



RE: Amendment 18 to the Northeast Multispecies Fisheries Management Plan

Dear New England Fishery Management Council Review Committee,

I would like to thank you for your time and energy as you review the work of the New England Fishery Management Council and make recommendations to ensure that our region has the most efficient, transparent, and effective Council possible. While there are many bright spots in New England's fisheries, the groundfish fishery still lags behind despite the significant resources that have been dedicated to its management. I hope that your examination of Amendment 18 to the Multispecies Fisheries Management Plan will help to shed some light on why groundfish remains an outlier to the successes achieved in other fisheries, and also on how we can collectively do a better job managing groundfish in the future. Below I have included some background information as well as my thoughts on this matter which I hope will aid you in this process.

Amendment 16 to the Northeast Multispecies Fisheries Management Plan transitioned the New England groundfish fishery from a days-at-sea system of management to the sector system, which uses quota and strict catch limits to constrain the fishery. During the development of Amendment 16, many stakeholders including fishing businesses, industry advocacy groups, and non-governmental organizations expressed concerns about creating a system which would rely on quota allocation without also putting limits on consolidation. In most fisheries fleet consolidation has quickly followed the move to quota management, and as such a comprehensive management plan based on quota typically includes limits on ownership. Because this was not possible to include in Amendment 16 due to time constraints, it was made clear that these concerns would be addressed in a subsequent management action. That action became Amendment 18.

Amendment 18 evolved through multiple iterations in its development as the landscape around the groundfish fishery shifted. While the Northeast multispecies fishery was switching over to sector management, the industry simultaneously experienced a massive reduction in total allowed catch for the Gulf of Maine (GOM) cod stock, one of the most important species for much of the New England fleet. This led to emergency actions, disaster declarations, and the failure of fishing businesses throughout the coast. It also meant that because GOM cod was so constraining, the idea of limiting ownership even for the largest of permit holders was untenable for many of the influential owners within the fishery. In this context, Amendment 18 moved forward in fits and starts, and the focus of the document shifted from slowing consolidation and protecting fleet diversity to one which prioritized business flexibility and growth; goals which were often at odds with the original intent of the document.

Ultimately, the Council established the following goals for Amendment 18:

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. To prevent any individual(s), corporation(s), or other entity(ies) from acquiring or controlling excessive shares of the fishery access privileges.

All of these goals are undeniably important, but each goal is also a complicated and dynamic issue in and of itself. Ultimately, the document's lack of focus and the sheer scope of what it was trying to accomplish led to a final product that did little to address these goals. When published, the final rule stipulated only two fairly inconsequential management changes. After years of work and public engagement, little was accomplished in the end.

Although a failure to get what any one individual or organization wants though a Council action does not necessarily amount to a failure of process, Amendment 18 was an outlier for a few reasons. One reason was that Amendment 18 had a high level of engagement during the early scoping period from a wide variety of constituents, and as the process moved forward, that engagement declined dramatically. Many fishermen point to this juncture in the Amendment 18 process as when they felt that they stopped being heard by the Council. This was due to a number of factors, but the most significant was the cap on ownership chosen and approved. While the cap was defensible according to the independent contractor hired to examine fleet consolidation in New England, it didn't pass the "straight face test" for the fishermen who had been pushing for the Amendment all along. The allocation limit was overly complicated and did not restrict even the largest of owners (for example, Carlos Rafael) from purchasing even more permits after the conclusion of the Amendment.

Another problem that plagued Amendment 18 was that Council members and the public had different definitions of what consolidation looked like. Was it purely a question of permit ownership? Was it about who was landing fish? And what steps could be taken to ensure that new entrants could enter the fishery in the future? Because stakeholders and Council members defined the problem very differently, it was hard to have a productive conversation about what management actions should take place. Even on the issue of ownership caps a consensus could not be reached and the fishery ended up with two caps: one on permits, and one on allocation, neither of which were truly limiting. Both caps allowed a small number of owners to control substantial amounts of quota for individual stocks. It is possible that this outcome was simply the result of one side of the debate winning an argument. However, for a consolidation amendment to not reasonably address consolidation (and in fact, to suggest that consolidation was not happening) while fishermen were watching it happen in their communities left many of those fishermen feeling unheard and believing that the Council was alarmingly out of touch.

At its core, the failure of Amendment 18 was the failure of the Council to agree on a shared problem statement to address within the document. This led to time being wasted on the development of ideas and alternatives that were either not legal, not enforceable, or not within the scope of the Amendment. One example of this was the attempt to include a cap on what one permit holder could charge another permit holder for quota. The Council also devoted resources to the development and analysis of an alternative that would have changed redfish regulations to allow for an option that already existed as a sector exemption. A third example was the issue of shifting effort into inshore waters, which the Council attempted include in this Amendment but failed to address. Although all of these issues are important, none of them were solvable within the scope of Amendment 18 and the effort spent on them during that Amendment process was ultimately wasted. The creation of a discrete, focused document to address a limited set of goals would have greatly increased the probably of success for Amendment 18.

Ultimately, years were spent on the development of an Amendment that has had little positive impact on the fleet or on the resource. It must be stressed that the collapse of the Gulf of Maine cod stock made accomplishing the original goals of the Amendment politically impossible at the time and it may have been more prudent to delay the discussion of consolidation until a rational conversation could take place. Unfortunately, with its completion, a box was checked indicating that consolidation and fleet diversity had been addressed in the region which left fishermen asking what had been done to help.

Thank you for the opportunity to comment on the Amendment 18. I feel that by studying to how this amendment begun, grew, evolved, and ultimately failed we can create better process that encourages engagement and successful fisheries management.

Sincerely,

A handwritten signature in black ink that reads "Ben Martens". The signature is written in a cursive style with a large, sweeping initial "B".

Ben Martens  
Executive Director