

## **ASSOCIATED FISHERIES OF MAINE**

---

PO Box 287, South Berwick, ME 03908

August 31, 2020

Mr. Thomas Nies, Executive Director  
New England Fishery Management Council

VIA ELECTRONIC MAIL

COMMENTS ON DRAFT DEIS AMENDMENT 23 TO THE NORTHEAST MULTISPECIES FMP

Dear Mr. Nies:

The Associated Fisheries of Maine (AFM) is a trade association of fish harvesting businesses dependent on the health of the New England groundfish resource. Our membership extends throughout Maine and Massachusetts. The majority of our members are not permitted to fish in other fisheries and therefore derive all of their fishing revenue from the groundfish resource. Our members are enrolled in the Sustainable Harvest Sectors I and III.

We have concerns about several assumptions and analyses in the Amendment 23 DEIS:

- The DEIS at 7.5.7.2 estimates the cost of the preferred alternative at \$3.3 million compared to \$5.9 million with 100 % human monitoring alone - stating that groundfish sectors have the option to use electronic monitoring (EM) to reduce cost. However, the audit EM model is not practicable for those high-volume vessels that catch the majority of the fish, and the maximized retention model is still in the proof of concept stage. The DEIS should be explicit that reduction in costs estimated through the use of EM cannot be realized until the maximized retention model is fully operational, which may take years. Therefore, the true cost at implementation is not known but is likely be closer to \$5.9 million. This is not consistent with the Amendment's goal of reducing cost of monitoring.
- At 7.5.3 the DEIS projects that for all of the fixed coverage alternatives (25-50-75-100%) projected increases in gross revenues are eroded by higher operating costs. For the preferred alternative, gross revenue is projected to be higher than all the other alternatives, but operating profits are estimated to be significantly lower than under the no action or status quo alternatives, demonstrating negative economic impacts from increased monitoring.
- The Regional Administrator in public comments has said that increased monitoring levels would need to be phased-in to provide time for the agency, providers, and the industry to ramp up to 100%, but the DEIS does not provide a schedule for phased-in monitoring levels. Analysis of industry cost and projected benefits of increased monitoring under a phased-in approach is not, and should be, provided in the DEIS.

- The monitoring alternatives are rightfully designed as a target, since any number of unexpected and unpreventable circumstances could prevent achievement. For all the alternatives, the achieved coverage level cannot be known until the fishing year ends. For the preferred alternative in particular, the National Marine Fisheries Service (NMFS) cannot guarantee that they will have sufficient funds annually to cover their shoreside share of cost. Therefore, it is unreasonable for the DEIS to assign a “benefit” to eliminating the management uncertainty buffer linked to 100% coverage. Moreover, the DEIS states: The MU buffer “would continue to be evaluated to ensure that 100 percent monitoring coverage effectively constrains catch to prevent the ACLs from being exceeded. If 100-percent monitoring coverage is determined **not to be effective**, or if any of the additional elements evaluated when setting management uncertainty buffers have the potential to result in catches that could exceed ACLs, then the need for buffers would be evaluated as part of each specification action” (emphasis added). Therefore, if 100-percent monitoring is not achieved for any reason the MU buffer will need to be reinstated, eliminating any projected benefit.
- At 7.5.7.2 the DEIS projects removal of the MU buffer will result in an estimated increase in total groundfish catch from 22,564 to 24,469 metric tons (Table 215) and increase in gross groundfish revenue from \$49 to \$52.6 million (Table 216). However, Table 217 shows modest increases in utilization of individual stocks in almost all cases - so modest that it suggests the entire increase in utilization across all stocks would have to be realized in order to benefit from the projected increased catch and revenue. This is an unstable foundation on which to project an increase in revenue of \$3.6 million.
- At 7.3.1.1 the DEIS compares the different fixed coverage alternatives (25-50-75-100%) to each other as well as to the no action and status quo alternatives in terms of cost and changes in gross revenue. However, this analysis does not judge the alternatives to the Amendment’s purpose and need of improving accounting and accuracy of catch reporting. It is therefore not possible for decision makers to determine the amount of accounting and accuracy that can be attributed to each of the various coverage alternatives. This analysis must be completed in order for the Council to decide a coverage level that meets the purpose and need of the Amendment.
- At 4.1.2 the DEIS explains that the initial EM review rate would be selected by the NMFS, and that “after implementation, EM review rates would be evaluated by NMFS and possibly modified on a regular basis”. However, the DEIS does not provide metrics to evaluate when or how that review rate would be modified (increased or decreased).
- Appendix VI of the DEIS acknowledges that proportion of video review is the primary driver of EM cost, and that other regions, like British Columbia, have used a 15% review rate consistently from the start of EM programs. The British Columbia fishery has achieved the goals of the program with a 15% review rate. However, the Council has left the decision on review rate to the NMFS, and the NMFS has arbitrarily chosen high review rates for the initial years of the plan. The DEIS should compare the costs of a range of review rates and provide options for Council consideration.

- The DEIS is not consistent with the Congressional directive in the 2020 appropriations language requiring NOAA to “develop appropriate cost-sharing arrangements that are commensurate with the ex-vessel value of the fishery during the development and implementation of electronic monitoring programs”. The EM costs described are not commensurate with the ex-vessel value of the fishery.
- The DEIS does not provide evidence that under-reported catch is a widespread occurrence in the fishery. There is a good deal of modeling to suggest missing catch, but no concrete evidence that missing catch is a result of illegal discarding. Likewise, examinations of stock area misreporting of catch (Palmer 2017) found that misreporting error was attributed to a small number of vessels and the US Coast Guard (2019) found that of over 60,000 trips examined less than 1% had potential deliberate misreporting of stock area. These analyses do not support a need for increased monitoring, nor the preferred alternative, in particular.
- At 7.2.1.1 (beginning on page 300) an attempt has been made to determine the “magnitude of potential 2018 missing Gulf of Maine cod discards”. The results of the analysis indicate a possible upper bound multiplier of 2.3 times GOM cod landings, roughly 498mt of missing landings (or missing legal-sized discards). This analysis has not been presented to the Council and it has not been peer reviewed by the SSC (as were other PDT analyses in appendix V). More importantly the fantastical conclusion that GOM cod discards of legal-sized fish could be more than 1 million pounds is implausible at best, and ludicrous at worst. This analysis should be disregarded in final decision making related to a perceived need for increased monitoring.
- The DEIS does not provide evidence that missing catch is the primary contributing factor to retrospective patterns in stock assessments, but instead states there is not sufficient evidence to determine that missing catch is the primary factor in retrospective patterns, and that further work is needed to determine the extent to which missing catch and several other factors contribute to the retrospective patterns. Moreover, it is known, and the DEIS confirms that retrospective patterns are present in assessment models for stocks with large quotas and low utilization rates. This acknowledges that retrospective patterns in stock assessments are not a reliable indicator of misreporting (6.6.10.4).
- The DEIS ascribes a benefit of increased reporting to improved stock assessments but provides no evidence to support that claim. Groundfish sectors have been subject to high levels of monitoring for the past 10+ years, and over that timeframe assessment models have continued to fail in both numbers and frequency. The various coverage level alternatives are not independently analyzed against a metric of improvement in assessments. The DEIS fails to explain how the stock assessment for Gulf of Maine cod, for example, could be improved by monitoring only the commercial sector of the fishery when nearly half of the catch of GOM cod is outside of the commercial fleet and is not subject to monitoring.

The DEIS must address these issues so that the Council has the correct information for decision making.

The AFM supports accountability in all fisheries, but the Council's preferred alternative of 100% at sea monitoring of the groundfish fishery at industry expense is not justified, not affordable, and not consistent with monitoring requirements of other fisheries in the region.

Amendment 23 is a discretionary action that proposes to address uncertainties in catch accounting that are in no way unique to the groundfish fishery. The Amendment fails to describe why the groundfish fishery is singled out as the only fishery in the Northeast requiring 100% monitoring. Ironically, the Amendment 23 DEIS (7.5.1) references a 2015 report (Demarest) to the Council regarding monitoring of the groundfish fishery that reads in part: *"Implied reductions in aggregate vessel level profits will be mitigated by participation in other fisheries **which are exempt from ASM coverage requirements** (emphasis added).*

Currently, the groundfish sector program is the most accountable fishery in the Northeast. The sectors are subject to the highest level of monitoring (for 10+ years) of any fishery, provide management with weekly catch reporting, account for discards on observed and unobserved trips, have self-imposed conservation restrictions that go beyond those mandated by the FMP, investigate and punish non-compliance by participants, and are subject to both scientific and management uncertainty buffers in setting catch limits.

In 2012, the groundfish fishery was declared a disaster, and in 2016 the NEFMC approved the following problem statement with a vote of 17/0/0:

*"When Industry-Funded ASM requirements were established in Amendment 16, the expectation was that increased catch limits – as a result of rebuilding – would enable the industry to afford the cost of monitoring. Since 2010, ACLs for many stocks have declined sharply, along with groundfish revenues, and the size of the fleet.*

*The affordability of the ASM program for groundfish sectors is in question. The current configuration of the ASM program may lead to significant economic impacts (i.e., economic losses) to the groundfish fishery and negative social impacts (i.e., those that reduce resiliency and increase vulnerabilities of fishing communities)."*

Today, four years after unanimous approval of that problem statement catch limits have not increased, ACLs have continued to decline sharply, the size of the fleet has shrunk, negative economic impacts continue to be significant, and fishing communities are increasingly more vulnerable. If the industry must bear the cost of high monitoring levels, the only fishing businesses left standing will be those with very deep pockets or those that will have their monitoring costs covered by wealthy foundations.

Public comment from fishermen and fishing industry representatives has been overwhelmingly in opposition to this amendment, and the preferred alternative in particular.

The AFM does support a transition from the status quo methodology for determining annual coverage rates to a fixed coverage rate. However, the fixed monitoring level must be commensurate with the ability of industry to pay. It is our position that anything higher than 25% is beyond the industry's ability to pay today and into the foreseeable future.

As always, we appreciate your consideration of our views.

Sincerely,

*M Raymond*

Maggie Raymond, Executive Director  
Associated Fisheries of Maine