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John Bullard, Regional Administrator  
Greater Atlantic Regional Fisheries Office  
NOAA National Marine Fisheries Service  
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