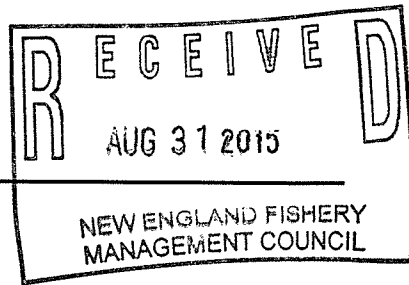


AMENDMENT 18
CORRESPONDENCE

ASSOCIATED FISHERIES OF MAINE

PO BOX 287, SOUTH BERWICK, ME 03908



August 31, 2015

Mr. John Bullard, Regional Administrator
Greater Atlantic Regional Fisheries Office (GARFO)

VIA ELECTRONIC MAIL - nmfs.gar.Amendment18@noaa.gov
Comments on Groundfish Amendment 18

Dear John:

The Associated Fisheries of Maine (AFM) has been an active participant in the development of Amendment 18 during the past 4+ years. On several occasions, the AFM has identified issues that pose a serious threat to the continued viability and diversity of the groundfish fleet, and we have urged the New England Fishery Management Council (NEFMC) to focus Amendment 18 on addressing those threats.

AFM repeats here examples of threats to the sustainability and diversity of the groundfish fleet.

- the high cost of monitoring, and the inefficiency of the monitoring program
- the lack of stability in annual catch limits,
- the redundancy of input controls in an output control system,
- the unconstrained catch of groundfish in other fisheries and/or state waters,
- the negative economic impact of the windowpane accountability measures

Unfortunately, Amendment 18 does not address these real and ongoing threats. With respect to the Amendment 18 alternatives under consideration, AFM offers the following comments:

The Draft Environmental Impact Statement (DEIS) Table 1 - Potential impact of the accumulation limit alternatives (Section 4.1) describes the majority of potential impacts to be negative, neutral or unknown. Any positive impacts described are only in comparison to those alternatives that measure negative, neutral or unknown.

Accumulation limits

The AFM does not support implementation of accumulation limits, but will endorse the preferred alternatives selected by the NEFMC. That is - Alternative 6: Limit collective holdings of PSC, and Alternative 2: Limit the holdings of permits.

Tables 50 – 54, pages 155- 159 (DEIS) show minimal increases in PSC holdings by individuals and/or permit banks since 2010, with the largest increase in holdings flowing

from individuals to permit banks. This table and others in this section demonstrate the absence of significant consolidation in the fishery since 2010, in spite of the explicit intent of sector management to encourage consolidation.

Handgear A permit measures

The AFM supports Alternative 1: No action

The AFM shares the concerns, repeatedly expressed by GARFO, about the inability to accurately monitor a sub ACL for the Handgear A permit category, for example, 3300 lbs of Gulf of Maine cod projected for 2015.

Data Confidentiality

The AFM endorses the NEFMC preferred alternative 1 no action.

The AFM endorses the GARFO determination that ACE price data are not necessary for the administration of the program, and thus, do not warrant an exception from the Magnuson-Stevens Act data confidentiality provisions.

Inshore/Offshore Gulf of Maine

The AFM endorses the NEFMC preferred alternative 1 no action

The AFM contends that establishment of an inshore/offshore Gulf of Maine boundary would create significant problems for the fishery. There is not biological justification for establishing separate ACLs for inshore/offshore areas, and establishing separate ACLs would require additional monitoring at industry expense.

Redfish Exemption Area

The AFM supports alternative 1 no action

The AFM contends that a redfish exemption is more easily administered and monitored through the sector exemption process.

In closing, the AFM urges the NEFMC to quickly dispense with Amendment 18 and just as quickly move on to solving real problems in the groundfish fishery (identified above).

Sincerely,

M. Raymond

Maggie Raymond
Associated Fisheries of Maine

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John Bullard, Regional Administrator
Greater Atlantic Regional Fisheries Office
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55 Great Republic Drive
Gloucester, MA 01930

RE: Amendment 18 Public Hearing Comments

Dear Administrator Bullard,

On behalf of the Northwest Atlantic Marine Alliance I would like to provide comments on the Amendment 18 (A18) draft to the Groundfish Management Plan.

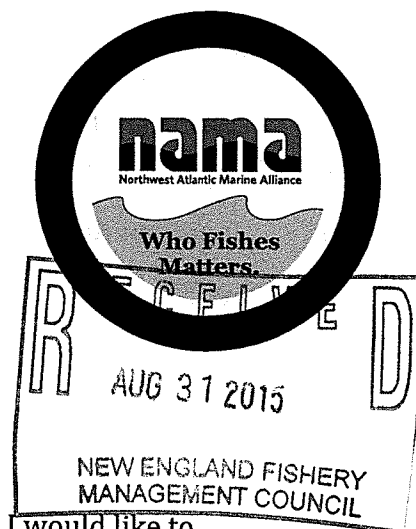
As an organization that supports fishing families and allies around New England to advance healthier marine ecosystems and fishermen's livelihoods, we have engaged in the Amendment 18 process for the past five years. We are deeply concerned with the current options under A18 and as we approach the final vote. It's clear that the Council has failed to achieve its stated objectives as well as failed to uphold the public process. We urge the National Marine Fisheries Service to over ride the Council and address the issues of excessive consolidation and loss of fleet diversity immediately.

Comments are divided into two parts:

- 1) The Council's preferred alternatives for A18 fail to protect fleet diversity and prevent excessive consolidation.
- 2) The Council has failed to uphold democratic principles over the public process and is incapable of addressing the problem of fleet consolidation.

Background

In 2009-2010 the New England Council approved Catch Share policy. Although new to New England, Catch Share programs initially began in the United States during the early 90's with the Surf Clam Ocean Quahog (SCOQ) fishery. Since its inception Catch Share policy was designed to commoditize fisheries access and consolidate fishing fleets into fewer, higher capacity and vertically integrated businesses. Within a decade the SCOQ fishery transitioned from a diverse and primarily owner-operator fleet, to a fleet owned and controlled by four multi-national corporations. Today the largest SCOQ quota owner – Thailand based Thai Union Frozen Inc - is also the largest seafood dealer in the world.



Not every Catch Share program has taken this route. In 1995 Alaska's Fisheries Council implemented a Catch Share program for its Halibut and Sablefish fishery. The program design included safeguard protections to ensure access for owner-operator fishermen and opportunity for small, medium, and large-scale fishing businesses. Safeguards included owner-operator provisions, quota caps at 0.5-1%, leasing provisions, and more.

In 2010 the New England Council rushed to implement Catch Share policy with the promise to immediately establish safeguard protections in the following amendment. Amendment 18 was the vehicle to create safeguards and ensure equity in the fishery; however, five years later and at the tail end of this amendment process, no real safeguards are on the table. Instead, the Council has crafted A18 to ensure the status quo continue and allow groundfish quota to further become a tradable commodity, concentrate into fewer hands, and thus, leave no hope for future independent fishermen. In addition, consolidation has also led to an excessive amount of fishing pressure on inshore areas. A18 is void of any solutions that address these problems.

The Council has demonstrated its inability to address the ecological, social, and environmental problems caused by the transition to Catch Share management. Therefore, it is incumbent upon the National Marine Fisheries Service to override the Council and establish safeguards in order to protect fleet diversity and prevent excessive consolidation.

1) A18 Fails to Address Fleet Diversity and Excessive Consolidation

Amendment 18 has two broad objective statements that were informed by a dozen public scoping hearings and thousands of public comments.

- Promote a diverse groundfish fishery, including different gear types, vessel sizes, ownership patterns, and geographic locations.
- Prevent any individual(s), corporation(s), or other entity(ies) from acquiring or controlling excessive shares of the fishery access privileges.

The original goal statements were established in 2010 based on public comment and provided the baseline for public comments during the public scoping hearings in 2012. However, in early 2013 the goal statements were altered based upon recommendations from the Groundfish Advisory Panel (GAP). The recommendations were not based on public comments, but rather on a small group of special interests. The altered goal statements included "enhancing sector management" and "promoting resilience and stability of fishing businesses". We reject these added goal statements due to a violation over process and the Council shifting the goal posts mid game.

Rationale for changing the goal statements argued that terms such as 'fleet diversity' and 'excessive consolidation' were too vague. We agreed then and agree now. That is why we recommended in 2012 that the Council adopt a more thorough definition for fleet diversity:

***Fleet Diversity** for a given region should include the range of types, sizes, and capacities of fishing boats that are well matched to the scales of the ecosystem's structure and functions. In other words, we should guarantee that the ecosystem dictate the appropriate scales and spatial distribution of fishing operations for any given region.*

In addition to vessel and gear characteristics, the following should also be appropriately diverse for the region's biological diversity, human health, and social wellbeing:

- *The spatial and geographic distribution of fishing, fishing management, and ports;*
- *The composition of catch – the variety of species caught by each fisherman throughout the year (including other than groundfish);*
- *The diversity, nature, and spatial distribution of fishing operations and their design – including, appropriate shore-side infrastructure so fisheries and marketing can remain local, and business plans that promote diversity.*

Flawed Compass Lexecon Report and Excessive Consolidation

In developing measures to address the A18 goals, the Council hired Compass Lexecon in 2013 to analyze excessive shares in the groundfish fishery. Their report concluded that excessive shares did not exist in the groundfish fishery. Although we disagree with this conclusion, the findings came as no surprise because Compass Lexecon had previously reached the same conclusion in a study of the aforementioned Surf Clam Ocean Quahog fishery, which is widely acknowledged as being among the most highly consolidated fisheries in the world.

Aside from the predicted outcomes, the Compass Lexecon report should also be discredited because it measured the wrong unit. The Council directed Compass Lexecon to measure “market power” in order to understand “excessive consolidation”. Akin to assessing a fish population by only looking in one location, market power misses the bigger picture.

Excessive shares must be assessed based on impacts to fisheries access, quota trading, port infrastructure, jobs, food systems, and impact to the ecosystem – all issues that were ignored by the Compass Lexecon Report.

Council's Preferred Quota Cap Allows for Excessive Consolidation

The Council's preferred alternative, which is based on the Compass Lexecon report, is to cap Potential Sector Contribution (quota) at 15.5% of the aggregate groundfish allowable catch. Far from being a real solution, this will further allow excessive consolidation so that single entities may control upwards of 90% of key groundfish species.

For example, take the Gulf of Maine (GOM) cod quota. In 2015 the GOM cod quota was 0.3% of the entire groundfish aggregate stock (total of 13 species). Since the proposed quota cap limits aggregate ownership across all stocks at 15.5% with no restrictions around individual species, one entity could control all of the GOM cod and be well under the Council's proposed cap. Allowing one entity to effectively control all of the cod in the Gulf of Maine, which is just one example, is clearly not going to prevent 'excessive consolidation'. Instead this direction will allow a few larger companies to own and control key species, further consolidate the fleet into fewer ports, and eliminate fleet diversity.

The National Marine Fisheries Service should take immediate action and establish quota caps between 2-5% on a species by species basis.

'No Action' on Data Confidentiality in Unacceptable

The Council's preferred alternative in A18 is to take 'no action' on data confidentiality. Taking no action violates the public's right to know who is controlling their public resource. Currently the cost and transaction of quota sales is operating completely in the dark, out of the view of the public as well as fisheries managers. Meanwhile quota leasing is among the largest overhead costs to fishing businesses.

The National Marine Fisheries Service should take immediate action and require full disclosure and transparency around quota leasing and trades.

'No Action' on Inshore/Offshore Allows for Pulse Fishing to Continue

The Council's preferred alternative in A18 is to take 'no action' to establish an inshore/offshore boundary within the Gulf of Maine Management Area. The 'no action' came despite this issue's relation to the largest problem articulated during A18 public scoping process.

The most common problem articulated during public scoping was that the scale of fishing pressure taking place in the Western Gulf of Maine was too much for the ecosystem to withstand. This problem was caused by the transition to Catch Share management and the lifting of trip limits that previously kept the scale of fishing in check. The result has been both a depleted ecosystem and displaced community-based fishermen who have historically depended on this area for a living, and still do to this day.

Through public comments fishermen and allies brought forth solutions that included gear restrictions, inshore/offshore declarations, and flexible trip limits that would be a disincentive to around-the-clock pulse fishing. All of these solutions were ignored.

The National Marine Fisheries Service should convene a short-term task force of fishermen, managers, and scientists to address this problem and implement safeguards as soon as possible.

2) Council is Failing to Uphold the Public Process

Over the course of five years hundreds of fishermen and members of the public followed the Council's public process around Amendment 18. They showed up to the meetings. They wrote letters. They articulated clear problems and solution statements. Yet the Council effectively ignored the public testimonies, failed in its duties to uphold the public process, and is left with an amendment that upholds the status quo.

During those five years I personally witnessed fishermen attend Council meetings only to have the agenda shift at the last minute and not get to have their say. I've seen fishermen interrupted or turned off at the mic. I've even personally had the mic turned off or been interrupted on four separate occasions, with the most recent incident at the April 2015 Council meeting where the Council Chairman publicly called me an asshole.

Patterns of violating the public process have already been acknowledged by the New England Council. In 2011, the Council requested a third-party review of its "public process." The resulting Touchstone Report acknowledged serious problems and found that the Council's governance process is too complex and discourages active participation; lacks collaboration or constructive dialogue; lacks any presence in the field or use of industry knowledge; requires overly burdensome reporting along with untimely feedback; uses overly complicated wording; is vulnerable to certain Council members "filibustering" in order to make meetings run late into the night; and, lacks a vision or strategic plan to guide decision-making.

The Report also offered solutions including: create a more welcoming environment that fosters "service" to the industry; redesign meetings and provide more time on the agenda for collaborative working sessions that promote active participation and dialogue; change the meeting layout and format to be more collaborative; engage professional facilitators to encourage full participation from Council and audience members; minimize individuals dominating the conversation; work with fishermen to understand how, when, and what information they want to receive; and develop a strategic plan for New England fisheries.

The Report goes on to say that many have lost faith in the process. The responsibility is with the Council to show what it has done to adopt these recommendations since they were issued to restore their faith. Clearly, what we have experienced around Amendment 18 demonstrates not much has been done in the way of implementing any of the report's suggestions.

There is also the peer-reviewed article "The Discourse of Participatory Democracy in Marine Fisheries Management." ([link](#)) Written in 2001, the article concludes that despite official claims to the contrary, the fisheries management - especially in New England - is not a genuine participatory democracy, fails to include stakeholders in substantive ways, and does not meet conservation goals.

The article recommends fisher-run workshops for state and federal employees, swapping a day at work periodically with someone in another area of fisheries management, centers for indigenous fisheries knowledge, and formally reconstituting the management process with internal mechanisms that decentralize authority and create authentic participatory roles for fishers and all other interested parties. None of these recommendations were taken into account by the Council.

What the recent events have shown is how a defunct democratic process has made it easy for adopting fisheries management plans that are privatizing, consolidating, and corporatizing our public resource.

The National Marine Fisheries Service should immediately implement the recommendations from the Touchstone Report as well as the report, "The Discourse of Participatory Democracy in Marine Fisheries Management".

Moving Forward

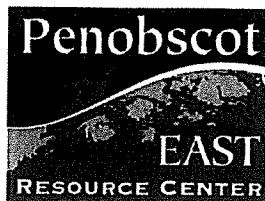
The current Catch Share policy has the explicit goal to consolidate the fishing industry and privatize fisheries access. For five years fishermen and the public followed the process to establish social, environmental, and economic safeguards in order to improve the Catch Share program. But the process failed them. We conclude that the Council is incapable of defending what is in the best interest of the public and the broader fishing industry. Therefore, we will commit to continue seeking recourse outside of the Council's failed process.

The path forward begins with a commitment to alter course. The Council must avoid repeating the same patterns over and over again and expecting different results. For trust to be restored amongst fishermen and the public, we need to see a public commitment from the Council to address these issues and restore a genuine participatory democracy for fisheries management.

Sincerely,



Brett Tolley
Community Organizer

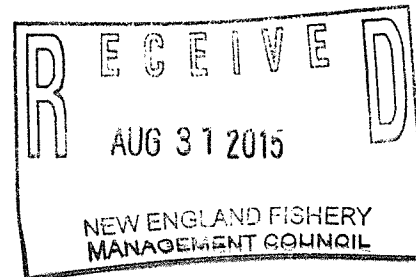


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Securing a future for fishing communities

August 31, 2015

John K. Bullard
Regional Administrator
Greater Atlantic Regional Fisheries Office
55 Great Republic Drive
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RE: Northeast Groundfish Amendment 18 and Draft EIS Comments

Dear Administrator Bullard,

I write to comment, on behalf of Penobscot East Resource Center in Stonington, Maine, on the Environmental Impact Statement and upcoming final Council action on Amendment 18. Penobscot East works with community fishermen in eastern Maine, many of whom formerly fished for groundfish, hold inactive federal groundfish permits, and/or seek opportunities to diversify their fishing businesses. We also act as sector manager for Northeast Coastal Communities Sector, representing 23 fishermen from Maine and Massachusetts and 26 federal groundfish permits. Thank you for the opportunity to submit our comments.

We are deeply concerned about the preferred action alternatives selected by the New England Fisheries Management Council (the Council) that are to be given final consideration at the September 2015 meeting in Plymouth, Massachusetts. The development of Amendment 18 began half a decade ago at the urging of small scale fishermen and others who were worried about the impacts of management changes, including the adoption of Sectors and shrinking catch limits, on fleet diversity and the ability of medium, small and micro scale participants to have viable options for fishing into the future. Despite all of the calls of fishermen for protections to ensure the conservation of fishery resources and viable options for small scale participation, the Council has failed to create options that accomplish these goals. Below I outline and elaborate a number of our concerns.

The Council's actions do not protect fleet diversity or prevent consolidation:

The original intent of Amendment 18 was to "promote a diverse groundfish fishery" and to "prevent excess consolidation in the fishery." This was so commonly understood at the time of its inception that

Amendment 18 was, and still is, regularly referred to as the “fleet diversity” amendment. Unfortunately the preferred alternatives of the Council achieve neither original objective. They do virtually nothing to promote opportunities for diverse participation in the fishery, nor do they do anything to ensure the continued participation by geographically diverse communities throughout the New England region. To make this action even more troubling the Council also fails to take action to prevent ongoing and future consolidation.

The Council states that it is not preventing ongoing consolidation in its own draft Environmental Impact Statement (EIS). On page 5 the analysis states that “all of the action alternatives are **expected to allow a substantial amount of consolidation** of holdings to occur from present level” and on page 7 that “**negative impacts to the size or continuing existence of fishing communities and participation in the fishery are expected to not be prevented.**” Despite the fact that permit and quota accumulation caps are expected to allow consolidation the Council goes even further under the preferred alternative. On page 317 the EIS states that “The Council is also proposing an allowance for... future holdings that exceed the limit, that **individuals and entities may hold permits that would result in excess PSC.**” To clarify, under the preferred option, entities could continue to purchase permits that drive their share of the fishery beyond the Council proposed caps, and still retain those permits; in effect the Council would create a no cap alternative because entities could hold permits in excess of the cap indefinitely.

The Council’s actions ignore professional guidance they asked (and taxpayers paid) for:

The council chose to use the metric of “market power” to evaluate consolidation effects under this amendment. This choice prompted widespread outcry and considerable criticism. Many outside groups, including Penobscot East, questioned (and still question) the viability of this metric as it fails to account for a number of greater complexities in the fishery and is generally seen as a poor measure of excessive consolidation in fisheries from social and ecological perspectives. Nonetheless, the Council contracted with Compass Lexecon to conduct an analysis of excessive shares under the metric of “market power.” Compass Lexecon’s findings in the completed analysis recommended a stock specific cap on PSC (Potential Sector Contribution, or quota) holdings. However, despite this recommendation, the Council chose to ignore this advice and instead has chosen an untested approach that cannot be demonstrated to accomplish the goals of the Amendment. From the Council’s own EIS on page 321, “the Proposed Action **would not implement the tool recommended by Compass Lexecon**, a stock-specific PSC cap, or other approaches suggested by the peer review.”

Some Council actions aren’t fully articulated:

In particular the preferred option that would allow permit holders to purchase and retain permits in excess of the PSC cap but would require annual reallocation of excess PSC to the rest of the fishery is poorly articulated. It isn’t clear from Council guidance the process by which PSC would be redistributed, and more importantly, who would be responsible for determining what PSC needed to be redistributed. Because the Council has preferred an aggregate cap and not a cap on individual stocks it isn’t clear what component or portion of the aggregate PSC would need to be distributed.

The significance of this can be seen from an example. What happens if an entity purchases a permit with valuable Gulf of Maine cod quota that pushes their share across all stocks in excess of the cap? Are they permitted to dump the redfish or pollock quota from another permit and keep the cod, possibly driving their share of the Gulf of Maine cod stock to 50, 60, or 70 percent? This is a critical question, particularly when choke stocks drive the cost of leasing quota and the opportunity to fish. If this decision is left to the permit holder they could simply choose to abandon their share of lower value stocks and still continue to acquire considerably more control over choke or valuable species, limiting opportunity for others not just to catch cod, but to even be able to make fishing trips, an option that tips the threshold to achieve significant market power. In order to prevent this NOAA must have authority to

determine which quota must be redistributed and which can be kept. However, neither the Council decision document nor the EIS articulates a process for this. It would be irresponsible to approve a poorly developed action such as this without fully articulating the process or intention of the preferred alternative. This is an unconscionable lack of clarity on an issue that addresses consolidation so directly, particularly after 5 years of development.

The Council's actions ignore the advice of fishermen and the will of the public:

Through countless hours of listening sessions, public meetings, and workshops over more than half a decade the Council has heard from community fishermen from every corner of the region asking for protections to give them a level playing field to participate in this fishery. The overwhelming flood of public comments supported these community fishermen and their ideas. These ideas included constructive plans that proposed additional conservation efforts to protect the resources and the future of their livelihoods, despite the fact that they would limit these fishermen's immediate opportunities. Instead, the Council has moved toward fewer restrictions, relying on solely on quota to limit fishing pressure. Inshore trip limits, special access areas, and gear managed zones, along with other options have been fully eliminated from consideration.

To rely solely on quota to manage groundfish flies in the face of the latest groundfish research. Peer reviewed work over the last 20 years has established that groundfish have local sub-populations, complex place-specific mating behavior, and are vulnerable to overfishing when they are in dense feeding aggregations. The additional conservation measures proposed in public testimony during the development of Amendment 18 are in line with the best available science and would have provided effective conservation tools given what we now know about the complexities of groundfish behavior.

The Council's actions are inconsistent with the intent of National Standards 8 and 4 of the Magnuson Stevens Fishery Conservation and Management Act:

Section 301, National Standard 8 states that: *Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) **provide for the sustained participation of such communities**, and (B) to the extent practicable, minimize adverse impacts on such communities.* In stark contrast the Council's own EIS states on page 323 that under measures considered by the Council "negative impacts to the size or continuing existence of fishing communities and participation in the fishery would not be prevented."

Section 301, National Standard 4 states that: *Conservation and management measures shall not discriminate between residents of different states. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such a manner that **no particular individual, corporation, or other entity acquires an excessive share of such privileges**.* Although NOAA and others have stated that the Sectors is not a Limited Access Program or ITQ fishery it is clear that the intent of National Standard 4 is to prevent any one entity from controlling excessive shares. As outlined above, the Council action will not prevent further consolidation or acquisition of excessive shares, clearly violating the intent of National Standard 4. Furthermore, analysis of the data would show that the consolidation has had a far greater impact on fishermen of some states than of others, inconsistent with the intent of the Act.

The Council's actions do nothing to promote conservation and rebuilding of fishery resources:

Ultimately the only way New England will be able to support a vibrant and diverse fishery in the future is through rebuilding our fish stocks to healthy levels. This is not a simple task, but a necessary

one. None of the Council's actions in Amendment 18 strive toward a more sustainable fishery that will ultimately support more fishermen in more communities and at all levels of participation. The amendment's renewed and exclusive focus on quota-based management while abandoning other tools that would distribute effort and limit local depletion ignores what we've come to know about the groundfish resource.

It doesn't have to be this way:

We can have sustainable fisheries in New England and we can have a diverse, productive groundfish fishery if we work to accomplish that goal. We do not need to perpetuate the cycle of disaster that has characterized our region for all of our recent memory. If we are to learn anything from our history it should be that it is possible to support thousands of small-scale fishermen in ports throughout New England; this fishery did exactly that for hundreds of years before we even took on the task of trying to manage it. Just a few decades ago New England had over 5200 active groundfishermen (NEFMC, 1992) and reports from a century ago record a sustainable fishery many times more productive than that we have today (Bigelow & Schroeder 1953, Rich 1929). Also, in other regions with sectors and ITQ fisheries it isn't uncommon to cap quota share to 5, 1, or even half of 1 percent (Office of Inspector General's Review of NOAA Catch Share Programs – OIG-14-019-1). Although larger caps are in place in some fisheries, no fishery similar in scale to Northeast groundfish has caps as generous as the Council has proposed.

The Council must act to rectify this situation:

The Council has been working for over five years on Amendment 18 and needs to reconsider whether the options they have outlined will provide any meaningful fixes to the challenges faced by the industry and particularly the most vulnerable participants in the fishery. Amendment 18 could have been a real tool for change toward the better in the industry and the Council should go back to the drawing board and consider the approaches brought to them by fishermen as solutions. As our understanding of the challenge has grown and new challenges have arisen, new opportunities to support fishermen have emerged, the Council has an opportunity now to review the data and the comments from the public to create a better path forward.

If the Council won't act, then NOAA must:

If the Council is unwilling to tackle the task of rebuilding a diverse and sustainable fishery then NOAA must be willing to consider aggressive action on its own not just to break the cycle of disaster that has characterized this fishery in recent decades but to ensure that this action does not perpetuate the distributional and fishing effort effects that consolidation brings. We need thoughtful and proactive leadership from NOAA to accomplish this goal. NOAA must be prepared to listen to fishermen, hear their ideas, and try new approaches to support community fishermen and rebuild the resources they depend on and which sustain their communities.

1st: Take action to protect and rebuild inshore spawning components of Gulf of Maine groundfish stocks. By establishing inshore trip limits (daily or weekly) the agency could protect inshore spawning stocks by pushing excessive effort offshore. This idea was proposed by fishermen and would protect the primary coastal spawning grounds and associated spawning aggregations of cod, haddock and flounders to support rebuilding of the resource, all while still providing a level of opportunity for inshore day trip vessels.

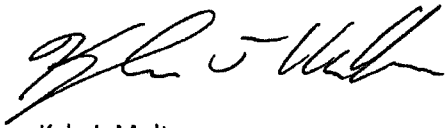
2nd: Take action to curb looming expenses on small scale, day trip operators. The poorly planned transition to industry funded At Sea Monitoring (ASM) is simply untenable for vessels in the smallest categories who handle less fish, and thus less money. According to the 2013 Economic

Performance report and NOAA data, the owner share from a groundfish trip in the smallest vessel category (under 30 feet) has already fallen to under \$160, and landings by vessels under 50 feet fell over 70% between 2007 and 2014. Over the same time period the landings of vessels 75 feet and larger actually grew by 25%. Clearly, revenue for the smallest operators have fallen markedly while the largest vessels have seen minimal impact or have actually benefited slightly. ASM costs could further accelerate the consolidation of the fleet and eliminate small vessels from the fishery entirely. Options to support ASM costs or developing coverage alternatives for the smallest operators, particularly those in outlying ports, would create a real path forward for community fishermen.

3^d: Institute real caps on consolidation and enforce them. This needs to be coupled with more aggressive documentation of ownership interests in permits to ensure that no individual or corporation is shielding their involvement in excess ownership through complex business arrangements. Violations need to be enforced effectively with considerable penalties, up to and including permanent forfeiture of permits and associated quota share.

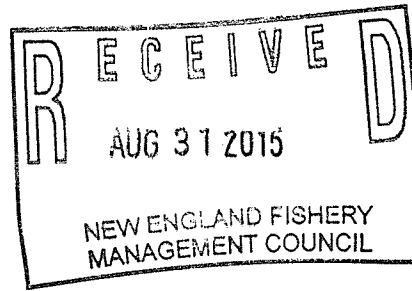
Thank you for the opportunity to provide comments. We will continue to work with the Council and with NOAA toward a sustainable future for all scales of participants in this and other fisheries, and for the resources they depend on. We are committed to a New England fishery that still has the coastal small and mid-sized groundfish fleet, active and profitable, as well as the larger offshore trawlers. Amendment 18 will not achieve this. The fish and New England's fishermen and fishing communities need the Council and NOAA, instead, to enact real reforms that can rebuild our fishery resources, fishing communities and the diverse fishery that was the impetus for this action.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kyle J. Molton', with a stylized, cursive script.

Kyle J. Molton
Policy Director
Penobscot East Resource Center

Terry Stockwell, Chairman
New England Fishery Management Council
50 Water Street, Mill Two
Newburyport, MA 01950



August 31, 2015

Dear Chairman Stockwell,

In 2010, the New England Fishery Management Council started an experiment to transition a complicated multispecies management plan into a catch-share system. This was not the first time that this type experiment had been done in the United States, and in every one of those other transitions to catch shares, a loss in fleet diversity and fleet consolidation was experienced. These responses caused the loss of many smaller businesses and irreversible harm to small fishing communities throughout the United States. With the potential for real harm to their businesses and fishing communities, fisherman raised concerns about these issues in the discussion around Amendment 16, but those concerns were put off to be addressed by a follow-up amendment, Amendment 18.

Amendment 18 development has been slow. We are now five years into a catch share program and small businesses throughout New England continue to fail and fish stocks continue to decline. Despite these realities and the clear need for a strong response to protect fleet diversity, the Council has watered down Amendment 18 to a point where it doesn't address any of the concerns of the inshore fleet when it comes to consolidation, inshore protections, or community preservation. The explicit goals and objectives set forth in the scoping of Amendment 18 were very clear:

- 1. Promote a diverse groundfish fishery.*
- 2. Enhance sector management.*
- 3. Promote resilience and stability of fishing businesses.*
- 4. Prevent any individual(s), corporation(s), or other entity(ies) from acquiring or controlling excessive shares of the fishery.*

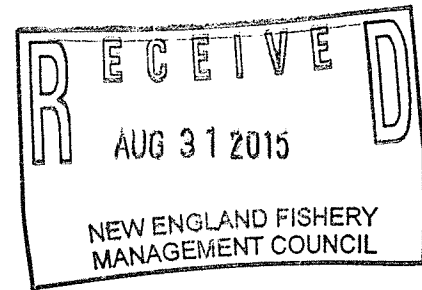
None of these goals are actually being addressed in Amendment 18 as currently put forth. Instead we have a token gesture with not even a shadow of positive impact to the inshore fleet. Additionally, and more importantly, the issues and concerns brought up in the extensive scoping process have been ignored. The Council has created a document over the past 3 years that is empty of substance, fleet diversity protections, or value. The Council, GARFO, and NOAA cannot let the current version of this document go forward.

We understand that Amendment 18 and the discussion around it has been a long process, but it was interrupted by one crisis after another for the Council and fishing industry. It is far better to take the time needed to do the job assigned and respond to the explicit goals and objectives of the Amendment than create a document simply to say that it got done. We hope that you will consider our concerns seriously and give this issue the attention it deserves to ensure a diverse and profitable future for New England's boats and communities of all sizes.

Thank you,

The undersigned

Kelo Pinkham, F/V Jeanne C, Boothbay ME
Joe Nickerson, F/V Hayley Ann, Arundle ME
Gary Libby, F/V Leslie & Jessica, Port Clyde ME
Gerry Cushman, F/V Bug Catcha, Port Clyde ME
Glen Libby, F/V Captn' Lee, Port Clyde ME
Justin Libby, F/V Captn' Lee, Port Clyde ME
Randy Cushman, F/V Ella Christine, Port Clyde ME
Obie Spear, F/V Providence, Yarmouth ME
Todd Watts, F/V Megaltay, Tenants Harbor ME
Ed Snell, F/V Rita B, Portland ME
Tad Miller, F/V Ella O, Tenants Harbor ME
Knoep Nieuwkerk, F/V Hannah Jo, Kennebunk ME
Lucinda Nieuwkerk F/V Hannah Jo, Kennebunk ME
Eben Nieuwkerk F/V Cutter, Kennebunk ME
Nicholas Nieuwkerk F/V Cammie Kendrick, Kennebunk ME
Captain Charles Felch, F/V Lady Victoria, Seabrook NH
Jared Bennett, F/V Synergistic, Chatham MA
William Ligenza, F/V Blue Jay, Chatham MA
Ken Eldredge, F/V Kittiwake, Chatham MA
Eric Hesse, F/V Tenacious II, Barnstable MA
Greg Walinski, F/V Alicia Ann, Chatham MA
Ben Bergquist, F/V Saga, Chatham MA
Raymond Bois, F/V Gail Wind, Dennis MA
Joel Bois, F/V No Name, Dennis MA
Zachary Bennett, F/V Mint, Chatham MA
Bruce Kaminski, F/V Never Enough, Chatham MA
Michael Anderson, F/V Cricket, Chatham MA
Glenn Svenningsen, F/V Northern Lights, Chatham MA
David Gelfman, F/V Horse Mackerel, Chatham MA
Dorwin Allen, F/V Lori Ann, Hyannis MA
Douglas Feeney, F/V Noah, Chatham MA
Mike Woods, F/V Jakob & Megan, Chatham MA
Scott Rushnak, F/V Risky Business, Chatham MA
Peter Kaizer, F/V Althea K, Nantucket MA
Robert DeCosta, F/V Albacore, Nantucket MA
Kurt Martin, F/V Time Bandit, Chatham MA
Tom Smith, F/V Sea Wolf, Orleans MA
Ron Braun, F/V Peggy B, Harwich MA
Stu Tolley, F/V Dawn T, Chatham, MA
Ken Tolley, F/V Hunter, Chatham, Ma



To: John K. Bullard, Regional Administrator,
Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive
Gloucester, MA 01930-2298
Re: Comments on Groundfish Amendment 18."

Dear Mr. Bullard,

Thank you for the opportunity to comment on the Draft Amendment 18 to the Northeast Multispecies (Ground fish) Fishery Management Plan (FMP). This amendment is needed to address concerns regarding fleet diversity and fishery consolidation within the Northeast Multispecies fishery. Conversations about the need to implement "fleet diversity" measures to the FMP started as early as 2010, and after five years of conversations, council working groups and meetings, proposed alternatives, and in-depth analyses, we are left with a draft amendment that does nothing to actually hedge the risk of excessive consolidation or to sustain and encourage fleet diversity.

Environmental Defense Fund (EDF) strongly encourages both the council and the National Marine Fisheries Service to re-think some of these preferred alternatives and either chose different alternatives, or develop and analyze completely new alternatives. If the council fails to take further action to remedy this futile amendment, then it is up to the Regional Administrator (RA) and the National Marine Fisheries Service (NMFS) to reject this amendment and send it back to the council to develop and analyze a new set of alternatives that could have a substantively positive impact to the diverse fishermen and fishing communities throughout New England. Recommendations for new alternatives that could better meet the stated goals of this amendment are also proposed in these comments.

Introduction

In New England, the fleet is divided into an offshore fleet and an inshore fleet. Both fleets are important, and serve different functions for feeding the population and sustaining historic and culturally significant fishing communities. Offshore boats tend to be larger dragnets (trawl gear), who fish in multiple broad stock areas and primarily target Pollock, redfish, and GB

haddock, and to a much lesser extent, GB cod, Plaice and Grey Sole. These boats fish primarily out of Portland, ME; Gloucester/Boston, MA; New Bedford, MA; and Point Judith, RI. These fisheries account for the majority of all ground fish landings in New England.

The smaller “day boat” segment of the fishing fleet also significantly contributes to the local economies in New England, and support entire fishing communities. These boats are smaller gillnet, hook, or inshore draggers that traditionally fish multiple types of fisheries throughout the year. In addition to ground fish, “other” fisheries include: whiting, dogfish, herring, monkfish, skate, lobster, scallop, butterfish, fluke, and squid.

These fisheries and the fishermen who prosecute them, and who live in these historic coastal communities are part of New England’s culture and play a critical role in the local and regional economies. It is the smaller, inshore segment of the fleet that is consolidating rapidly, and real protections should be put in place via A-18 to make sure that all of our fisheries, fishermen, and communities co-exist well into the future.

A-18 Goals

In an effort to maintain this fleet diversity—especially in response to the socio-economic risks to the fleet from very low annual catch limits (ACLs) in place since the start of sectors—the council outlined four main goals of this amendment:

- 1) Promote a diverse ground fish fishery, including different gear types, vessel size, ownership patterns, geographic locations, and levels of participation through sectors and permit banks;
- 2) Enhance sector management to effectively engage industry to achieve management goals and improve data quality;
- 3) Promote resilience and stability of fishing businesses by encouraging diversification, quota utilization and capital investment;
- 4) Prevent any individual(s), corporation(s), or other entity(s) from acquiring or controlling excessive shares of the fishery access privileges.

The goals state very clearly the desire for this amendment to be crafted in such a way as to maintain fleet diversity, to prevent excessive consolidation, and to enhance the sector system to achieve its management potential. Given the current economic condition of the fishery—which are poor, and as a result, present cheap buying opportunities for a savvy and well capitalized investor to gain a controlling and powerful interest in the fishery—it is more important than ever to protect the conditions necessary to maintain a diverse fleet.

None of these goals have been met through the preferred alternatives in A-18. And perhaps more discouraging was the entire A-18 council process, which never resulted in any substantive discussion about the need or justification for this amendment altogether. In fact, there seemed to be a prevailing opinion that due to the dire states of many ground fish stocks in the Northeast, that the need to implement measures to ensure fleet diversity is a waste of time—or because there doesn’t seem to be any current evidence of mass consolidation or excessive market power that this fishery is somehow exempt from these forces in the future. This is very

short sighted thinking, and fails to recognize the recovery of the fishery, the role of the inshore fleet in sustaining communities and feeding our population, and the importance of heterogeneity in both fishing vessels and fisheries as a hedge against changing environmental conditions and overfishing on primary stocks.

Preferred Alternatives

The council chose preferred options for five different alternatives for Amendment 18. Of these 5 options, they chose “no action” on two alternatives and the preferred options for the other three alternatives only impact a very small portion of the fleet, or have no impact altogether. The problem with all of the preferred alternatives is the lack of a clear connection between the preferred alternatives and any of the goals of Amendment 18.

- 1) Accumulation Limits: The preferred alternative is to constrain individuals and entities on the Potential Sector Contribution (PSC %) that may be held in aggregate across all stocks to an average of no more than 15.5 PSC % AND to constrain total accumulation of federal multispecies permits to less than or equal to 5%.

EDF does not support this preferred alternative. The problem with this alternative is that the total accumulation limits in both cases is far too high to have a meaningful effect in preventing excessive accumulation of fishing rights. The council commissioned Compass Lexicon (Mitchell & Peterson 2013) to do an analysis regarding the share of access rights that would allow a permit owner [holder] or sector to influence to its advantage the prices of the fishery’s output or the prices paid for leased Annual Catch Entitlement (ACE). Their analysis showed little risk of market power under the current level of ownership, and identified two threshold levels of PSC% ownership (15.5% and 30%). The 15.5 PSC % ownership level is associated with a low risk of market power, while the 30 PSC% ownership level is associated with a moderate risk of market power.

But the only two alternatives that would have either capped the PSC% ownership at current levels, or capped PSC% ownership at 15.5% across all stocks, ensuring the fishery was at low risk of excessive consolidation, were dismissed. Instead the council chose a preferred alternative that could allow an individual to own more than 30% PSC for multiple stocks, including choke stocks, and still fall within the preferred alternative of “15.5% average PSC ownership across all stocks”.

In addition, the council chose an alternative regarding the ownership levels on permits that would cap the total permit ownership to no more than 5% of the total number of federal multispecies permits (about 70 of the 1500 permits), which in itself is way too high because this doesn’t take into account that the majority of catch history (the currency that determines PSC%) is concentrated on 500 of the 1500 federal multispecies permits. This means that effectively, the council is allowing an individual to own up to 70 of the best 500 permits in the fishery.

By any metric, this is an excessive share, and would certainly lead to higher rates of consolidation, less fleet diversity, and the ability to exert market power. This also means that an individual could easily accumulate high levels of PSC% on individual stocks, while still maintaining total permit ownership of less than or equal to 5%. Figure 1 shows an example of this, where the current maximum PSC% ownership levels are graphed against a potential portfolio designed to target “choke stocks” that still falls beneath the council’s preferred alternative.

Figure 1. Current Max PSC% vs Potential Max PSC% (Preferred Alternative)

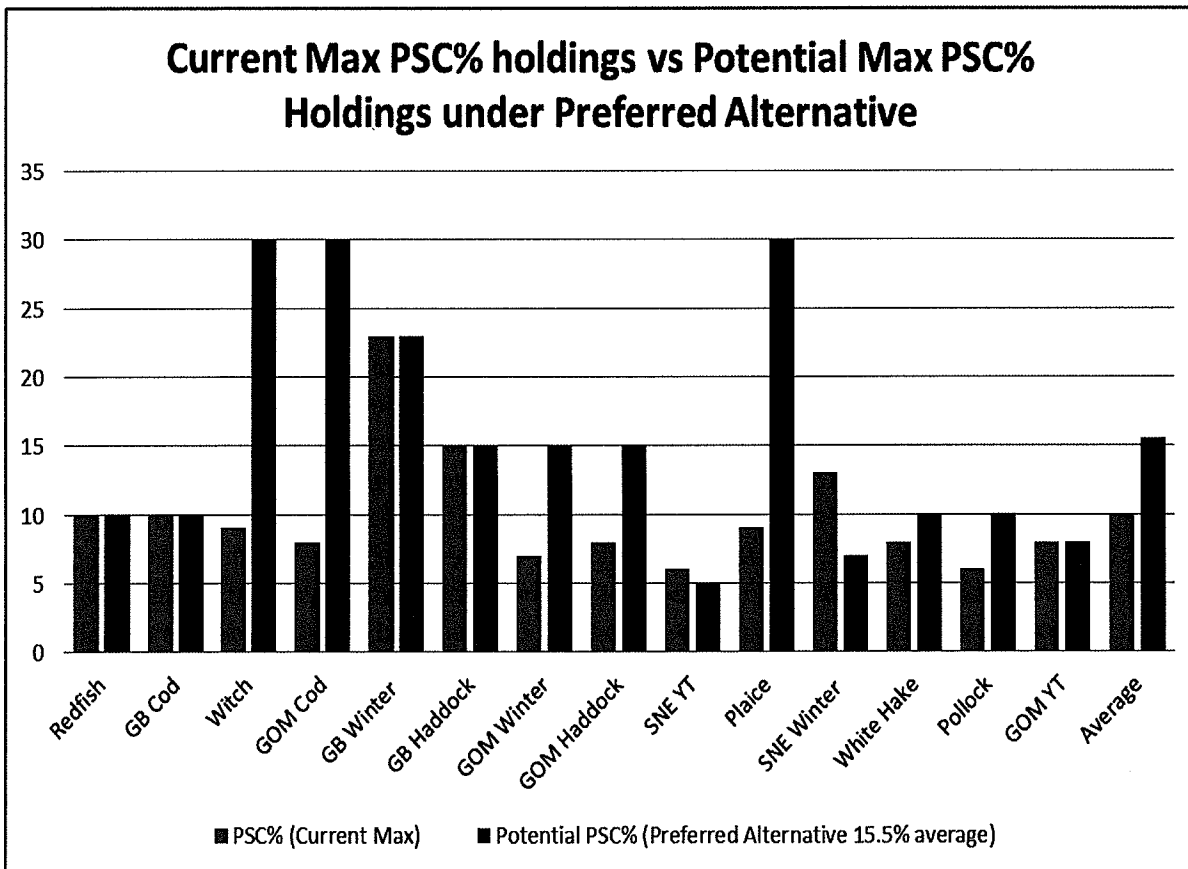


Figure 1 shows an example where an individual could target 30 % PSC ownership of three key choke stocks: Witch Flounder, Gulf of Maine cod, and Plaice; and significantly increase their PSC% ownership on other key species, and still fall within the acceptable 15.5 % ownership cap across all stocks. In this example, an individual could potentially increase ownership of With Flounder from 9 to 30%, of GOM Cod from 8 to 30%, and of Plaice from 9 to 30%. They could also increase ownership of GOM Winter Flounder from 7 to 15%, of GOM Haddock from 8 to 15% and marginally increase ownership on both White Hake and Pollock to 10% PSC ownership—all while adhering to the council’s preferred alternative.

Even though a 30% PSC level ownership is considered to impose a moderate risk of market power (Mitchell & Peterson 2013), clearly the collective ownership of 30% PSC levels across multiple stocks—especially choke stocks—would present an excessive share of the fishery that would lead to market power and a lack of diverse fishing across the fleet.

In light of this, EDF recommends that the council chose a new preferred alternative that is consistent with maintaining a low risk of concentration and market power. Two proposed alternatives would satisfy these criteria, and fit much better with both Goal 1 and Goal 4 of A-18, and those are:

6.1.2.3 Alternative 2: Limit holdings of stock-specific PSC at the maximum held as of the control date-- For any single fishing year, individuals, permit banks, and other entities shall be assigned no more than the maximum stock-specific PSC that was held by an individual or permit bank as of the control date for Amendment 18 (April 7, 2011).

6.1.2.4 Alternative 3: Limit holdings of stock-specific PSC to the same level for each stock in the fishery--For any single fishing year, individuals, permit banks, and other entities shall be assigned no more than 15.5 of the PSC for a single allocated stock.

As an alternative, the council could also consider a new alternative regarding the total ownership of multispecies permits—reducing the constraint of “less than or equal to 5%” to “less than or equal to 2.5%” of the total (1500) federal multispecies permits. Because the only way to acquire ownership of PSC% is to purchase permits, this alternative is likely to have a much more direct impact in preventing excessive shares and resulting market power. This reduction in permit ownership would be much more consistent with the portion of federal multispecies permits that have any significant amount of PSC% catch history.

- 2) Handgear A (HA) Permits: Create a sub-ACL that HA permits could enroll in; remove the March 1-20 closure for common pool HA vessels; remove the standard fish tote requirement for HA vessels; allow sectors to annually request that HA vessels fishing in the sector be exempt from use of VMS (would use IVR);

In general, EDF supports this alternative, which would allow the Handgear A permit holders the opportunity to fish at a more rational pace throughout the year because they would be exempt from the “trimester” system of quota management that is leading to a race to fish in the common pool (Draft DEIS). The alternative also allows sectors to request an exemption from VMS standard reporting requirements for Handgear A permit holders within their sector. Given the high cost of VMS systems like “Skymate” or Boatracs, this would be an important exemption to the very small vessels operating with a Handgear A permit.

But two problems exist with this preferred alternative. The first is that Handgear A permit holders would be fishing under a hard Sub-ACL with no observer coverage. The council chose a “fixed discard rate” that would be applied annually to the allocations. But a quota based system with no observer coverage can yield an incentive to highgrade. The second problem is that the total number of Handgear A permit holders is extremely small; so small, that this entire alternative really has no substantive impact in achieving any of the goals of A-18. In fact, assuming 100% enrollment of HA permits in the HA sub-ACL, the hypothetical maximum PSC%

for any of the five stocks is likely to be $\leq 0.73\%$ of the commercial sub-ACL, with the lowest being GOM haddock at 2,377 lbs. In fact, the fact that HA sub-ACL would be so miniscule relative to the rest of the commercial fleet, it makes the first problem regarding no observer coverage not as problematic—but net result is that 99.27% of the fleet is not affected by this alternative.

- 3) Data Confidentiality: The council's preferred alternative is to take no action in regards to what fishery data are considered confidential, specifically the price of ACE transferred within a sector or leased between sectors;

EDF strongly opposes this preferred alternative because it promotes non-transparency in the sector ACE market, which leads to severe inefficiencies in trading due to asymmetrical and costly market information. An effective, real time, and transparent data management infrastructure has been the most overlooked aspect of the implementation of sector management. Ultimately, we have a system with real time, massive amounts of data requirements, and we are overflowing the available technology and reporting devices to deal with it. And the non-transparent and inefficient ACE lease market has exacerbated both the data management and the "ACE under-utilization problem", and has led to greater separation of winners and losers within this market based management system.

The initial allocation of PSC% to the New England ground fish fleet via Amendment 16 gave the top 20% of businesses 80% of the total PSC%. This rate of separation has increased over the last 5 years, where the 20% of the most capitalized businesses now own 84% of the PSC. Given the poor economic conditions of the fishery, and the current fire sale prices of permits, this separation of wealth is likely to increase rapidly. The elite 20% of the fishery also control and set the prices for ACE, and because the data management infrastructure is slow and non-transparent, once ACE prices are set, they tend to be very sticky. Without any type of central ACE trading clearinghouse, or at the very least a centralized data warehouse that housed the prices and quantities of all ACE trades in the fishery each day, most fishermen are constantly left wondering what their ACE is worth—and as such are left making poor choices about if, when, how much, and what to fish for.

Information about the price and quantity of what fishermen are "asking" for their ACE is currently available through disparate emails between managers, text messages, or private phone calls. But almost no information about the actual execution prices of ACE trades is available, especially on a real time basis useful for making dynamic fishing decisions in a changing ecosystem. As a result, fishermen wait either wait too long to sell their ACE, or accept a price well below market value because no other information is available. Imagine a home owner trying to sell their home in a market where only the buyer knows information about comparable house sales in the neighborhood. The seller is likely to accept an offer that is unrepresentative of the actual value of their property. This is the situation that has evolved in the northeast multi-species ACE leasing market within the sector management system.

The frustrating part about this particular inefficiency is that it is easily remedied if the data the government already collects about inter-sector ACE leases was made transparent—at least made available to all of the other sector participants. The council focused their arguments against transparency on language in the Magnuson Stevens Act that protects business information between two parties (entities) as confidential.

This confidentiality restriction was not intended to encourage asymmetrical market information between players in the same market based management system. Posting the ACE lease price to all sector participants would not violate this confidentiality restrictions if the information was only available to other sector participants—and it would also not violate the confidentiality restrictions if the daily trade data were aggregated and if the daily ACE lease prices were averaged across sectors, thereby not identifying any individual sector. Still, the council focused very little attention on trying to develop a work around, and their “no action” decision seemed to be spearheaded by the 20% segment of industry representatives who have a vested interest in keeping this information private.

- 4) Inshore/Offshore GOM. The council’s preferred alternative is to not establish an inshore/offshore boundary within the Gulf of Maine with associated measures;

EDF opposes this preferred alternative. Even though we do not support creating an inshore/offshore boundary line that would result in any type of redistribution of ACE (between an East and West side), it is clear that the council did not seriously consider any other alternatives under this proposed action that could have more effectively dealt with the increased transactions costs and gear interactions that have resulted from larger offshore vessels fishing in traditional “day boat” fishing areas.

Dividing up the Gulf of Maine into an East and West side and then splitting the Gulf of Maine cod quota into two separate allocations (east and west) would have an opposite effect than intended. Instead of preventing large vessels from fishing inside, this would force smaller vessels to sell their “east” share of their GOM cod ACE to the larger boats because most smaller, day boat vessels, don’t fish as far out as the proposed boundary lines. In addition, the analysis of this alternative showed that much uncertainty exists in the data, especially in regards to where this line should be drawn and the expected impact to the fleet (DEIS A-18).

Instead, a more effective alternative would have been to extend the GOM/GB Inshore Restricted Roller Gear Area to be consistent with the inshore/offshore boundary. This option may be easier to administer and enforce relative to either the current or potential No Action alternatives (DEIS A-18), and should have been considered as a separate alternative, independent of the choice to divide up GOM Cod ACE between the East and West boundary line. The issue of larger vessels fishing inshore has been problematic since the start of sectors, and a much higher level of gear conflicts and “pulse fishing” on inshore stocks has manifested. Further restrictions on the roller gear areas could help to solve these bio-economic externalities to the sector system. Once again, the council did not have the appetite to discuss any real solutions such as this that would help maintain diverse fishing grounds and a diverse fishing fleet.

- 5) Redfish Exemption Area. Establish an area in which vessels could fish with a smaller mesh net than the standard mesh size, targeting redfish.

EDF supports this preferred alternative because it will allow vessels to focus more effort targeting redfish, a highly “underutilized fish stock”. Much research has gone into the analysis of this alternative, including the REDNET collaborative research project (Whitmore 2012), which showed that redfish is a very discrete fishery with low bycatch of primary ground fish stocks. It also showed that a small reduction in allowable mesh size would not jeopardize other primary ground fish stocks that may still be rebuilding.

The total catch of redfish has been increasing every year since sectors started, given the miniscule ACE lease price and the greater flexibility sectors offer fishermen. Last year, almost 50% of the redfish quota was landed, the highest of any year. This percentage is expected to increase significantly with this exemption, but unfortunately, these increased landings will only accrue to the current redfish participants—who tend to be the same 20% of the fleet who control 84% of the PSC%. While this exemption will allow greater flexibility for these fishermen (and possible ecosystem benefits) to target redfish more often, it will provide no benefit to the smaller, inshore fleet. As such it is expected that this will have little substantive benefits for promoting the broad goal of A-18 to prevent excessive shares and encourage fleet diversity.

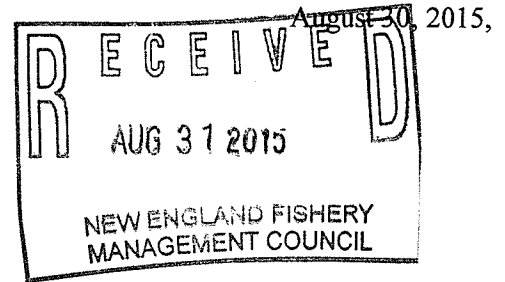
Conclusion and Recommendations

It is clear that none of the council’s preferred alternatives meet the stated goals of this amendment, and as such it will do nothing to prevent the accumulation of excessive shares or help to promote diverse fisheries and a diverse fishing fleet. It also does nothing to effectively engage industry to achieve management goals and improve data quality, or to promote resilience and stability of fishing businesses by encouraging diversification, quota utilization and capital investment. Unless the council substantially changes its list of preferred alternatives, it seems clear that the NMFS has no choice but to reject this amendment, either in part or in its entirety and to send it back to the council to take seriously the goals of A-18.

Sincerely,

Joshua Wiersma, PhD
Manager, Northeast Fisheries

Terry Stockwell, Chairman
New England Fishery Management Council
50 Water Street, Mill Two
Newburyport, MA 01950



Dear Chairman Stockwell, And all Council Members

Regarding Amendment 18.

Amendment 18 was initiated immediately after amendment 16, which created the catch share/ sector system, was voted in. Amendment 18 was originally supposed to consider some of the ideas that were put forth during the Amendment 16 process from the final three candidate plans.

Ultimately the sector system / common pool system was chosen but the other plans (points system and area management) had merit and were cognizant of the dangers of a catch share system , mainly fleet consolidation and loss of geographical diversity of the fishing fleet.

For those of you on the council who have gone through the council training process prior to your swearing in you will recall there was a mandate to “manage the fisheries in your region to the highest and best use of the nation”.

If you agree that the chosen alternatives in the Amendment 18 document do this then by all means, vote for them. But, if you are concerned that the preferred course of action will lead us into further fleet consolidation and loss of geographical diversity of fishing operations then it would serve all of us well, as citizens of the United States , to reconsider some of these actions that have been proposed.

There is an opportunity here to be the first council to do something meaningful and innovative to combat the consolidation issues that have plagued every other catch share system that has been created. Or you can take the easy course and do something just to clear the slate and let the chips fall where they may, basically hope someone else figures it out. “Next agenda item please.”

With the cod cuts in place the magnitude of the fisheries disaster we have right now has every fisherman and their advocates struggling to get every scrap for themselves, basic survival response and understandable.

But, the decisions that are made here and now will have and are having dramatic long term consequences for our descendants that may want to fish. Don’t sell them short, take the long forward looking view and try to at least start to fix the consolidation/ loss of diversity issue, now.

I know some people who went to Eastport Maine this summer, a very old fishing town. They went to the local fish market and there were no fish. The folks who worked there said that “the fish come in once per week”. When asked where they come from the owners were unsure, no one fishing for fish in Eastport, does this strike you as a problem? It should. Eastport is not the only coastal town in New England where this is occurring.

If you need to know or ask yourself what the people on the street think about this issue, think about the local food movement. I have yet to find one person who thinks that not being able to get local fish in a fishing community or nearby is a good idea. (Feedback from our customers validates this statement) Local food systems are much stronger when there are a variety of sources of supply over a broad region. A centralized system works for a few individuals but is vulnerable to transportation costs and potential disruption.

A less centralized system also provides employment opportunity over a broader geographical area and this results in a much more efficient economy. Control by NOAA of a handful of boats would certainly be simpler for NOAA and more efficient to regulate but that is not the only efficiency that should be looked at when making fisheries management decisions.

I get it that there is not enough quota to go around, I am part owner of two smaller fishing operations and the quota we have been allotted to live on is a joke, by the time you pay to lease fish from someone else the net is a joke and not economically viable. Larger fishing operations likely have similar issues but at a different scale. I am not suggesting redistribution of quota is a good idea but we do need to look forward.

Presumably at some point in time the fisheries will be rebuilt and the business will be viable again for more fishermen than we have today, don't sell their futures short by not thinking ahead to the consequences of fleet consolidation and what it means to our future coastal economies. I know some of you are or used to be small boat guys, that is where just about everybody starts out fishing. Can you honestly say that the work that has been done on amendment 18 is going to be good for the small boat guys? If yes then go for it but if not then at least make an argument for something that will start to solve the consolidation/ economic problems that are always associated with catch shares.

As an example, this holds true for many towns and fishing operations, does it really make sense for someone living and fishing in Port Clyde to have to pay someone from another state for quota to catch fish that are right off the coast of Port Clyde? Good for the person who has accumulated the quota and is collecting the checks sitting at home, but it adds crippling overhead to a fishing operation.

The people of the United States, who are the owners of these resources want local food, most of them understand the importance of local food systems. That is a concept that they understand and will and are using to grade your performance on fisheries management issues.

This is a tough issue and I know the power of politics and lobbying that you are subjected to as council members. The results of every action that is taken have consequences, sometimes positive sometimes unforeseen and destructive, I wish you all the best of luck and implore you to have the courage to think this through and try to accomplish something meaningful and positive for the long term stability of a diverse fishery with this amendment.

Best Regards,

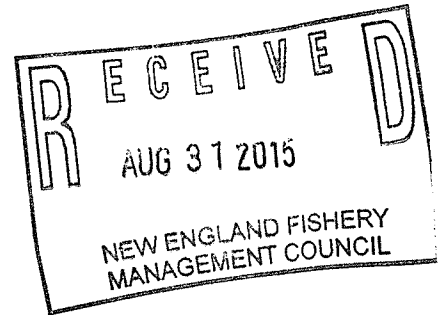
Glen Libby

Port Clyde, Maine



August 31, 2015

John K. Bullard
Regional Administrator
Greater Atlantic Regional Fisheries Office
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
55 Great Republic Drive
Gloucester, MA 01930-2298



Re: Comments on Groundfish Amendment 18

Dear John,

The Northeast Seafood Coalition (NSC) offers the following comments on the Amendment 18 Draft Environmental Impacts Analysis.

General Amendment 18 Comments:

During the Amendment 18 scoping process held in 2012, NSC commented on the growing number and severity of threats facing the groundfish fishery. ACL reductions on key groundfish stocks, ACL instability and increasing operational costs for groundfish fishing businesses were just a few highlighted. In our scoping comments, NSC advised that any "next steps" for groundfish management considered under Amendment 18 must be highly sensitive to unintended consequences and disruptions to highly stressed fishing businesses.

Unfortunately, the fishery is in worse shape today than it was when the Amendment 18 discussions began almost four years ago. Since then, the 2013-2015 ACL reductions severely exacerbated the impacts of the previous reduction on the fishery, the at sea monitoring program and industry cost sharing requirements remain unresolved, and fishermen (both recreational and commercial) are reporting that stock assessment results do not remotely match what they are experiencing on the water. Fishermen are simultaneously witnessing, across stock areas, a far higher level of abundance and strength in year classes than are being reported by the recent stock assessments. This is true for GOM cod as well as a host of other groundfish stocks.

NSC looks forward to working closely with the Council in the days ahead to craft viable solutions to the real problems currently threatening the survival of small commercial groundfish businesses. In the meantime, we offer the following in regards to the measures under consideration by the Council for Amendment 18:

Accumulation Limits Section 6.1

General Comments:

NSC is sensitive to the need to prevent the accumulation of excessive shares of the groundfish resource as well as to the practical effects of mechanisms designed to achieve this objective.

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However, while NSC has repeatedly noted that the issue of excessive shares is a valid concern within a LAPP or a non-LAPP management system, the agency has made a definitive legal determination that the sectors are not LAPPs as defined in the MSA and that sector allocations are not permanent. Thus, the MSA excessive share provisions pertaining to LAPPs do not apply to the groundfish sector management system.

Much of the analysis offered to date under Amendment 18 reveals that consolidation (permit sales) was much more prevalent under the days at sea system, prior to the implementation of the sector management program in 2010. Analysis also reveals that "ownership of PSC" has largely been the result of the allocation formula chosen under Amendment 16. In other words, a permit holder that concentrated their fishing effort on Georges Bank winter flounder under days at sea from 1996-2006 would have a larger percent share than other permit holders in the fishery.

Offshore fisheries that have been more specialized like Georges Bank haddock or Georges Bank winter flounder have less participants with a higher percent share due to the nature of the fishery and the allocation formula chosen under Amendment 16. The fact remains that for some stocks, there is no cap or other attempt to redistribute PSC that would incentivize or change fishing patterns among vessels in the fishery because independent of allocation, some fisheries have remained specialized and will only attract a small percentage of participants.

It's important to recognize that sector management and the in-severability of individual stock sector PSC being associated with any permit are strong deterrents from the ability to acquire excessive shares of individual stocks. PSC can only be issued by NMFS via a permit which can then only be utilized by a Council approved Sector. Sectors have rights of first refusal and rights of first offer which are intentionally designed to provide protection. Acquiring ownership on individual stocks is much more difficult due to these present regulatory controls. For stocks like GOM cod, which Council analysis has shown is less concentrated – a broadly owned stock - acquiring excessive shares means acquiring many permits. This poses a serious challenge to acquiring excessive shares.

It should be noted that although the fishery has undergone unprecedented ACL reductions on numerous key stocks the correlation between loss of fishing opportunities and the consolidation rate is remarkably non-existent. Instead, complete and permanent business failures have correlated quite well with the significant losses of ACL which has left hundreds of once meaningful contributors to the commercial harvest of groundfish holding permits they no longer can use to justify an active fishing operation.

Until the Council can find a way to mitigate the management responses to the extreme and unpredictable volatility in catch advice that has been the root cause of business failures and permanent capacity loss, the endeavor to control consolidation through arbitrary caps on individual stocks may not be a viable approach to preserving this fishery and remnants of a fleet that once was. This is why the NSC has had difficulty supporting caps that could pose one additional barrier to allowing current businesses to survive future cuts in ACL that none of us can predict.

NSC recommendation:

However, if the Council continues to pursue a cap under Amendment 18, then NSC would support the Council preferred Option 6 (collective cap for ALL PSC holdings - 15.5 collectively).

This option is the least disruptive on the fishery. The aggregate PSC embraces the unique features that sector PSC is not severable - it cannot be split off from a permit. As noted above, NSC would argue this places a serious constraint to consolidation that could result in someone acquiring control or excessive shares in the fishery. It does not penalize fishing businesses for what they presently have which, as noted above, has largely been the result of the Amendment 16 allocation formula (selected by the Council) not from ownership consolidation post Amendment 16.

Since sector PSC is a non-Lapp currency it is prudent to maintain the in-severable nature of individual stock PSC and to select an ownership cap that is compatible with that important feature. An aggregate cap approach is far more consistent with the realities of Sector PSC that is associated with individual permits in the fishery and it allows the flexibility for current participants to adapt to individual stock ACL changes while simplifying administration.

Inshore / Offshore Gulf of Maine Section 6.4:

General Comments:

NSC is unable to recommend any appropriate coordinates for an inshore / offshore boundary when there is no clear goal and objective backed by Council analysis to date. Furthermore, NSC would strongly advise the Council to not select a boundary with a management treatment that is “to be determined” in a future groundfish action. The public discussions concerning increased pressure on GOM cod “inshore” largely led to Council analysis and thus recommendations for sub-ACLs for GOM cod, with new allocation formulas to be considered (east / west GOM), new declaration time periods and the potential for increased monitoring in these areas. NSC cannot support such management treatments. These measures would be extremely disruptive for the inshore fleet already facing serious hardships from the GOM cod ACL reduction. Additionally, the Habitat Omnibus Amendment recently passed by the Council contains new roller gear restrictions that are largely duplicative to those considered under Amendment 18.

NSC Recommendation:

NSC supports the Council’s preferred options for the Inshore / Offshore Gulf of Maine. NSC supports No Action on an Inshore / Offshore Boundary. NSC supports No Action on New Sub-ACLs for GOM cod. NSC supports No Action on the New GB/GOM Roller Gear Area Restrictions. NSC supports No Action on the Declaration Time Periods.

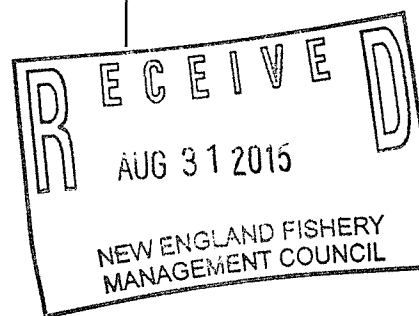
Sincerely,



Jackie Odell
Executive Director

August 31, 2015

Mr. John Bullard
Regional Administrator
Greater Atlantic Regional Fisheries Office
55 Great Republic Drive
Gloucester, MA 01930-2298



Re: The Nature Conservancy Comments on Amendment 18 to the Northeast Multispecies FMP

Dear Mr. Bullard:

Thank-you for the opportunity to comment on Amendment 18 to the Northeast Multispecies Fishery Management Plan. The Nature Conservancy (the Conservancy) appreciates the efforts by the National Marine Fisheries Service (NMFS) and the New England Fisheries Management Council (the Council) to develop this amendment in order to prevent excessive consolidation and maintain fleet diversity in the northeast multispecies fishery. We believe addressing these issues is critically important to the ecological health of groundfish populations in New England and the long-term socio-economic well-being of the fishermen and fishing communities that depend on them.

The Conservancy supported the Council's recommendation to implement the sector management system through Amendment 16 in 2010 because it represented a significant improvement over the days-at-sea input control system that was in effect at the time. The adoption and enforcement of science-based annual catch limits, increased accountability and on-the-water monitoring, and increased flexibility on day-to-day fishing operations was needed to reverse the chronic overfishing that plagued the fishery for decades prior.

However, Amendment 16 had some important shortcomings as well. It lacked necessary safeguards to prevent excessive consolidation in the fishery and ensure that traditional fishing communities would be able to survive and thrive during the difficult transition to a new management system and enjoy the benefits of a better managed fishery. Amendment 18 is the opportunity to correct the deficiencies in the sector management program.

The Conservancy supports the four overarching goals for the Amendment adopted by the Council:

1. Promote a diverse groundfish fishery, including different gear types, vessel sizes, ownership patterns, geographic locations, and levels of participation through sectors and permit banks;
2. Enhance sector management to effectively engage industry to achieve management goals and improve data quality;
3. Promote resilience and stability of fishing businesses by encouraging diversification, quota utilization and capital investment; and

4. Prevent any individuals, corporations, or other entities from acquiring or controlling excessive shares of fishery access privileges.

Unfortunately, the preferred alternatives identified in the Draft Environmental Impact Statement (DEIS) fail to achieve the goals adopted by the Council. NMFS and the Council should significantly revise the proposed suite of measures when selecting the final set of alternatives later this year. Our comments below describe our concerns with the Council's current preferred alternatives in more detail and offer recommendations on how these shortcomings can be addressed.

Accumulation Limits

The Conservancy supports the adoption of effective and meaningful accumulation limits and ownership caps in the Amendment. Repeated experience in other quota-managed/catch share fisheries around the country has shown that failure to adopt such limits can result in excessive consolidation of ownership and loss of access for traditional fishing communities. We support the efforts of the Council to take the steps necessary to prevent this from happening in the New England groundfish fishery.

Many have suggested that the Council cannot, or should not, adopt accumulation limits because the Northeast Multispecies fishery is not considered a Limited Access Privilege Program. We disagree with this line of reasoning and strongly urge the Council to adopt meaningful caps on ownership consistent with its' clear legal authority to do so.

National Standard Four of the Magnuson-Stevens Act (MSA) directs that fishery management plans should be designed and implemented so as to prevent excessive control over a fishery by any one party or group of parties:

(4) Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) *carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges* (emphasis added). (16 U.S.C. 1851(a)(4).

Consistent with this legal requirement, the Council has considered a range of approaches and alternatives for establishing accumulation limits during the three plus years it has been working on Amendment 18. As described in the DEIS, the Council's preferred alternatives with respect to accumulation limits are as follows:

4.1.2.7 Alternative 6: For any single fishing year, individuals, permit banks, and other entities shall be assigned an average Potential Sector Contribution (PSC) of no more than 15.5 percent for all the allocated stocks in aggregate.

4.1.3.2 Alternative 2: For any single fishing year, individuals, permit banks, and other entities shall not hold more than 5% of the limited access Northeast Multispecies permits.

In addition, the Council adopted preferred alternatives that create exemptions that would allow individuals and entities to own PSC and permits in excess of the caps it proposes to establish:

4.1.2.2 Option A: Allows permit holders to retain and renew permits with PSC in excess of the identified accumulation limit, and subsequent to implementation of the amendment, allows entities to purchase additional permits resulting in PSC ownership in excess of the identified accumulation limit.

The Conservancy opposes this suite of preferred alternatives relative to accumulation limits because they will be ineffective at meaningfully limiting ownership and control in the fishery, and thus fail to achieve the stated goals of the Amendment. More specifically, we have the following concerns with the Council's preferred approach.

1. The proposed aggregate 15.5% PSC cap is too high to prevent excessive consolidation in the fishery.

The Conservancy supports the overall approach of placing limits on PSC ownership as it is the currency that ultimately controls access to the fishery. Limits on quota ownership at the individual species and aggregate level have been adopted in several other U.S. fisheries and should be adopted here as well. Unfortunately, the Council's preferred alternatives would create a system in which individuals and entities could acquire and control a significant portion of the PSC for several constraining stocks in the fishery while still being below the aggregate cap. This likely outcome is counter to the goals of the amendment and should be prevented.

To inform its development of ownership caps, the Council contracted with Compass Lexecon to provide independent advice on appropriate ownership limits that would prevent accumulation of excessive shares in the fishery. Compass Lexecon focused its analysis primarily on limits that would prevent entities from exerting market power in fishery (i.e., the ability to withhold supplies of fish/PSC from the market in order to profitably raise prices). After a thorough, in-depth analysis, the Compass Lexecon Report found that "*limiting the ownership of PSC for each stock* is the appropriate way to measure the permanent fishery access privileges permits confer and ultimately recommended "setting an excessive-share cap so that no permit owner owns or controls permits conferring *more than 15.5% of the PSC for a stock.*" (emphasis added) p. 46-48 *Compass Lexecon Report*.

We appreciate the work of Compass Lexecon and concur with many of its findings, including limiting ownership of PSC on a stock-by-stock basis. However, we note that the recommended 15.5% PSC ownership cap was developed primarily to satisfy Goal Four of the Amendment - preventing excessive accumulation and controlling market share. We believe the Council should establish caps that are designed to achieve the other goals of the Amendment as well and that lower PSC caps on a stock-by-stock basis should be evaluated.

Of the alternatives considered in the Amendment, we believe Alternative 6.1.2.3, Alternative 2 which limits the holdings of stock-specific PSC to the maximum held as of the control date. While this alternative is the most appropriate of those presented in the DEIS, it still is not sufficiently restrictive to achieve the Council's goals in the Amendment.

2. Placing caps on the number of permits does not meaningfully limit the amount of PSC owned.

The Conservancy sees little to no utility in adopting an ownership cap based on the number of permits an individual or entity can control. As permit owners ourselves, we know first-hand that the amount of PSC associated with any given permit can vary significantly depending on the level of fishing activity during the sector allocation qualifying period of 1996-2006. Permit allocations can vary from one-hundredths of a percent to several percent of the PSC meaning that Annual Catch Entitlements can vary from hundreds of pounds to tens of thousands of pounds for a given species depending on the permit. Given this wide variation in the actual fishing opportunities any given permit provides, we do not believe capping the number of permits an individual or entity can own contributes anything meaningful to preventing excessive consolidation in the fishery.

The Compass Lexecon Report reached the same conclusion:

“It is not sensible to limit the number of permits that an individual can own. Many permits confer very low shares of the PSC for any stock. What matters economically is the share of a stock that a single entity has the right to harvest, not the number of permits that have been combined to assemble that bundle of rights.” (p. 46 Compass Lexecon Report).

3. The alternatives create several loopholes that undermine the effectiveness of the caps on PSC and permit ownership

We are also concerned that exemptions identified as preferred will further decrease the likelihood that the proposed measures will achieve the goals of the amendment. Preferred alternatives identified in section 4.1.2 of the Amendment would create an exemption allowing permit owners to retain ownership of all permits even if they are currently above the proposed aggregate PSC cap. Moreover, the preferred alternatives would allow permit owners who may be currently above the cap to continue to acquire additional permits in excess of the cap. While we recognize that those permit owners will not be allowed to harvest or trade the PSC above the cap, we are concerned these exemptions undermine the fundamental purpose of adopting the caps in the first place, which is to prevent excessive consolidation.

Additionally, the Council’s preferred alternative in 4.1.2.2 that allows holding, but not using, PSC above the cap is particularly mismatched with the aggregate cap approach. The alternative would prohibit PSC holdings above the cap from being contributed to a sector or the common pool, but it is unclear who would determine which PSC for which stock would be held back and redistributed to the rest of the fleet.

The Conservancy recognizes these alternatives were developed to address concerns raised through the Amendment development process regarding the effect of the cap on those who may currently hold permits in excess of the cap. The Conservancy has first-hand experience with this in the West Coast Trawl IFQ, where we were required to divest quota in excess of the accumulation cap.

However, rather than providing the long-term exceptions to the caps proposed in the preferred alternative, we recommend the Council consider an approach where those in excess of the cap at the time of implementation are grandfathered and could retain ownership of their current holdings for some period of time. However, if that same owner were to sell its permits to another entity, the purchaser would be prohibited from buying permits and PSC above the cap. We believe this approach honors the investments that have already been made in the short-term while also honoring the fundamental purpose of the ownership caps in the long-term.

4. The alternatives focus solely on PSC and permit ownership and fail to address control

The Conservancy is concerned that the proposed caps on both PSC and permits focus exclusively on ownership and while disregarding the many ways in which entities can control PSC and permits without actually owning them. The Council recognized the importance of addressing both ownership and control in setting the goals for the Amendment:

Goal 4: Prevent any individuals, corporations, or other entities *from acquiring or controlling excessive shares* of fishery access privileges (emphasis added).

Consistent with this goal, the Compass Lexecon Report recommended setting an excessive-share cap such that *no permit owner owns or controls permits* conferring more than 15.5% of the PSC for a stock (*emphasis added*). (Compass Lexecon Report, p. 48)

Given this, we believe the Council should address both ownership and control issues when establish caps in the Amendment. Approaches to assessing control considered in other fisheries include the “individual and collective rule” and the “affiliation test”. We also urge you to consider the work done by the Pacific Fishery Management Council in establishing limits on ownership, control, and use of quota in the West Coast Groundfish fishery. Specifically, the accumulation limit states that:

“Quota Share controlled by a person shall include those registered to that person, plus those controlled by other entities in which the person has a direct or indirect ownership interest, as well as shares that a person controls through other means. The calculation of QS controlled by a person will follow the “individual and collective” rule”.

As currently proposed, the Council’s suite of preferred alternatives with respect to permit ownership and control are inadequate to prevent excessive consolidation in the fishery, and as a result, will fail to meet goals of the Amendment. The DEIS recognizes as much stating that the proposed combination of an aggregate cap of 15.5% and a 5% permit cap “are expected to allow consolidation of holdings to substantially increase from the present level. Thus negative impacts to the size or continuing existence of fishing communities and participation in the fishery may occur” (DEIS p. 317).

Data Confidentiality

The Conservancy urges the Council to take the steps necessary to provide greater transparency in the ACE leasing market among sectors. We believe making information on ACE lease amounts and prices in a timely manner will improve fishermen's ability to effectively participate in the marketplace, and ultimately result in higher ACE utilization rates that will benefit individual fishing businesses as well as the shore-side infrastructure that supports them.

Currently, information on ACE lease amounts and prices between sectors is not widely available to all members of the industry. Information on asking prices for ACE leases is shared with some sector managers but not others. In most instances when the asking price is shared, the actual sale prices are not. This makes it difficult for fishermen to make informed business decisions in a timely manner.

We believe lack of transparency in the ACE lease market is hampering fishery participants and managers alike. We note that during the peer review process of the Compass Lexecon Report, reviewers questioned the conclusions drawn on what level of PSC ownership and control is needed to exert market power due to, among other things, *a lack of public pricing to know how the leasing market has changed* (DEIS p.256). Moreover, an independent analysis of the New England Groundfish Fishery Value Chain conducted by Neel Inamdar and Future of Fish found that a transparent permit transfer and quota lease market would build awareness of price fluctuations over the long-term, enabling fishers to more efficiently plan purchases and manage their business practices. Finally, the DEIS recognized the value of more transparency, noting that having accurate and complete price data would be very useful in understanding the economics of the fishery. Making this information publicly available would improve understanding of fishery performance, which may lead to the ability to better determine if the goals and objectives of the fishery management plan are being met (DEIS p.285).

We recognize there are questions regarding whether increased transparency in the ACE lease market can be accomplished under the existing Magnuson-Stevens Act data confidentiality rules. However, we believe providing better information on ACE leasing prices can be provided while still protecting the identities and financial information of individual fishing businesses, thus meeting the goals of the MSA confidentiality provisions. ACE leases are conducted between sectors, not individuals. Therefore, making this pricing information available would not reveal financial information for individual businesses or allow the public to know how much a fisherman paid or was paid in an ACE transfer. Pricing information on ACE trades could also be aggregated across sectors on a daily or weekly basis so that individual transactions cannot be identified.

Inshore/Offshore Gulf of Maine

The Conservancy supports the establishment an inshore/offshore designation in the Gulf of Maine (GOM). We were part of a large coalition that proposed similar area management approaches in Amendment 16 and continue to believe that the differences in fishing vessel capacity and fishing practices in the Gulf of Maine warrants greater management attention. As such we support the designation of an inshore/offshore line. Doing so would be helpful because it would provide strata by which finer-scale information on species distribution, fishing practices, and catch rates can be collected.

Of the three designation lines presented in the Amendment, we prefer Option C. However, we believe the line running adjacent to the Maine coastline should be adjusted given its erratic nature. We suggest consideration of a more uniform line along the Maine coast, similar but inshore of the line used to demarcate Area 1A in the Herring FMP, would be much easier for fishermen to report by and NMFS to analyze information from.

While we do support the designation of an inshore offshore line for information collection purposes, we are opposed to alternatives that would create inshore and offshore sub-ACLs of the GOM cod stock. Determining a fair and equitable way to split the allocation between inshore and offshore areas will be a challenge, especially given that catch reporting during the sector qualifying period (1996-2006) lacked sufficient spatial resolution to determine which area it came from. Moreover, the DEIS notes that the alternatives for sub-ACLs included in the Amendment would be particularly harmful to vessels that are limited in their operational flexibility (DEIS p. 289). For these reasons, and the fact the goal of Amendment 18 to maintain diversity of vessel size classes, gear types, and home ports, we oppose creation of sub-ACLs for Gulf of Maine cod at this time.

Redfish Exemption Area

The Conservancy supports efforts by the Council and others to increase the catch of underutilized stocks, including redfish, as long as sufficient safeguards are put in place to ensure they do not jeopardize efforts to rebuild depleted stocks and sustainably harvest rebuilt stocks. We believe gear modifications are a key part of achieving this goal and appreciate the efforts of those fishermen and scientists involved in the REDNET project that informed development of this alternative.

The Conservancy generally supports the creation of the Redfish Exemption Area as long as proper monitoring and accountability measures are required as part of the program. As the DEIS notes, concerns regarding the amount and type of bycatch that may occur when fishing with smaller mesh are important considerations given that smaller mesh has the potential to significantly increase the amount of unwanted bycatch. Strict monitoring and accountability measures will ensure that the execution of the redfish fishery - by what will likely be a relatively small number of vessels - does not adversely affect the recovery of other stocks that many more fishery participants rely on. Therefore, the Council should only approve the redfish exemption area if also adopts Option B which would require 100% of the fishing trips under the exemption carry an observer or use electronic monitoring when that technology is approved.

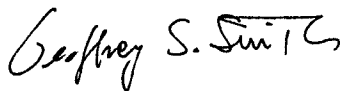
Conclusion

The Conservancy appreciates the Council's commitment to maintaining fleet diversity and preventing excessive consolidation as articulated in the goals of the amendment. Adopting effective measures to meet these goals is critically important to the long-term success of the sector management system and the fishermen and fishing communities that operate under it. As detailed above, we are deeply concerned that preferred alternatives identified in the DEIS will fail to achieve the goals of the Amendment. The DEIS recognizes as much, concluding that the proposed combination of an aggregate cap of 15.5% and a 5% permit cap are expected to allow

consolidation of holdings to substantially increase from the present level. Such an outcome is contrary to the Council's stated goals and must be avoided. Therefore, we urge the Council and NMFS to adopt a different, more effective suite management measures when it finalizes the Amendment later this year.

Thanks you for considering our comments and please feel free to contact me directly if you would like to discuss in more detail.

Sincerely,

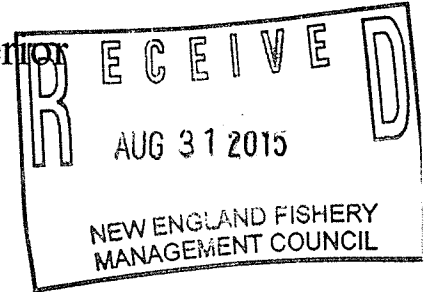
A handwritten signature in black ink that reads "Geoffrey S. Smith". The signature is written in a cursive, flowing style.

Geoffrey Smith
Marine Program Director



United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
15 State Street – Suite 400
Boston, Massachusetts 02109-3572



August 31, 2015

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John Bullard, Regional Administrator
NOAA Fisheries Service
Greater Atlantic Regional Fisheries Office
55 Great Republic Drive
Gloucester, MA 01930

RE: COMMENTS
Draft EIS for Amendment 18
Northeast Multispecies Fishery Management Plan
Fisheries of the Northeastern United States

Dear Mr. Bullard:

The U.S. Department of the Interior (Department) has reviewed the DEIS for Amendment 18 to the Northeast Multispecies Fishery Management Plan. The Department has no comment on the DEIS.

Thank you for the opportunity to review and comment on the DEIS. Please contact me at (617) 223-8565 if I can be of assistance.

Sincerely,

Andrew L. Raddant
Regional Environmental Officer



the campaign for
environmentally
responsible
health care

CAMPAIGN HEADQUARTERS

Without Harm

April 14, 2015

12355 SUNRISE VALLEY DRIVE
SUITE 680
RESTON, VA 20191
T: 703.860.9790
F: 703.860.9795
EMAIL: INFO@HCWH.ORG
WWW.NOHARM.ORG

Dear Chairman Terry Stockwell and Executive Director Tom Nies,

I am writing on behalf of the global coalition Health Care Without Harm to oppose the current New England's Catch Share policy in the groundfish fishery as proposed, which will continue to support consolidating the access to fish into the hands of a few large companies. This policy is undermining the efforts of the health care sector to negotiate manageable pricing for fresh local seafood that supports a larger dollar to those from our historic fishing communities.

Health Care Without Harm's Healthy Food in Health Care Program supports New England hospitals in their efforts to promote a sustainable and equitable local food system. Our network of 153 health care facilities represents 57% of all hospitals in New England and approximately \$20 million in annual food spending. Nationally our network consists of over 1,000 health care facilities and over 4,000 health care professionals who participate in purchasing, education, and policy efforts to support a healthy, diverse, and transparent food system.

Seafood is an important source of lean protein, and over the past five years health care facilities have recognized the health, economic, and community benefits of sourcing wild-caught, New England seafood from our local fishing communities. Hospitals from Rhode Island to Maine are serving seasonally available, underutilized species in order to protect our ocean resources and support our local fisherman. As the supply chain infrastructure has improved, demand for this fish is only increasing.

The health care sector recognizes the destructive impact of our industrialized food system on our health, the environment, the economy and our food security. We are in the midst of an obesity epidemic, and our food is laced with antibiotics, hormones, and pesticides. Increasingly, the health care sector is turning to our local farms and fisheries for their food because of the traceability and accountability, and assurances that the food is produced in a way that is consistent with their values. They do not want to see what happened to our farms happen to our fisheries, and do not consider imported seafood a safe alternative to fish caught in New England waters.

Fleet consolidation and concentration of the rights to fish will undermine the efforts of the healthcare sector to support local fishing communities. The A18 policy will be a failure if it does not include safeguards for community based fishermen and protections for inshore fish stocks, which currently it does not. We recommend that the Council immediately prioritize solutions that support local economies and a healthier ecosystem.

Sincerely,

Stacia Clinton
New England Regional Director
Healthy Food in Health Care Program
Health Care Without Harm

Sherie Goutier

From: Julie Miller <jamiller54@roadrunner.com>
Sent: Tuesday, April 21, 2015 1:13 PM
To: comments
Cc: Brett Tolley; kyle@penobscoteast.org
Subject: Amendment 18

Chairman Terry Stockwell:

There have been many problems with catch shares since this form of management began around 2010. Over the last five years as the development of Amendment 18 has been taking shape, a significant part of the discussion of this amendment has revolved around issues regarding fleet diversity. There has been a broad host of suggestions on ways that we can take steps to forward that idea. Some of those include caps on quota somewhere in the 2-5% range, inshore area protection, trip limits, gear restrictions, community quotas and many others. Thus far the Council has chosen not to acknowledge any of suggestions in any meaningful way. There are many tough changes facing the entire fishing industry today, but the biggest challenges in particular face the small boat owner/operator fishermen whose survival depends upon the voices made by this Council. I urge the Council to take some of these necessary steps now before the small boat sector of the fleet ceases to exist. I say this to every council member when issues such as these arise it is your duty to address the concerns of all of the people. Please think about how your legacy as a decision making body will be viewed not only today but also over the course of time. With proper action you can show that all segments of the industry matter. Fishing is more than just a living, it's who we are and you on the Council have the power to protect that. I had already submitted comments late last night when I got in, but I don't feel that they reflected my opinion clearly so as a result I would ask that you please substitute these comments in place of my previous ones last night. Thank You.

Sincerely, Ira Miller

F/V Mallery Sky

F/V

Julie Ann

Sherie Goutier

From: Rachel Feeney
Sent: Thursday, July 23, 2015 9:12 AM
To: comments
Subject: A18 comment

----- Forwarded message -----

From: Mary Castaldi <m.c5455@yahoo.com>
Date: Fri, Jul 17, 2015 at 7:56 PM
Subject:
To: "nmfs.gar.amendment18@noaa.gov" <nmfs.gar.amendment18@noaa.gov>

we had to stop taking cod and a lot of people are working to keep cod in good shape when there released they should be reworded by keeping haddock pen after sept 1st

Comments on Amendment 18

It is my opinion that no accumulation caps are needed, because the fact that there are:

1. Numerous Permit Banks
2. Many sectors and most sectors have first right of refusal requirement
3. No individual or entity owns anything
4. Species specific PSC are not able to be split
5. By any measure there is no excessive consolidation going on now and there has been none documented, far from, it the fisheries is very diverse.
6. Amendment 16 was set up to allow consolidation and recognized that there is too much capacity given the low ACL's that are now allowed and will likely be available in the future will likely go lower.
7. Without further consolidation no one will be able to reach profitability. This is quite obvious if one just looks at any of the economic data available and or simply look at the age of the fleet, many vessels are long past their useful life.

If I look at the goals of Amendment 18, 1, 2, 3, can't possibly be accomplished with accumulation caps put in place.

6.1.1.1

Any accumulation limit will do nothing except allow only deep pocketed companies to consolidate the fleet, there are many ways to do this. You are only kidding yourself and hurting the smaller guy's while you say you want to help them as has been the past results when regulations are put into place to "help the smaller guy". Seeing that we have the largest Scallop company in the world here in New England despite a cap of 5% on permits.

I will offer the following comments:

6.1.1.2

I support this no individual should be punished for something that is outside their control.

6.1.2.2

If you do decide to take this crazy road there simply must be recognition of PSC acquired before the control date.

Option A: I support we need to be able to keep a balance of stocks in someone's holdings, this is the least disruptive option.

Option B: I oppose this would be very disruptive and not necessary and will lead to even more under utilization of our ACL and more bankruptcy and displacement of our smaller permits (who could they possibly sell to and not lose their house)?

Option C: I oppose all this does is devalue permits.

6.1.2.3

I oppose Alternative #2 to limiting, again no flexibility will just make sure every vessel goes broke, devalues the whole industry, will lead to further under utilization of ACL. Why would you limit a stock that is not being utilized such as Pollack, redfish, GB haddock, etc?

6.1.2.4

I oppose

6.1.2.5

I oppose

6.1.2.6

I oppose

6.1.2.7

This preferred alternative I reluctantly support it still allows much needed flexibility and recognizes permit banks and sectors and no splitting of ACL's and will for sure cap the industry at some level that will not allow excessive consolidation and still allow some to possibly find profitability.

6.1.3.2

I support the preferred alternative. This 5% is the same as scallop fleet and had you done this a few years ago it would have allowed management resources to move on to things that could possibly help the industry as a whole (i.e. you would have stopped wasting time on something has no possible upside).

6.3.1

I support the preferred alternative

6.4.3.1

I support the preferred alternative at this time. I have yet to hear or see any alternative or hear why it is needed or how a line would be used or is necessary.

6.5.2

I support the preferred alternative

Finally, as with all other regulations beware of unintended consequences. As I mentioned before there is no need for this and these kind of regulations are easy to get around and will hurt the smaller fishermen by devaluing their business and limiting flexibility. I don't see a single conservation benefit to any of these proposals and can not see any "net gain to the Nation" by making it impossible to achieve "OY" not to mention profitability or the possibility of providing sustainable seafood to the people in this country whom may not fish or who may not live near the coast, this can't be the plan.

Thank you,
James Odlin



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

OFFICE OF THE
REGIONAL ADMINISTRATOR

August 19, 2015

John K. Bullard
Regional Administrator
Greater Atlantic Regional Fisheries Office
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
55 Great Republic Drive
Gloucester MA 01930-2298

Dear Mr. Bullard:

EPA Region I has reviewed the Draft Environmental Impact Statement for Amendment 18 to the Northeast Multispecies Fishery Management Plan. The Region has no comments to provide to you on this document.

We appreciate the opportunity to comment and look forward to reviewing the Final Environmental Impact Statement.

Please do not hesitate to call if you have any questions. If you are unable to reach me, you may reach my colleague, Timothy Timmermann, whose contact information is below.

Sincerely,


William Walsh-Rogalski

William Walsh-Rogalski, Acting Director
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EPA New England-Region 1
5 Post Office Square, Suite 100
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Boston, MA 02109-3912

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Timothy L. Timmermann, Associate Director
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Email: timmermann.timothy@epa.gov
Telephone: 617-918-1025
E-Fax: 617-918-0025

Cc: Eric Nelson/EPA

Sherie Goutier

From: Rachel Feeney
Sent: Thursday, July 23, 2015 12:10 PM
To: comments
Subject: FW: Gulf of Maine

From: Denise Martel [<mailto:dfmartel@comcast.net>]
Sent: Thursday, July 23, 2015 12:04 PM
To: nmfs.gar.amendment18@noaa.gov
Subject: Gulf of Maine

Regulations,

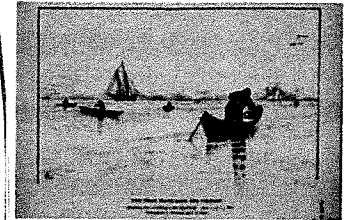
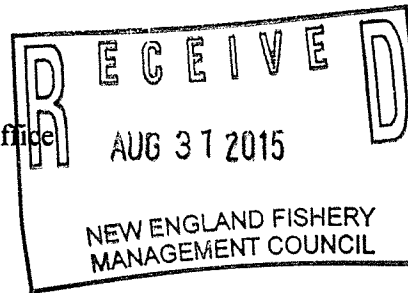
I was out again yesterday with Eastmans, out of Seabrook NH. Great day, caught about 60-80 fish and was only able to bring 3 haddock home even though I caught at least 20 "keepers" and many more shorts. Lots of cod as well with maybe 4-5 keepers by the old rules. What are you guys thinking? Boats are lucky if they are half full even during the tourist season. Many are already out of business and most will be gone by year end.

You guys are destroying the Nh Seacoast economy since no one from Mass. South wants to come here to fish anymore.-
Frank Martel

91 FAIRVIEW AVE
PORSTMOUTH NH 03801

**NORTHEAST HOOK
FISHERMAN'S ASSOCIATION**

August 30, 2015
NOAA Fisheries Service
Regional Administrator
Greater Atlantic Regional Fisheries Office
55 Great Republic Drive
Gloucester, MA 01930-2276



Subject: Comments on Groundfish Amendment 18

Dear John Bullard,

We represent a small group of Commercial Fishermen with the Limited Access Handgear HA Permits, employing the use rod and reel, handlines or tub trawls to catch Cod, Haddock and Pollock along with small quantities of other regulated and non-regulated marine fish.

We are urging the NMFS and the NEFMC to save the handgear fishery from becoming nonexistent. A18 is critical to securing the fishery for the future as well as fulfilling the desire for fleet diversity. No action alternatives do not protect this fishery.

Please heavily weigh the preferred options for our fishery that we list below. These preferred options are coming from the active fishermen in the fishery. The active fishermen know the best path forward to securing this fishery. This is about the future of the handgear fishery and not the quantity of fish currently allocated today. We trust that fishery managers will do the right thing and restore the groundfish we catch and in doing so this fishery will flourish. This is a critical moment in history and we are desperately in need to our own historically based quota that we can fish sustainable on with controls specific to our fishery. For way to long we have been subject to regulations better aligned with other modern fishing methods that do not fit our fishery.

We are asking that the NMFS and the NEFMC give significant weight to the comments we provide below since we are the majority of active fishermen with HA permits fishing commercially for groundfish with handgear. Our comments follow:

6.2.1.2 Alternative 2: Establish a Handgear A permit sub-ACL*

We support the creation of a Handgear A permit sub-ACL. (PREFERRED ALTERNATIVE)

Rational:

1. The current handgear rules and multiple layers of restrictions have resulted in a handgear fishery that is not profitable. The average revenue for handgear HA permits has plummeted to less than \$5000 per year when at one time this was the primary New England method of catching cod in New England. The MS fishery act requires that there be diverse fisheries with different gear types.

2. Amendment 16 (A16) EIS (Environmental Impact Study) states “Vessels less than 30 feet saw the biggest decrease in revenue, with an 88.8% change between FY 2001 and FY 2007”. If no action is taken to invigorate the small boat fisheries, we will have been regulated off the water, due to fishery Management Actions, even as fish stock rebound.
3. Fishing under Sectors is not a viable option considering the high costs compared to the low PSC (Potential Sector Contribution) that the Handgear fishermen received. **There are no commercial fishermen in sectors using their handgear permits to actively fish for groundfish because you cannot make a profit as a handgear fishermen in sectors.** Those who have PSC are not likely to fish in the sectors but are more likely to lease or sell their PSC.
4. Handgear fishermen are now fishing in the common pool are in a race to fish and the common pool keeps shutting down during the season when most handgear fishermen who have small boats can only fish. This puts us in an impossible situation due to our small vessel size. We can't fish in the rough weather when other larger vessels can.
5. Handgear fishermen can selectively fish with little or no bycatch. New England handgear fishermen primarily only catch Cod, haddock and Pollock with practically no appreciable quantities of other groundfish that are not considered rebuilt.
6. Similar Hook gear fisheries are successful such as the Hook Gear Halibut fishery in Alaska and the commercial Striped bass fishery in Maryland.

* Due to the current state of the cod stocks we are asking the NMFS & NEFMC approve this measure with the understanding that there may be a delay in implementation. We believe that this specific portion could be turned on for a fishing year via some sort of trigger. We believe the best trigger would be a simple request from the NEFMC to the NMFS stating that this sub-ACL should be implemented for the following fishing year. This can happen via any groundfish Framework that would enable the public to comment on implementing this sub-ACL. We are against any trigger that ties turning on this to a status of any stock since only the handgear fishermen know how much fish would be enough for a handgear fishery to turn a profit.

Discards

We support Option B modified for a 15% Discard Mortality for cod: Assume all discards from trips fishing within the HA sub-ACL to be *de minimis except for cod that would be calculated to be 15%*. Only landings would count against the sub-ACLs.

Rationale: The discards from a potential HA sub-ACL are likely to be very small, well within the management uncertainty buffer of the commercial fishery. The discards of Gulf of Maine cod by handgear were 0.14% - 1.2% of the total commercial discards between FY 2010-2012. These HA discards were calculated based on discards from trawl and gillnets, and thus, are considered maximums. However, recent discard mortality of the recreational fishery determined that for cod the discard mortality is 15%. We are requesting that the same discard mortality of 15% for cod is applied to the Handgear fishery since we utilize the same gear. For all other species we are requesting that the discards are considered *de minimis*.

In-season accountability measures

We support Option B: (PREFERRED ALTERNATIVE) When 90% of the HA sub-ACL is reached for a stock, the HA sub-ACL for that stock would close and all vessels fishing under the HA sub ACL would be subject to a zero possession limit for that stock for the remainder of the fishing year.

Rationale: If the sub-ACL is reached for a stock, this approach would allow the HA vessels to continue fishing on other stocks. Currently the recreational fishery is allowed to continue fishing on other stocks when a particular stock is no longer allowed to be harvested. We are asking for similar regulations so we can target other stocks as the recreational fishery does. The overage for this fishery would be di minimis compared to the total commercial ACL for any stock we catch.

Reactive accountability measures

We support Option B: Reactive AMs would be triggered if the HA sub-ACL and the total ACL are exceeded.

Rationale: Any HA sub-ACL overage would likely be very small relative to the total groundfish ACL. Triggering the Handgear AMs based if both the sub-ACL and total ACL are exceeded, is Consistent with the non-allocated stocks reactive AM trigger for sectors, the common pool, and groundfish stocks that are bycatch in the scallop fishery. Option A is totally unnecessary for the quantity of fish we harvest. If the fishery reaches a point where the overages become excessive than the NMFS can relay this as a problem and this issue can be corrected in a framework. The overage for this fishery would be di minimis compared to the total commercial ACL for any stock we catch.

6.2.2 Removal of March 1-20 Handgear A closure

We support 6.2.2.2 Alternative 2: Removal of March 1-20 Handgear A closure (PREFERRED ALTERNATIVE) The March 1-20 fishing closure would be removed for all Handgear A vessels, regardless of which sub-ACL their permits are enrolled in.

Rationale: Currently, sector vessels are exempt from the 20-day spawning block as part of their operations plans, so this measure would make the regulations for HA vessels fishing in the common pool and under the potential HA sub-ACL (see Section 6.2.1) consistent with how sectors are managed. Alternative 2 would improve flexibility for HA vessels.

6.2.3 Removal of standard fish tote requirement

We support 6.2.3.2 Alternative 2: Removal of the standard fish tote requirement (PREFERRED ALTERNATIVE) Vessels operating under a HA permit would no longer be required to carry a standard fish tote on board.

Rationale: Currently, the U.S. Coast Guard does not use totes for at-sea enforcement. Since weights measured dockside are the only ones considered official, issuing a possession limit overage violation based solely on weight estimates made at sea would be untenable. The totes serve no practical purpose. We keep our fish iced in cooler and not in fish totes. Totes take up valuable deck space and when sliding around in rough seas are a safety hazard. Also they just get in the way in a small boat.

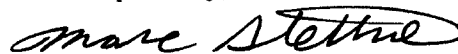
6.2.4 Sector exemption from VMS requirements

We support 6.2.4.2 Alternative 2: Sector exemption from VMS requirements (PREFERRED ALTERNATIVE) A sector may request through its annual operations plans that vessels fishing with handgear in the sector may be exempt from the requirement to use the Vessel Monitoring System (VMS). Vessels fishing with handgear in a sector must declare trips through the Interactive Voice Response (IVR) system.

Rationale: The catch by HA vessels is typically much smaller than other commercial vessels that fish in sectors. Vessels fishing with handgear in the common pool use the IVR system to declare a trip and then submit a Vessel Trip Report upon completion of a trip. This alternative would allow the approach currently used for handgear vessels in the common pool to apply to those fishing in a sector. There are costs associated with purchasing the VMS hardware, satellite connections, and data transmission. Alternative 2 could be a lower-cost approach and may thus encourage participation in sectors by handgear vessels. This could result in increased diversity in sectors and participation in the catch share program.

The NEFMC and the NMFS should be committed to doing what is necessary to maintain this fishery as they have done for other substance or small scale fisheries around the country. A18, with the correct options, will secure this fishery for future generations. **Please keep this fishery a valid one in New England and not just a paper fishery with no active fishermen.**

Respectfully,

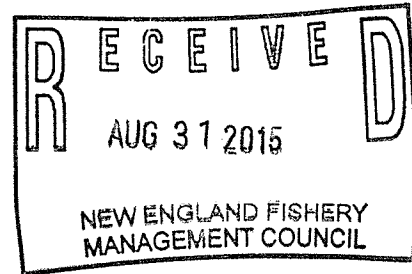


Marc Stettner

NEHFA MEMBERS: Marc Stettner, Timothy Rider, AJ Orlando, Hilary Dombrowski, Paul Hoffman, Christopher DiPilato, Ed Snell, Scott Rice, Roger Bryson, Brian McDevitt, Anthony Gross, Doug Amorello

August 28, 2015

John K. Bullard
Regional Administrator
Greater Atlantic Regional Fisheries Office
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
55 Great Republic Drive
Gloucester, MA 01930-2298



Subject: Comments on Groundfish Amendment 18

Dear Mr. Bullard and members of the New England Fishery Management Council,

My name is Kristen Ounanian. I am commenting as a member of the public and resident of Massachusetts; I do not have any individual interest or financial stake in the New England groundfishery. I am compelled to comment because I am a doctoral candidate in Marine Affairs at University of Rhode Island, where my dissertation research addresses fisheries dependence and communities undergoing transition. The research includes three case communities in New England, where I have interviewed 36 individuals including fishermen, fishing families, and those related to onshore industries. I attended the Amendment 18 meeting on August 10, 2015 in New Bedford and have read through the related documents and offer the following comments.

My first comment concerns the mismatch in goals outlined in the amendment, the objective stated in the Lexecon report, and the prescribed policy measures. In section 4.0 of the Hearing Document, the first goal listed concerns the promotion of diversity including gear types, vessel sizes, ownership patterns, geography, and level of participation through sectors. Furthermore, goal #3 encourages diversification via the promotion of fishing business resilience. Nonetheless, the emphasis of Lexecon's report rests on the determination of excessive shares and market power, providing no discussion the key objectives of this amendment and its concern for the effects of the initial allocation and subsequent consolidation from the introduction of tradable catch shares. While preventing an entity (individual, corporation, or other) from holding an excessive share is a laudable goal, it is only one of four outlined by the Council. Like others at the New Bedford meeting, I am skeptical of the premise that 15.5% cap, especially if implemented as an aggregate cap as outlined in Council Preferred Alternative 6, supports any of the outlined goals of this amendment.

I would like to underscore comments made by others concerning the insufficient social impact analysis on human communities as expressed by the comments of Steve Welch, Josh Wiersma, and Valerie Nelson in the hearing comments document. To begin, the Hearing Document gives a lackluster endorsement of the preferred alternatives:

The proposed combination of an aggregate PSC cap of 15.5 and a 5% permit cap should be sufficient to prevent market power from being exerted. **However, these caps are expected to allow consolidation of holdings to substantially increase from the present level.** Thus, negative impacts to the size or continuing existence of fishing communities and participation in the fishery may occur (NEFMC 2015, 30, emphasis added).

The sentence that I have bolded is especially concerning as it goes against the intent of this amendment. How are these provisions at all in line with the stated objectives of the amendment? I have read through the human communities impacts section (7.6) of the Draft Environmental Impact Statement (DEIS) and am even more concerned with the weight given the conclusions of Compass Lexecon. Their evaluation was in market terms alone. Moreover, the peer reviewers found issue with some of the methods and resultant conclusions. The pressure on fishing communities and further contraction of participation in the fishery, especially for future generations, should be central to the investigation and analysis of alternatives. The Lexecon report and the DEIS do not provide sufficient social impact analysis for a rule that primarily concerns the socioeconomic health of the fishery and its reliant coastal communities.

Secondly, I am concerned that the social impact analysis does not adequately consider future generations of fishermen. The DEIS states, "The current participants with sufficient capital to purchase permits and/or vessels from potential exiters would be prevented from doing so, should the additional holdings be in excess of the limit," (DEIS 2015, 257). This ignores the concept of new entrants into the fishery and the fact that the initial allocation of catch shares was given without fee to a set of individuals who had history during a particular set of years. Exiting the fishery should not be viewed as cashing in a lottery ticket, especially when those hoping to enter must pay even greater costs than previous generations. The dearth of young people in the New England groundfishery involves a few contributing factors including the capital necessary to enter the fishery. Access to the fishery to new entrants should not be hindered in order to protect the profits of a select group.

As for the specifics of the proposed alternatives and options, my primary comment is that Alternative 6, the Council preferred alternative, is highly problematic. As many have pointed out, this would allow someone to hold the entire ACL for key stocks while maintaining a collective 15.5% on aggregate. As you are aware, in the New England groundfishery particular stocks hold more value than others in the market. The availability of choke species quota further dictates the operation of the fishery and thus a 15.5% collective or aggregate cap is not sufficient to prevent a small group of individuals from dominating this industry and driving the availability and price of quota. My other concern is that creating this cap will only act as the starting gun to the accumulation of PSC to this 15.5% maximum. While the administrative burden of individual stock caps should be taken into concern, I think Alternative 4A and 4B start to address the balance between preventing monopolies on key stocks and keeping the regulatory burden lower. However, I defer to the views of active fishermen, permit holders, and sector managers for their insight on such matters as regulatory burden and cost.

Finally, at the New Bedford meeting Council Member Frank Blount said something very important: there is not a stipulated timeline for Amendment 18. Therefore, more time can be allowed to make decisions about the very intricate and complex alternatives and options packed into this Amendment. The Inshore/Offshore designation seems like it would have potential of addressing diversity in terms of day boat and trip boat segments, but it also seems like there has not been enough consultation with fishermen, scientists, and managers as to fishing patterns, gear use, and stock levels in these areas to inform such a policy. I understand that this Amendment process began in 2011 and a great amount of resources and work have gone into its crafting, but there are serious problems with the lack of social and cultural analysis. Market power is only one aspect of the issues related to tradable shares, accumulation, concentration, consolidation, and **fleet diversity**. A recent paper by Thunberg and Correia (2015) in *Marine Policy* addresses potential ways of measuring fleet diversity and gives insight into what has happened in New England under various iterations of limited entry. This is the type of

discussion I expected to see connected to this amendment and I am disappointed with the narrow scope of the Council's analysis and the resultant preferred alternatives.

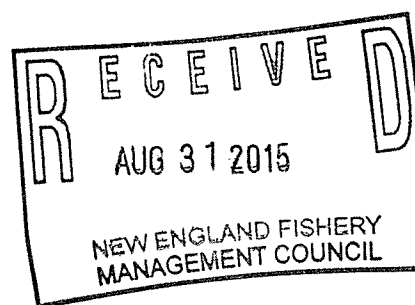
Sincerely,
Kristen Ounanian

Kristen Ounanian
Doctoral Candidate
Department of Marine Affairs
University of Rhode Island

K&K Fishing Corp

508-274-3474

Pkavanagh5@aol.com



August 26, 2015

John K. Bullard, Regional Administrator, GARFO

Dear John K. Bullard,

Please consider the following comments on Amendment 18, they are based on, and follow, the Public Hearing Document.

4.0 Goals of Amendment 18: The transformation to transferable fishing rights (with no ownership cap in place) has opened a Pandora's box of anti-competitive practices known in markets and trading as monopoly, monopsony, duopoly and cartels. US competitive market law should be applied to any management plan. This would help avert predatory practices (prevalent before the control date).

The current management system naturally leads to market concentration and collusion as individuals and entities are required to form groups. This management system lends itself to exclusive dealings, territory control and mergers, and collusion in trading. It becomes even worse with affiliated groups (with first refusal agreements between them).. Basic market competition law must be applied (to avoid the natural human tendency to monopolize which creates barriers to entry) before control restrictions are dropped in Amendment 18. The four goals of Amendment 18 are impossible to achieve without first applying United States market competition laws. To this end *preferred* Amendment 18 management measures would be ineffective as proposed.

5.0 Management Measures

- Accumulation limits: 15.5% *aggregate* is not an effective limit as written. Initially it limits no-one, and actually encourages further consolidation up to 15.5%. A limit needs to be species and stock area specific. (When one considers that Gulf of Maine cod makes up only 1/3 of 1% of the aggregate you can easily see how one entity could "own" a controlling interest "excessive shares" in stock(s) without approaching the "preferred" 15.5% *aggregate* limit)!!! Compass Lexicon suggested 15.5% *stock specific* limit.

A straight limit of 5% of the permits is useless without separately considering permits with PSC (400 out of 1400?). The limit should then be set at the maximum held now for permits with PSC. The regulation must be crafted to apply to entities (corporations, permit banks, etc.) as well as individuals (as tracked by MRIs). Using MRIs only is ineffective because it is a personal identifier only and may not apply to groups. Grandfathering with no divestiture requirement is not fair and equitable and only gifts speculators at the expense of the industry and communities. Basic US anti-monopoly law should be applied to our industry as any other. Fairness can be achieved by allowing an entity to sell-off excess holdings, rather than just taking them. Grandfathering would be wrong in these scenarios as proposed (without the divestiture of excess).

- Handgear: handgear proposals seem well designed, a sunset provision should be written in to safeguard against abuses.
- Data confidentiality: Amendment 18 should follow United States commodity trading and competitive market law.
- Inshore/Offshore GOM: while I agree it should not be included in this Amendment it could be a good concept for a future amendment.
- Redfish exemption area: I agree with the proposal.

6.0 In considering the range of alternatives proposed in the Amendment 18 Public Hearing Document the following should be noted.

6.1 Accumulation limit: US competitive market law should be followed to prevent monopolization.

6.1.1 Provisions: should apply to **leasing and ownership** in the sense of "total control" of ACE % by an individual/entity

6.1.1.1 Entities to which limits would apply: regulations must apply to individuals and entities including permit banks. Limits must apply to both PSC and ACE to avoid loopholes for controlling market share using just the MRI

6.1.1.2 Future adjustment: I agree especially if US commodity and competitive market law not followed initially.

6.1.2 Limit PSC holdings: definitely an important portion of Amendment 18

6.1.2.1 Alternative #1 (no action) is unacceptable. The Council needs to apply the checks and balances of commodity and competitive market law to prevent abuses. A conservative approach to lifting the trading moratorium of 2011-12 must be taken.

6.1.2.2 Current PSC Holdings in excess: Grandfathering without a requirement to divest excess of limit is not fair and equitable. Ownership limits imposed would be trumped by grandfathered speculators holding shares not attainable after lifting of control date by Amendment 18. In fairness rights held above the limit must be allowed to be sold by the entity, not just taken away.

Disposition of current holdings:

Option A: agree *only* if "grandfather" clause removed.

Option B: agree only if all species/stocks exceeded. Rights should be limited by species/stock, not by aggregate permit holdings. One needs to be able to "specialize" in a species/stock (within a cap) and allow others a chance at your underutilized (species/stock) portion of permit allocation.

Option C: no good, clumsy, broad brush, anti-business, anti-flexibility.

Acquisition of future holdings:

Option A: agree *only* if "grandfather" clause removed and species/stock specific only.

Option B: no good, inflexible, problematic.

6.1.2.3 limit stock-specific PSC holdings to maximum held at control date: No good, "excessive shares" already exist. We need to adhere to competition and market trading checks and balances. See Compass Lexicon's 15.5% species/stock maximum.

Divestiture precedents: many of us have had Days At Sea reduced after the fact, sometimes to zero. The west-coast groundfishery has a divestiture requirement. Catcher-processor permits for herring/mackerel vessel "Atlantic Star" were revoked. Rampant speculation occurred prior to the control date by speculators who are aware of the government's power to change the game after the fact in order to level the playing field and protect against the control and abuse of a resource owned by the citizenry of the US.

6.1.2.4 Alternative 3, limit holdings of stock specific-specific PSC to same level of each stock. I *strongly agree* with this and with option A. These options would promote equity and diversity and help prevent monopoly. Option A promotes flexibility and diversity.

6.1.2.5 Alternative 4, limit holdings of stock-specific PSC by stock type: *absolutely no good, we must hold to the 15.5% max for each species/stock.*

6.1.2.6 Alternative 5, limit holdings of stock-specific PSC: *strongly disagree for the same reasons as alternative 4, we need a maximum for each stock/species*

6.1.2.7 Alternative 6, limit collective holdings of PSC: Absolutely not! An *aggregate* total cap of 15.5% would do nothing but open the door to monopolistic behavior! CONSIDER THE FACT THAT GOM COD (one example) is LESS THAN ½ of 1% of the TOTAL AGGREGATE; This would be a total end run of accumulation limits, the emperor's new clothes as it were. To adopt this option would be a tragic mistake.

6.1.3 Limit holdings of permits

6.1.3.1 Alternative 1, no action: no good! US commodity trading and competitive market law and regulations with resulting checks and balances are needed to avert human tendencies.

6.1.3.2 Alternative 2, Limit the holdings of permits: meaningless if it applies to MRI rather than person/entity /permit bank. Needs to be in conjunction with a 15.5% species/stock limit. Also the discussion must be on "permits with PSC", then limit to current maximum.

I have put a lot of thought into the public comment document and "ownership caps" in general and I hope you will thoroughly consider this letter

Warm regards,

Lawrence P Kavanagh, Jr

President, K & K Fishing Corp

F/V Mary K, F/V Moragh K,

50 years in the fishing business