast Fishermen's Association*	Northeast Seafood Coalition*
Northeast Sector Services Network	Plymouth Lobstermen's Association
<b><i>Environmental – National/regional focus</i></b>	
Conservation Law Foundation*	Environmental Defense Fund*
Oceana*	The Nature Conservancy*
<b><i>Governments</i></b>	
City of New Bedford	City of Gloucester
Commonwealth of Massachusetts	
* Also commented during scoping period	

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**Table 4 – Home state of commenters, n=217**

State	Oral only (n=10)	Oral & written (n=31)	Written only (n=176)	Total (n=217)
<i>New England States</i>				
ME	4	4	4	12
NH	1	3	1	5
MA	5	20	105	130
RI	0	1	0	1
New England	0	2	63	76
<i>Other States</i>				
National	0	1	1	2
Unknown	0	0	2	2
<b>Total</b>	<b>10</b>	<b>31</b>	<b>176</b>	<b>217</b>
Note: Duplicates removed, not including the people who submitted the three form letters.				

**Table 5 - Home state of commenters who submitted the CLF form letter, n=1,430**

State	Total (n=1,430)	State	Total (n=1,430)
<i>New England States</i>		<i>Other States</i>	
ME	94	MD	2
NH	159	MI	5
VT	96	MN	2
MA	611	MO	3
RI	119	NC	4
CT	136	ND	1
<i>Other States</i>		NJ	12
AL	6	NM	1
AR	1	NV	1
AZ	9	NY	43
CA	39	OH	5
CO	5	OR	4
DE	1	PA	9
FL	17	SC	2
GA	3	TN	5
IA	1	TX	5
IL	5	VA	14
IN	1	WA	6
KY	1	WI	1
LA	1	<b>Total</b>	<b>1430</b>



**Table 6 – Home state of comments who submitted the “off course” comment card, n=166**

<b>State</b>	<b>Total (n=166)</b>
<i>New England States</i>	
ME	16
NH	6
MA	119
RI	1
<i>Other States</i>	
CA	1
FL	2
Unknown	19
<b>Total</b>	<b>166</b>

**Table 7 - Home state of comments who submitted the industry comment card, n=45**

<b>State</b>	<b>Total (n=45)</b>
ME	6
NH	3
MA	36
<b>Total</b>	<b>45</b>

## 4.0 CONTENT OF COMMENTS

### 4.1 AMENDMENT 23 ALTERNATIVES

Preferences for specific alternatives (including No Action or opposition to specific alternatives) were stated by 107 of the 194 people commenting on behalf of themselves or a business and 16 of the 23 people who commented on behalf of an organization (government, non-governmental organization, groundfish sector). The CLF form letter also supported specific alternatives. The remainder were either generally supportive of taking action but did not identify a preference for specific alternatives (two), or were generally opposed to taking action (92). The 211 people who submitted one of the two industry form letters also opposed taking action. Table 8 characterizes the support for specific alternatives, broken down by the number of people representing themselves or a business and the number representing an organization, as well as the number of oral and written comments received. The number of comments received on each alternative may not equal the number of people commenting on each alternative, due to either duplicate comments by an individual or multiple people signing a single letter. The following subsections include more information about the commenters supporting specific alternatives. The bullets capture much of the rationale provided by individual commenters.

**Table 8 – Support for specific alternatives in Amendment 23**

Alternative	People commenting on behalf of (#)		Comments (#)	
	Organizations	Themselves	Oral	Written
<b>Commercial Groundfish Sector Monitoring</b>				
<i>Alternatives for sector monitoring standards (target coverage rate)</i>				
No Action	2	5	4	4
Option 2				
Sub-option 2A	0	2	1	1
Sub-option 2B	0	1	0	1
Sub-option 2C	0	0	0	0
Sub-option 2D ( <i>Preferred</i> )	7	5*	6	11*
Option 3				
Sub-option 3A	0	0	0	0
Sub-option 3B	0	0	0	0
Sub-option 3C	0	0	0	0
Sub-option 3D	0	0	0	0
<i>Alternatives for sector monitoring tools</i>				
Option 1	2	4	1	6
Option 2 ( <i>Preferred</i> )	9	7*	8	13*
Option 3 ( <i>Preferred</i> )	9	6*	8	12*
<i>Alternatives for total monitoring coverage level timing</i>				
No Action	0	0	0	0
Option 2 ( <i>Preferred</i> )	0	0	0	0
<i>Alternatives for coverage rate review</i>				
No Action	0	0	0	0
Option 2	6	2	5	7
<i>Additions to list of framework items (Preferred)</i>	1	1	0	2
<b>Commercial Groundfish Monitoring</b>				
<i>Alternatives for dockside monitoring</i>				
No Action ( <i>Preferred</i> )	6	2	5	6
Option 2	1	1	1	2
<i>Alternatives for dockside monitoring program structure and design</i>				
Dockside Monitoring Program Funding				
Option A	0	1	0	1
Option B	0	0	0	0
Dockside Monitoring Program Administration				
Option A	0	1	0	1
Option B	0	0	0	0
Options for Lower Dockside Monitoring Coverage				
Option A	0	0	0	0
Option B	0	0	0	0
Options for Dockside Monitoring Fish Hold Inspections				
Option A	0	0	0	0
Option B	0	1	0	1

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Alternative	People commenting on behalf of (#)		Comments (#)	
	Organizations	Themselves	Oral	Written
Option C	0	0	0	0
<b>Sector Reporting</b>				
No Action	1	0	0	1
Option 2	0	1	0	1
<b>Funding/Operational Provisions</b>				
No Action	0	0	0	0
Option 2				
Sub-option 2A	0	1	1	1
Sub-option 2B ( <i>Preferred</i> )	5	2	5	5
<b>Management Uncertainty Buffers</b>				
No Action	4	0	1	4
Option 2 ( <i>Preferred</i> )	4	5	5	8
<b>Removal of Monitoring Requirements for Certain Vessels</b>				
No Action	2	1	1	3
Option 2				
Sub-option 2A	0	0	0	0
Sub-option 2B	0	0	0	0
Option 3				
Sub-option 3A ( <i>Preferred</i> )	2	0	2	2
Sub-option 3B ( <i>Preferred</i> )	2	0	2	2
<i>Alternatives for review rate</i>				
No Action	0	0	0	0
Option 2 ( <i>Preferred</i> )	2	0	0	2
*also supported by the CLF form letter (submitted by 1,430 commenters).				

**General support for taking action:** Many comments supported taking action through Amendment 23, for improving accuracy and reliability in the groundfish monitoring program to improvement management of the groundfish fishery. Such comments spoke of a need for timely and accurate information on catch and discards in order to manage the groundfish fishery sustainably. Several commenters cited the continued overfished status of several groundfish stocks, Atlantic cod in particular, as a need for improved monitoring. Many commenters cited Groundfish PDT work on observer bias, saying the assumptions of the current monitoring program are invalid and the coverage levels under the current program have not been sufficient to account for all catch in the fishery. Several commenters were concerned about fairness and equitability of the groundfish monitoring program, indicating that low levels of monitoring allow for misreporting and illegal discarding, and saying it is unfair to groundfish fishermen who follow the rules. Commenters also stated the need for increased flexibility in the groundfish monitoring program, by allowing sectors to use EM in place of human at-sea monitors, which they felt should also help lower monitoring costs for the fishery. Many commenters felt that Amendment 23 would have long-term benefits to the groundfish fishery through improved monitoring of catches, as the “cycle of using flawed data to produce flawed assessments has led to a long-term failure of the fishery to reach its full potential.” These commenters also acknowledged that there are short-term costs of monitoring that are concerns for the fleet.

**General support for No Action:** Other commenters supported the No Action alternatives, stating that the current monitoring program sufficiently provides the information necessary to manage the fishery, and that additional monitoring would not be sustainable for many in the fishery. Many commenters were concerned about the costs of additional monitoring for the fishery. These commenters offered concerns that higher monitoring coverage levels that industry was responsible for the costs of would threaten the viability of many participants in the fishery, particularly smaller vessels and dayboats, and would threaten fleet diversity. Commenters were concerned about the utility of a dockside monitoring program, citing issues with the previous dockside monitoring program, and supported no action for dockside monitoring. Some commenters also stated that they did not feel the action would address problems with assessments and felt that the action does not provide enough support that “imposing such an extreme cost on the fishing industry will have any tangible benefits to science, sustained fish stocks, or improved livelihoods from fishing.”

There were also comments provided by 92 of the commenters that generally opposed taking action, but did not offer specific support for the No Action alternatives. These commenters generally opposed the action, as they felt the that the amendment does not meet its purpose and need because there is “no attempt to relate the additional costs of monitoring to any measurable benefit to our businesses or the fishery for any of the alternatives.” Commenters felt the amendment “has been hijacked from its intended original purpose of developing a more efficient and accurate monitoring program with the new goal of trying to catch the next Carlos Rafael.” These commenters were also concerned that the action would “force fishermen out of business” and threaten fleet diversity, and recommended the Council start over in developing alternatives that consider “the fragile economic condition of the few remaining vessels” in the fleet. Additionally, commenters felt the amendment should “be frozen and put on a shelf” during the current pandemic “at a time when collapsed prices at the dock and fears of COVID-19 are also stressing the fishing fleets and ports.”

#### **4.1.1 Sector Monitoring Standards (Target Coverage Level)**

Comments on the sector monitoring standards alternatives were expressed by 20 people through 17 written and 11 oral comments (Table 8). Nine NGOs commented on sector monitoring standards.

20 comments, by eight individuals and seven NGOs, were generally supportive of revising the sector monitoring standard (target coverage level), but three of these were not supportive of the Council’s preferred alternatives. Rationale for supporting revising sector monitoring standards included that there is evidence provided by the Groundfish PDT that the current CV method is not appropriate for determining target coverage, as a key assumption (observed trips are representative of unobserved) is determined to be invalid by PDT analysis. The comments opposed to the Council’s preferred alternative shared concerns about the groundfish fleet’s ability to operate under 100% at-sea monitoring coverage.

##### **4.1.1.1 No Action**

In *support* of No Action for the sector monitoring standard that sets at-sea monitoring coverage (Sector Monitoring Standard Option 1), seven people commented via eight comments (Table 8).

These commenters were commercial groundfish fishermen and their representatives (e.g., industry organizations). Rationale for No Action included:

- The industry cannot afford higher levels of coverage, so coverage should remain at status quo.
- "The projections that increased monitoring will produce a healthy fishery or better stock assessments is not proven by the facts. The two healthiest fisheries in the Northeast, lobster and scallops, have virtually no monitoring in the case of lobster, and certainly less than groundfish in the case of scallops. More importantly, even though the groundfish fishery has had high levels of coverage over the past ten years, the retrospective patterns have increased, more and more stock assessments have failed."
- "The current level of reporting (pre-trip notifications, VMS, dealer reports, and at-sea/dockside enforcement inspections) is enough to successfully enforce regulations."

#### **4.1.1.2 Action Alternatives**

In *support* of taking action to revise the sector monitoring standard and select a different rate of coverage, 15 people commented via 20 comments (Table 8). Most comments were in support of, or opposition to, specific alternatives, as described below. No comments were received on Option 3 or any of its sub-options. All comments focused on Option 2 and its sub-options. The vast majority of comments received were on Sub-option 2D-100% monitoring of sector trips, which is the Council's preliminary preferred alternative. Comments were either strongly in favor of or strongly opposed to Sub-option 2D. Very few comments were received in support of other coverage level options (Table 8). Several commenters opposed any of the coverage level options besides Sub-option 2D, stating that "setting ASM coverage levels below 100%, even at 75% as contemplated by Sub-option 2C, would perpetuate inaccurate catch monitoring, fail to ensure compliance with catch limits, and thus not meet the statutory requirements to implement measures "necessary and appropriate" to manage the fishery and prevent overfishing, or to specify the data "needed for effective implementation of the plan." In addition, the cost savings would be relatively insignificant, but the lost information and the ongoing uncertainty associated with unreliable data, far outweigh those minor savings." One comment recommended the Council consider tradeoffs between costs and accuracy of catch information provided by 75% coverage level vs. 100% coverage. Several commenters felt that regardless of coverage level selected, NMFS should pay for monitoring and not the industry.

##### ***Sector Monitoring Standard – Option 2, Sub-option 2A***

In *support* of Sector Monitoring Standard Option 2, Sub-option 2A, two people commented via two comments (Table 8). These commenters were commercial groundfish fishermen and their representatives. Rationale for Sub-option 2A included:

- Status quo levels of monitoring including 25% are sufficient to monitor the fishery.
- There will not be "any additional information gained from monitoring coverage greater than 25%."
- "25% is enough, and I believe the cost should never be paid by the fishermen. In my mind, this is enforcement and I think the government should continue paying this as long as they think we need to be monitored. "
- "In the event that this becomes an industry funded program there is no way that any small vessel can afford to pay for any higher amount of coverage" than 25%.

##### ***Sector Monitoring Standard – Option 2, Sub-option 2B***

In *support* of Sector Monitoring Standard Option 2, Sub-option 2B, one person commented via one comment (Table 8). This commenter was a commercial fisherman who previously fished in the groundfish fishery. The commenter also stated support for Sub-option 2D, but only if NMFS has funding to pay for the costs of monitoring; otherwise, the commenter supports the lower

coverage under Sub-option 2B. One fishing industry organization supported Sub-option 2B if industry is responsible for the costs of monitoring (supporting Sub-option 2D-100% monitoring if NMFS has funding to reimburse costs). Rationale for Sub-option 2B included:

- 50% monitoring balances the needs for better data with cost concerns from the fishing industry.

One commenter, who also opposed all coverage level options except Sub-option 2D, specifically opposed Sub-option 2B stating that they “cannot support a fixed rate of 50% because analysis has shown that it may actually make the problem worse by increasing the economic incentives to misreport on unobserved trips.” The commenter was an environmental organization.

### ***Sector Monitoring Standard – Option 2, Sub-option 2C***

There were no comments in *support* of Sector Monitoring Standard Option 2, Sub-option 2C (Table 8). Although one commenter, a business who owns groundfish vessels, supported the Council selecting a coverage level between 75% and 100% in considering tradeoffs between costs and accuracy of data.

### ***Sector Monitoring Standard – Option 2, Sub-option 2D (Preferred)***

In *support* of Sector Monitoring Standard Option 2, Sub-option 2D, twelve people commented via 17 comments (Table 8). Additionally, the 1,430 people who submitted the CLF form letter supported Sub-option 2D. These commenters were commercial fishermen and their representatives (e.g., industry organizations), environmental organizations, and other interested public. Many commenters who supported Sub-option 2D recognized concerns about the costs of 100% monitoring and the ability of the fleet to absorb these costs, and recommended there be a process put in place to transition the responsibility of costs from NMFS to industry. Several commenters encouraged the Council to take advantage of the federal appropriations available from the past three years to cover the cost of 100% monitoring, including for example, “for a period of three years,” noting that “at the end of that time, a valuable baseline will exist from which to consider adjustments in monitoring coverage.” Several commenters supported 100% monitoring only if NMFS pays for the coverage. Rationale for Sub-option 2D included:

- 100% monitoring “is the only option that completely achieves the goals of Amendment 23.”
- 100% coverage “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.”
- “100% monitoring of groundfish sector trips will produce more accurate catch information and improve accountability in the fishery. With this information, scientists and managers will be better equipped to make sustainable decisions for our groundfish and help New England’s iconic cod recover.”
- 100% monitoring “can put an end to the long running debate over to what degree discards occur in the fishery and to the extent they do occur, how widespread the practice is, and whether it is at a scale that could impact the assessments...Full accountability will remove the need to estimate discards and make the actual discards available for future management decisions.”
- “All of the booming fisheries right now have 100% coverage with observers or cameras, for example in Alaska they are doing well up there, and I think this would really benefit our fishery.”
- “This ‘allocation management plan’ has allowed boats to fish with virtually no effort control. 100% percent monitoring will give the fishery some effort control. Without controlling effort, we will continue to overfish.”
- “Is it necessary [to monitor] 100% of the time? As much as I hate to admit it, in my opinion the answer is yes. The reason is simple: the Council instituted a quota management plan in 2010

- under Amendment 16, but never covered their bet with adequate accountability.”
- “New England sits at a crossroad between more of the same ‘race to the stock bottom’ and a chance to rebuild a better fishery. Council members should vote to institute 100% monitoring as soon as possible and start the process of responsibly managing the fishery with accountability. If the Council can’t manage to attain the clarity needed to make this decision, the Fisheries Service should do it for them.”

There were a number of comments in *opposition* to the preferred alternative of Sector Monitoring Standard Option 2, Sub-option 2D – 109 people commented via 30 comments. Additionally, the 45 people who submitted one of the industry form letters opposed sub-option 2D. These comments were primarily from commercial groundfish fishermen and their representatives (e.g., industry organizations). Commenters were generally concerned about the industry’s ability to afford 100% monitoring coverage and were particularly concerned about impacts on small vessel/dayboat operations and a reduction in fleet diversity. Some commenters were concerned about operational challenges to achieving 100% target coverage (e.g. observer availability) and the burden on fishermen to take an observer every trip, including concerns raised about impacts on seafood product quality. A letter signed by commercial fishermen representing 86 sector vessels (duplicates possible) expressed a concern that federal funds “should not be wasted on increased monitoring in the short-term with no quantifiable benefit. Federal funds can NOT be considered to offset the costs of Amendment 23 alternatives.” Rationale *against* Sub-option 2D included:

- “Amendment 23 is a fleet killer...Though Amendment 23 may be well intended, the reality is that if the amendment is implemented, once Federal funding runs out the industry as we know it will be destroyed. It will bankrupt independent, small business, family-oriented fishermen...It is blatantly clear that small vessels cannot afford to pay 100% monitoring.”
- “If this amendment is passed with the preferred alternatives, what you're going to do is you're going to accelerate the expiration date on this fishery. It's going to be dwindled down to two big companies.”
- Fishermen cannot afford the additional costs of monitoring, especially with impacts from the COVID-19 pandemic.
- “The proposed action would devastate the groundfish businesses that remain, as they will be unable to absorb the cost of monitoring against the backdrop of depressed prices and operating margins the industry has experienced.”
- “With this, this just puts us out of business. I can't make my business work. I can't cut any more corners. I cannot take any more money out of the boat. Because you can't take as much as anyone wants to think you can take money from the crew to pay observers. It's not going to happen. Because you're not going to have crew. So the only way it's going to happen is to take money from the boat, to pay the observers. Explain that to the crew, you'll have no crew. And once you do that, there's no money to take care of the boat.”
- “The DEIS rationalizes that 100% monitoring is needed to account for the action of Carlos Rafael. This is wrong. The fishery is not representative of the actions of Carlos Rafael and should not be forced to bear the consequences of what happened with Carlos.”
- “..increasing observer coverage to 100% and requiring fishermen to bear the cost will have significant effects on their health and safety...It should be clear that when fishermen incur additional costs to carry observers, they will be incentivized to work in riskier conditions to cover that cost.”
- “100% monitoring leads to nearly 100% mortality of everything that comes on board.”

### **Sector Monitoring Standard – Option 3, Sub-options 3A-3D**

There were ***no comments*** in support of or in opposition to Sub-Options 3A, 3B, 3C, and 3D (Table 8).

#### **4.1.2 Sector Monitoring Tools**

Comments on the sector monitoring tools alternatives were expressed by 16 people through 31 written and 17 oral comments (Table 8). Nine NGOs commented on sector monitoring tools.

20 comments, by seven individuals and nine NGOs, were generally supportive of allowing additional sector monitoring tools for sector to use in place of human at-sea monitors, and all of these comments were supportive of the Council's preferred alternatives. Comments in support of Option 2 and Option 3 were similar. Rationale for supporting allowing additional sector monitoring tools included that there should be flexibility provided to sectors to allow them the option to use proven, approved monitoring tools – various models of EM – to meet the needs of sector members. The comments cited analysis that EM is expected to lower costs of monitoring compared to only using human at-sea monitors. Several commenters encouraged NOAA to work cooperatively with the fishing industry to address their concerns prior to implementation, and recommended the Council provide information to the fishing industry on possible funding options for electronic monitoring equipment as early as possible.

There were several commenters that supported some of the sector monitoring tools options, but also said they did not expect many fishermen to participate in EM. They see EM as another tool that has both pros and cons. Additionally, they are concerned that none of the cost estimates for EM have taken into account the unpaid cost of EM which is the fish handling protocols fishermen have to follow. These commenters were commercial groundfish fishermen and their representatives (e.g., industry organizations).

##### **4.1.2.1 Option 1**

In ***support*** of Sector Monitoring Tools Option 1, six people commented via seven comments (Table 8). These commenters were commercial groundfish fishermen and their representatives (e.g., industry organizations). The rationale for supporting Option 1 included:

- This option allows vessels to operate with cameras. Having the cameras on every trip would not be possible operationally, as one fishermen who currently participates in the EM replacement of ASM EFP has stated “he will not transition to the Audit Model EM program if his current option is taken away” because he and his crew member “cannot fulfill the requirements needed for EM catch handling on every trip.”
- “This option could and should be made available to any sector groundfish fisherman that can demonstrate a lack of bias between their observed and unobserved trips.”
- “If the sector coverage rate selected is anything less than 100%, boats should be allowed to use EM on those trips selected to carry observers. Allowing anything less than 100% with human observers, but requiring 100% on boats that participate in EM, will create a disincentive for participation.”

A few commenters ***opposed*** Option 1 - three people commented via three comments - as this EM replacement of at-sea monitors was “put in place and was developed as a proof of concept to get EM equipment on the boats, but was never designed to be statistically reliable.”



#### **4.1.2.2 Option 2 (*Preferred*)**

In **support** of Sector Monitoring Tools Option 2, 16 people commented via 21 comments (Table 8). Additionally, the 1,430 people who submitted the CLF form letter supported Option 2 (Table 5). These commenters were commercial fishermen and their representatives (e.g., industry organizations), environmental organizations, and other interested public. Rationale for Option 2 included:

- The audit model is a proven EM technology that will provide high quality information and help reduce the costs of monitoring.
- Having the cameras run on 100% of trips is the only way to remove bias.
- “We believe in the freedom of choice, if someone wants to put cameras on their vessel then go right ahead.”
- “There are major problems with the current observer program,” including observers supporting misreporting...“EM is intrusive but there are cameras everywhere you go...I do worry about cost to vessels as I do with the observer program as well but I think EM will be a cheaper alternative and yield better data...I think it should be up to the individual person to have EM or observers but if you want data that does not have bias that is up to you.”

While many of the fishermen who participate in the EM projects overall supported Option 2, they did feel was it important to point out that EM is not “a plug and play type system,” and that it can take some time to work through issues. One comment from a sector manager noted that to get the EM equipment installed on vessels can take several months, and the Council should be mindful of this. Some commenters also noted that while they support Option 2, they don’t believe every fisherman will make the choice to switch to EM.

#### **4.1.2.3 Option 3 (*Preferred*)**

In **support** of Sector Monitoring Tools Option 3, 15 people commented via 20 comments (Table 8). Additionally, the 1,430 people who submitted the CLF form letter supported Option 3 (Table 8). These commenters were commercial fishermen and their representatives (e.g., industry organizations), environmental organizations, and other interested public. One individual business commented that it is “committed to working with NOAA Fisheries to ensure that maximized retention EM is approved for use in groundfish management as soon as possible.” Rationale for Option 3 included:

- The maximized retention model is a proven EM technology that will provide high quality information and help reduce the costs of monitoring.
- Having the cameras run on 100% of trips is the only way to remove bias.
- “We believe in the freedom of choice, if someone wants to put cameras on their vessel then go right ahead.”
- “There are major problems with the current observer program, including observers supporting misreporting. EM is intrusive but there are cameras everywhere you go. I do worry about cost to vessels as I do with the observer program as well but I think EM will be a cheaper alternative and yield better data. I think it should be up to the individual person to have EM or observers but if you want data that does not have bias that is up to you.”

There were several comments in **opposition** to Sector Monitoring Tools Option 3 – six people comment through eight comments. These comments were primarily from commercial groundfish fishermen and their representatives (e.g., industry organizations). Commenters were generally concerned that this option, the maximized retention model of EM, is still in the testing phase and is not suitable for a large number of vessels in the fleet. Some comments specifically raised concerns about the challenges associated with sorting and holding sublegal fish that have no

market value. Many of these comments did not feel maximized retention should be an option in the action since it is not yet ready for use by the fleet.

#### **4.1.3 Total Monitoring Coverage Level Timing**

Comments on total monitoring coverage level timing were expressed by two people through two written comments (Table 8). One NGO commented on total monitoring coverage level timing.

All commenters noted their support for Sector Monitoring Standard Option 2: Fixed Rate of Coverage, and thus commented that with a fixed rate of coverage, the alternatives considered in this section are not needed.

#### **4.1.4 Coverage Rate Review**

Comments on the coverage rate alternatives were expressed by eight people through seven written and five oral comments (Table 8). Six NGOs commented on coverage rate review.

Twelve comments, by two individuals and six NGOs, were generally supportive of establishing a coverage rate review, and all of these comments were supportive of the Council's preferred alternatives. Rationale for supporting a coverage rate review included that there should be an evaluation of the at-sea monitoring coverage rate to help strike a balance between costs and accuracy of data.

##### **4.1.4.1 Option 1: No Action**

There were *no comments* in support of or in opposition to the No Action on a coverage level review process (Table 8).

##### **4.1.4.2 Option 2 (Preferred)**

In *support* of Coverage Level Review Process Option 2, eight people commented via twelve comments (Table 8). These commenters were commercial groundfish fishermen and their representatives (e.g. industry organizations) and environmental organizations. Rationale for Option 2 included:

- "Any monitoring program put in place should have some type of review on a regular basis to determine whether or not it's meeting its goals."
- A monitoring program "should have a time and a mechanism to come back and see whether it's doing the job and see whether there are modifications that can be put in place. What we've seen in other catch share fisheries that have 100% observer coverage is that after they've established a baseline of information after a number of years, they've been able to ratchet down their coverage."
- "A review process for monitoring rates makes sense to adjust levels to needed statistical and operational requirements. The proposed review process would allow lower rates based on experience in implementation. This type of adaptive management will be critical to making groundfish monitoring work effectively and efficiently."

#### **4.1.5 Additions to List of Framework Items (*Preferred*)**

Comments on the additions to framework items alternative were expressed by two people through two written comments (Table 8). One NGO commented on additions to the list of framework items.

In support of allowing additions to the list of framework items, to include new sector monitoring tools and vessel specific coverage levels, two people commented via two comments (Table 8). Rationale for allowing these additions to the list of framework items included:

- “Allowing this type of change by framework provides the most efficient process for changing coverage levels based on review of data as it becomes available.”

#### **4.1.6 Dockside Monitoring Program**

Comments on the dockside monitoring alternatives were expressed by ten people through eight written and six oral comments (Table 8). Six NGOs commented on dockside monitoring.

Eleven comments, by two individuals and six NGOs, were generally opposed to establishing a mandatory dockside monitoring program, and thus supportive of the Council’s preferred alternative of no action. Rationale for supporting no action for dockside monitoring included that the previous dockside monitoring program was a waste of money and effort and provided no benefit, and that dockside monitoring should be available as a monitoring tool for individual sectors to incorporate into their monitoring plans, without being a mandatory program across the entire fishery. Some comments opposed the Council’s preferred alternative of no action, supporting establishment of a mandatory dockside monitoring program. These comments cited evidence of misreporting in the groundfish fishery, and felt that without a dockside monitoring program, opportunities for misreporting would continue, even with higher at-sea coverage.

##### **4.1.6.1 No Action (*Preferred*)**

In *support* of No Action for dockside monitoring, six people commented via eight comments (Table 8). These commenters were commercial groundfish fishermen and their representatives (e.g., industry organizations), and environmental organizations. Rationale for No Action included:

- “The previous dockside monitoring program was a waste of money, time, effort, and provided no benefit.”
- “If there are concerns about vertically integrated companies and supposed cheating and collusion, there should be cheaper ways to address this than putting 100% dockside monitoring on everyone.”
- “There are still too many unanswered questions about program design and implementation, including who will be responsible for paying for the program, how (or if) fish hold inspections will be conducted, and how dock-side monitors can be deployed to remote fishing ports in a cost-effective manner....dockside monitoring should be required for the entire groundfish fishery until these and other questions are resolved. We do encourage the Council, NMFS, and fishery stakeholders to work to resolve these issues as soon as possible.”

##### **4.1.6.2 Option 2**

In *support* of Dockside Monitoring Option 2, two people commented via three comments (Table 8). The commenters were a seafood company/processor that also owns commercial groundfish vessels, and an environmental organization. Rationale for Option 2 included:

- “Dockside monitoring is needed to verify vessel catch of all groundfish vessels, and less than full dockside monitoring will lead to monitoring loopholes...Full DSM is needed to reduce uncertainties in management and the assessments for the benefit of everyone involved in the groundfish fishery.”
- “Dockside monitoring is a critical part of establishing accountability and...should be required in the initial phases of EM deployment at sea, with the potential to ramp down dockside review in ensuing years. Maintaining a level of randomized dockside monitoring as an integral part of the system will be critical to ensuring accountability.”

#### **4.1.6.3 Dockside Monitoring Program Structure and Design**

There were few comments on the dockside monitoring program structure and design alternatives (Table 8).

##### ***Dockside Monitoring Program Funding Responsibility – Option A***

In *support* of Dockside Monitoring Program Funding - Option A, one business commented via one comment (Table 8). The commenter was a seafood company/processor that also owns commercial groundfish vessels. Rationale for Option A included:

- “Dealers have a better idea of the scheduling and volume of landings as compared with an individual vessel, which will result in better overall program efficiency. Dealers are also in a better position to negotiate a better rate for DSM coverage as contrasted with individual vessels.”

##### ***Dockside Monitoring Program Funding Responsibility – Option B***

There were *no comments* on Dockside Monitoring Program Funding - Option B (Table 8).

##### ***Dockside Monitoring Program Administration – Option A***

In *support* of Dockside Monitoring Program Administration - Option A, one business commented via one comment (Table 8). The commenter was a seafood company/processor that also owns commercial groundfish vessels. Rationale for Option A included:

- “A system of dockside businesses contracting directly with DSM providers will likely be more efficient and cost effective than a government run program. A business to business relationship will be more responsive to the need to adjust the program to meet program needs and to adapt to changing conditions. Last, this option would relieve the agency of another program and task which would allow the agency to concentrate on higher priority issues.”

##### ***Dockside Monitoring Program Administration – Option B***

There were *no comments* on Dockside Monitoring Program Administration - Option B (Table 8).

##### ***Options for Lower Dockside Monitoring Coverage Levels***

There were *no comments* in support of either Option A or Option B for Lower Dockside Monitoring Coverage Levels (Table 8). One commenter, a seafood company/processor that also

owns commercial groundfish vessels, ***opposed*** any options for lower dockside coverage levels because “it would leave significant loopholes that could be used to circumvent the intent and spirit of Amendment 23. If the Council is committed to effective monitoring, creating significant loopholes up front is not a sound management strategy to pursue.”

#### ***Dockside Monitoring Fish Hold Inspection Requirements – Option A***

There were ***no comments*** on Dockside Monitoring Fish Hold Inspection Requirements - Option A (Table 8).

#### ***Dockside Monitoring Fish Hold Inspection Requirements – Option B***

In ***support*** of Dockside Monitoring Fish Hold Inspection Requirements - Option B, one business commented via one comment (Table 8). The commenter was a seafood company/processor that also owns commercial groundfish vessels. Rationale for Option B included:

- “This option provides the greatest flexibility to vessel operators to meet the fish hold inspection requirement, whether that be in-person inspections or camera inspections.”

#### ***Dockside Monitoring Fish Hold Inspection Requirements – Option C***

There were ***no comments*** on Dockside Monitoring Fish Hold Inspection Requirements - Option C (Table 8).

### **4.1.7 Sector Reporting**

Comments on the sector reporting alternatives were expressed by two people through two written (Table 8). One NGO commented on sector reporting. A second NGO commented that it neither supports nor opposes the sector reporting alternatives, but believes that “reporting requirements for sectors should evolve as the methods of monitoring evolve and should be addressed through the agency’s sector program administration and operational plans of each groundfish sector.”

There were few comments on the sector reporting alternatives (Table 8). One comment, by one individual, was generally supportive of allowing the Regional Administrator (RA) the authority to streamline sector reporting requirements. Rationale for supporting allowing the RA the authority to streamline sector reporting requirements included that this is an adaptive management that will make the program more efficient over time.

#### **4.1.7.1 No Action**

In ***support*** of No Action on sector reporting (Option 1), one people commented via one comment (Table 8). The commenter was an environmental organization. Rationale for No Action included:

- “Maintaining the status quo is acceptable, but sectors should consider refreshing reporting requirements to highlight discrepancies between logbooks and EM review data greater than a certain percentage or develop other audit-style reviews and protocols.”

#### **4.1.7.2 Option 2**

In *support* of Sector Reporting Option 2, one person commented via one comment (Table 8). The commenter was a seafood company/processor that also owns commercial groundfish vessels. Rationale for Option 2 included:

- “This option will also allow sectors to move to more efficient reporting requirements in a more timely way than locking in one particular requirement.”

#### **4.1.8 Funding/Operational Provisions**

Comments on the funding/operational provisions alternatives were expressed by seven people through six written and six oral comments (Table 8). Five NGOs commented on funding/operational provisions.

Twelve comments, by two individuals and five NGOs, were generally supportive of allowing waivers from monitoring requirements should NMFS not have shoreside funding in place, and were supportive of the Council’s preferred alternative. Rationale for supporting waivers from monitoring included that it is necessary in the event that NMFS has a decrease in funding for its shoreside cost of monitoring. One commenter supported the alternative to allow coverage levels to be higher if NMFS had available funding, which is not one of the Council’s preferred alternatives.

##### **4.1.8.1 No Action**

There were *no comments* on the No Action for funding and operational provisions of groundfish monitoring (Table 8).

##### **4.1.8.2 Action Alternatives**

In *support* of taking action on funding and operational provisions of the groundfish monitoring program, seven people commented via twelve comments (Table 8). Most comments were in support of Sub-option 2B. Few comments were received on Sub-option 2A.

##### ***Funding Provisions – Sub-option 2A***

In *support* of Funding Provisions Sub-option 2A, one business commented via two comments (Table 8). The commenter was a seafood company/processor that also owns commercial groundfish vessels. Rationale for Sub-option 2A included:

- “The flexibility included in [this sub-option] is needed to maximize at-sea monitoring while preserving flexibility which would be needed with increased or decreased funding for at-sea monitoring”

##### ***Funding Provisions – Sub-option 2B (Preferred)***

In *support* of Funding Provisions Sub-option 2B, seven people commented via ten comments (Table 8). These commenters were commercial groundfish fishermen and their representatives (e.g., industry organizations). Rationale for Sub-option 2B included:

- “If NMFS doesn’t have the funds to do the shoreside component, there’s no way that the industry is going to be able to pick up the tab on both the shoreside and the at-sea side.”
- “The flexibility included in [this sub-option] is needed to maximize at-sea monitoring while preserving flexibility which would be needed with increased or decreased funding for at-sea monitoring.”

#### **4.1.9 Management Uncertainty Buffers**

Comments on the management uncertainty buffers alternatives were expressed by 13 people through twelve written and six oral comments (Table 8). Eight NGOs commented on management uncertainty buffers.

13 comments, by five individuals and four NGOs, were generally supportive of eliminating the management uncertainty buffers for sector ACLs for allocated groundfish stocks (provided 100% monitoring is selected), and were supportive of the Council's preferred alternatives. Rationale for supporting eliminating the management uncertainty buffers included that it gives the industry an opportunity to get benefits back from the reduced uncertainty that is expected with 100% monitoring coverage.

There were several comments received that were neither in support of nor opposition to removing the buffers, but expressed a feeling that the 3-5% of catch given back would not be of much benefit to the industry as they would likely not catch these additional fish. These commenters were mainly commercial groundfish fishermen and their representatives (e.g., industry organizations). Commenters feel that "removing the uncertainty buffers will do nothing to mitigate the impacts of 100% monitoring. If managers understood the fishery, they would know that there are many reasons, void of monitoring, impacting the current utilization of certain stocks."

##### **4.1.9.1 No Action**

In *support* of No Action for management uncertainty buffers, four people commented via five comments (Table 8). These commenters were environmental organizations and one commercial fishing organization. Rationale for No Action included:

- "High levels of coverage and high levels of EM will reduce management uncertainty but it won't get rid of it. There will always be unobserved tows on trips when the observer has to sleep. And, there will also be misreporting, there will be observer errors that we can't assume that high levels of observer coverage will get rid of management uncertainty. So, it needs to stay in there and removing it right now is based on a flawed assumption."
- "Monitoring adequacy is only one of five elements considered when determining management uncertainty buffers. Increasing monitoring coverage to 100% will do nothing to address the remaining four elements, and as such, it would be unreasonable to entirely remove the management uncertainty buffer."

##### **4.1.9.2 Option 2**

In *support* of Management Uncertainty Buffer Option 2, nine people commented via 13 comments (Table 8). These commenters were commercial groundfish fishermen and their representatives (e.g., industry organizations), and one environmental organization. Rationale for Option 2 included:

- "This option gives industry a benefit of the reduced uncertainty that will come with improved at-sea monitoring."
- Removing the management uncertainty buffers "would increase sector Annual Catch Limits by three to seven percent and could increase fishery revenues by \$4.2 million relative to the Status Quo (DEIS p. 518). Given the economic constraints in the fishery and potential costs to industry for increased monitoring if federal funds are exhausted, we believe this option will help fishing communities economically without posing undue biological risks to groundfish stocks."

#### **4.1.10 Removal of Monitoring Requirements for Certain Vessels**

Comments on the removal of monitoring requirements alternatives were expressed by six people through nine written and seven oral comments (Table 8). Six NGOs commented on removing monitoring requirements.

Eight comments, by two NGOs, were generally supportive of additional exemptions from monitoring program requirements, and were supportive of the Council's preferred alternatives. Rationale for additional exemptions from monitoring program requirements included that these exemptions would focus monitoring on the vessels that catch the majority of groundfish.

##### **4.1.10.1 No Action**

In *support* of No Action for the removal of monitoring requirements for certain vessels (Option 1), three people commented via four comments (Table 8). These commenters were environmental organizations and one commercial fisherman. Rationale for No Action included:

- No additional exemptions should be made at this time. "This amendment is hundreds of pages long, showing that the current information about fishing behavior and catch, that it's flawed, that it's not accurate, precise, and timely. And so, to provide any exemptions based on that flawed foundation of information is unacceptable and premature. After the monitoring program has a few years, a good foundation of high quality information, that would be the appropriate time for the Council to consider exemptions for monitoring. But until then, we just don't have the information to inform those exemptions."
- "No vessel should be exempt from monitoring requirements if it catches overfished stocks."
- "There should be no special circumstances that allow boats to fish without this [100%] coverage. Everybody should have the same rules. I think it's important that every boat fishing, and catching, should be equally watched, no exceptions."

##### **4.1.10.2 Action Alternatives**

In *support* of taking action to allow additional exemptions from monitoring requirements, two people commented via eight comments (Table 8). No comments were received on Option 2 or its sub-options. All comments focused on Option 3 and applied to both its sub-options.

##### ***Removal of Monitoring Requirements – Option 2, Sub-option 2A***

There were *no comments* in support of Removal of Monitoring Requirements Option 2, Sub-option 2A (Table 8).

##### ***Removal of Monitoring Requirements – Option 2, Sub-option 2B***

There were *no comments* in support of Removal of Monitoring Requirements Option 2, Sub-option 2B (Table 8).

##### ***Removal of Monitoring Requirements – Option 3, Sub-option 3A (Preferred)***

In *support* of Removal of Monitoring Requirements Option 3, Sub-option 3A, two people commented via four comments (Table 8). These comments were from commercial groundfish fishermen and their representatives (e.g., industry organizations). One commenter recommended that the exemption be for the "whole Southern New England/Mid-Atlantic Broad Stock Area or based on more of a statistical area than just a straight line in the ocean" to simplify and make determination of compliance with the exemption easier. Rationale for Sub-option 3A included:



- This alternative is the one of the few times that “the Council has actually recognized the fact that groundfishing in Southern New England is not the same as groundfishing in other regions, such as the Georges Bank or the Gulf of Maine region. Most groundfishing trips in this region are usually directed on other non-groundfish stocks.” These vessels are “fishing in the bait skate fishery, in the scallop trawl fishery, the monkfish fishery, the fluke fishery. These fisheries all require them for the most part to be fishing on a Groundfish Day, and there's usually very little groundfish to no groundfish as bycatch.”

### ***Removal of Monitoring Requirements – Option 3, Sub-option 3B (Preferred)***

In *support* of Removal of Monitoring Requirements Option 3, Sub-option 3B, two people commented via four comments (Table 8). These comments were from commercial groundfish fishermen and their representatives (e.g., industry organizations). Similar to Sub-option 3A, one commenter recommended that the exemption be for the “whole Southern New England/Mid-Atlantic Broad Stock Area or based on more of a statistical area than just a straight line in the ocean” to simplify and make determination of compliance with the exemption easier. Rationale for Sub-option 3B included:

- This alternative is the one of the few times that “the Council has actually recognized the fact that groundfishing in Southern New England is not the same as groundfishing in other regions, such as the Georges Bank or the Gulf of Maine region. Most groundfishing trips in this region are usually directed on other non-groundfish stocks.” These vessels are “fishing in the bait skate fishery, in the scallop trawl fishery, the monkfish fishery, the fluke fishery. These fisheries all require them for the most part to be fishing on a Groundfish Day, and there's usually very little groundfish to no groundfish as bycatch.”

### **4.1.10.3 Review Process for Vessels Removed from Monitoring Requirements**

#### ***Review Process for Vessels Removed from Monitoring Requirements – No Action***

There were *no comments* in support of or opposition to the No Action for a review process for vessels removed from monitoring requirements (Table 8).

#### ***Review Process for Vessels Removed from Monitoring Requirements – Option 2***

In *support* of Review Process for Vessels removed from Monitoring Requirements Option 2, two people commented via two comments (Table 8). These commenters were a fishing organization and an environmental organization. Rationale for Option 2 included:

- If the Council does select an option to remove certain vessels from monitoring requirements, there should be a review process in place.

## **4.2 AMENDMENT 23 DOCUMENTATION**

Feedback about the Amendment 23 DEIS was provided through about 42 comments. These comments were primarily provided by commercial groundfish fishermen and their representatives. Comments include:

### ***General***

- Amendment 23 “needs to be re-examined...The Council should withdraw the DEIS, focused on the numerous flaws, and inconsistency with the applicable laws, and the Council should reconsider the fundamental premise of this amendment.”

- The DEIS does not account for COVID-19 pandemic impacts on the fishing industry. The DEIS should be redone to account for these impacts.
- “So far in the Amendment 23 process, we have not seen an attempt to relate the additional costs of monitoring to any measurable benefit to our businesses or the fishery for any of the alternatives. This is a critical and unique aspect of this Amendment because monitoring in the groundfish sector program is industry funded. “
- “There are a lot of other factors that impact groundfish stock rebuilding, such as catch from other fisheries. For example, almost 50% of the Gulf of Maine cod ACL goes to recreational and state waters fisheries and they have no monitoring. The DEIS is misleading because, if the goal is to improve stock assessments, this cannot happen when a large proportion of mortality occurs outside the commercial sector.”

### ***Alternatives***

- “The EM alternatives and analyses are inadequate.” Maximized retention isn’t ready, and should not be an option in the document.
- “The DEIS is incorrect in asserting that electronic monitoring (EM) is a viable alternative to offset costs of human ASM. The devil is in the details on the EM programs...The DEIS should not have proposed EM as a viable mechanism to offset expected monitoring costs in the DEIS until it was fully developed, analyzed and approved by the Agency.”

### ***Impact Analysis***

- “The DEIS analysis weighs heavily upon economic theories that are disconnected from reality and it fails to put costs into context.”
- The DEIS “fails to recognize the difficulties of owners to find and maintain crew. It does not factor in crew shares or the reductions that they will necessarily suffer.”
- There “has not been adequate evaluation of 100% coverage.” EM is not ready to be implemented, and there not enough observers for 100% coverage.
- “The cost analysis for EM misses a lot.” It does not take into account the “unpaid cost of EM which is not only the fishermen doing the work of an at-sea monitor but also at a higher standard of quality than the monitor.”
- “The cost analysis presented for Amendment 23 was woefully inadequate. It “underestimates the costs associated with monitoring, both humans and electronic monitoring. It overestimates gross revenues generated on the groundfish trips.”
- The analysis should look at net revenue instead of gross revenue. Net revenue should “include not only typical costs associated with groundfishing, but also the costs associated with being enrolled in a sector.”
- The analysis does not consider the “dramatic increase in ASM rates which occurred in 2019 and 2020.”
- There is no “break even analysis for the limited remaining groundfish vessels considered to be efficient by the DEIS ” to help understand economic impacts.
- “The DEIS has failed to analyze the economic impacts of the alternatives being proposed on the sectors. A sector’s viability is directly linked to the viability of its members and both require detailed breakeven analysis to fully understand the impacts of the alternatives being proposed. The DEIS is silent on this reality.”
- “The cost analysis doesn’t take into consideration the new safety costs that certainly will occur once we begin fishing again under the COVID safety protocols - things like PPE, social distancing, transportation costs, overhead costs that the service providers might have to incur will all be added to that estimated \$700 driving it upward beyond the range that was estimated in the analysis.”
- “The analysis is misguided and misleading -- it falsely pretends, without evidence, that missing commercial catch is the sole reason for poor assessment reports and that improved catch accounting by the commercial fishery only will improve assessments over the long-term.”

### ***Public Hearing Document***

- The cost estimates provided in the vessel profiles are not representative of actual costs, and “low ball the numbers for dayboats” by using days absent instead of time absent.

### **4.3 MODIFYING AMENDMENT 23 ALTERNATIVES**

Ideas for modifying the Amendment 23 alternatives were provided in about 15 comments. These ideas came from commercial groundfish fishermen and their representatives (e.g., industry organizations), and environmental organizations.

#### ***Groundfish Monitoring Program Revisions (Sectors Only)***

- “100 % monitoring would only be a requirement while NOAA fisheries has the funds to cover the costs of monitoring.” Once those federal funds run out, the coverage rate needs to be reduced because fishing fleet cannot pay these costs “without a substantial change to the profitability of this fishery.”
- Suggest putting a sunset clause into the 100% coverage alternative that would set the rate back to 50% coverage if federal funds run out. “After several years of 100% accountability on the fleet, we will have enough data to show trips that are outliers to normal operations and that enforcement would then play a larger role in ensuring a fair and equitable fishery on the water.”
- “...disagrees with the Council’s approach to specify a target coverage level; this fishery needs a required coverage level. As the Regional Administrator stated, the ASM program is the only means of ensuring sector accountability to catch limits in order to prevent overfishing. The MSA mandate to prevent overfishing is not a statutory target; it is a strict requirement. If the goals of the ASM program—a program needed for MSA compliance—are only achievable through 100% coverage, then there must be 100% coverage—period.”
- “GARFO and the Science Center [should] work with fishermen in the Audit EM model to push audit review to 10%.”
- “The Council needs to create a section in the document to remove observers from the safety business. This is the domain of the Coast Guard and a current CG safety sticker should be sufficient.”
- The Council should create a section in the document “to have ASM’s only deal with groundfish discards. Prohibited species, lobsters and crabs should be returned to the ocean as fast as possible as is currently done on unobserved trips.”

#### ***Funding/Operational Provisions of Groundfish Monitoring***

- Remove the requirement that industry pay for monitoring. “Any alternative chosen by the Council should NOT pass the cost on to fishing businesses.” It should be funded by the government.

#### ***Management Uncertainty Buffers***

- “If anything less than 100% [coverage] is selected, sectors should be allowed to elect to go with 100% accountability and receive back their buffer. It would not be transferable outside the sector, but it would create an economic incentive for monitoring that currently does not exist.”

### **4.4 ADDITIONAL ALTERNATIVES NOT IN AMENDMENT 23**

Ideas for alternatives not currently in the Amendment 23 DEIS were provided in about eight comments. These ideas came from commercial groundfish fishermen and their representatives (e.g., industry organizations), and environmental organizations. These ideas could be considered by the Council in future actions.

#### ***Groundfish Monitoring Program – Observer Operations***

- Deploy two observers per trip boat. “Only one observer goes on trip boats and a number of tows go unobserved while the observer sleeps.”

- Eliminate the use of the volume to volume method by observers for the groundfish fishery because this produces inaccurate catch estimates. “Fish are not randomly distributed in a haul.”
- Address the issue of measuring error by observers. “Weighing fish on a wildly moving vessel is nearly impossible even with gravity compensated scales, never mind spring scales. Matters are made worse by not taring the scale after the measuring basket is wet and muddy. It is further eroded by introducing measuring error over and over as a couple of small fish are weighed at a time instead of waiting to measure them all together.” This is needed to improve accuracy of the existing monitoring system.

#### *Dockside Monitoring*

- “EM should be explored as a viable DSM option which our company believes will provide cost savings and operational flexibility, both important considerations for viability of the groundfish fishery.”

#### *Monitoring Other Fisheries that Catch Groundfish*

- Better management of groundfish discards in other fisheries. The “common pool, state, and lobster fisheries can discard all day long.” The Council should explore cod bycatch in the New England lobster fishery.
- “It is time to consider doing away with the common pool altogether. At the very least the Council should propose implementing comparable monitoring on the CP if trip limits are going to be set at meaningless levels (infinity).”

#### *Scientific Uncertainty Buffers*

- “The Council and NMFS should also revisit the current scientific uncertainty buffers and consider increasing them given persistent problem of retrospective patterns in the groundfish stock assessments where spawning stock biomass is over-estimated and fishing mortality is underestimates.”

## **4.5 OTHER IDEAS FOR SECTOR MANAGEMENT**

Ideas for improving use of the sector management system were provided by about eight commercial groundfish fishermen and their representatives. These ideas could be included by the Council in future processes. Ideas included:

- Increase collaboration between sectors, GARFO, and the Council.
- Utilize the “self-policing and co-management” nature of sectors to address issues with monitoring, such as observer bias and non-compliance.
- Increase enforcement of existing monitoring requirements.
- “The Council and NOAA fisheries work to find a way to increase the allowable catch of constraining stocks, like Gulf of Maine cod and white hake, beyond the current limits. This may be scaled over a period of years, but if analysis from the PDT is correct and catch of choke stocks is significantly higher right now than what is being reported, we could conceivably allow higher levels of catch for a short period of time to allow for a smoother transition to higher levels of monitoring.”
- If exemptions from monitoring requirements are allowed, recommend a process be codified to allow fisheries to request exemptions in more formal ways that does not require Council action.