



New England Fishery Management Council

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MEETING SUMMARY

SMALL MESH MULTISPECIES COMMITTEE

JANUARY 21, 2016

Hampton Inn (at Providence airport)

2100 Post Road

Warwick, RI 02886

The Small-Mesh Multispecies committee met on January 21, 2016 in Warwick, RI to: recommend the scope of measures to be addressed in Draft Amendment 22, after reviewing and evaluating the public comments from five scoping hearings and a public webinar. The committee also reviewed the Plan Development Team (PDT) recommendations for 2016-2020 research priorities for eventual Council approval at the April 2016 meeting.

MEETING ATTENDANCE:

Mark Gibson (Chairman), Vincent Balzano (Vice Chair), Mark Alexander, Frank Blount, Ellen Goethel, Peter Kendall, Matt McKenzie, Eric Reid, and Laurie Nolan (committee members); list Andrew Applegate (NEFMC staff); Mike Ruccio and Walter Anoushian (NMFS GARFO staff); XXX (NOAA General Counsel), and Melanie Griffin (MA DMF) Nicole Lengyel (RIDEM Fish and Wildlife) and Dan Farnham and Hank Lackner (Whiting advisors). About 8 members of the public attended, including: Daniel J. Farnham, Jeremy Reposa, Dave McLaughlin, Katie Almeida, Peter A. Reposa, and James M. Jordan.

The meeting continued without breaking for lunch and ended early in the mid-afternoon.

Meeting documents were posted at the following location: <http://www.nefmc.org/calendar/jan.-21-2016-whiting-committee-meeting> .

KEY OUTCOMES:

- The committee reviewed the 2016-2020 research recommendations from the PDT and voted to forward a modified list of research priorities to the Council for further consideration.
- Mr. Ruccio briefed the committee on the purpose and plans to hold a workshop in February or early March on potential Experimental Fishery Permitting that would focus on the timing and geographical range of the small-mesh fishery exemption areas. The committee decided to include alternatives in Amendment 22 in case research data were

available in time for inclusion in the draft amendment and Regional Administrator could not act under his Amendment 13 authority.

- The committee reviewed and evaluated the Amendment 22 scoping comments and recommend a range of measures to the Council for final approval.

AGENDA ITEM #1: FIVE-YEAR COUNCIL RESEARCH PRIORITIES

Summarize key points in the discussion. Including names is optional.

1. MOTION: Mr. Balzano/ Ellen Goethel

To accept PDT recommendations and change the order of priority to move #1 to #6 and strike the last sentence from #2.

Discussion on the Motion: Referring to Document 1b, Mr. Applegate gave a brief summary of the six PDT recommendations. These recommendations focused on revisions Section II, Fishery Interactions – Bycatch, Section I.D. Fisheries – Fishery Management, Section I.B. Fisheries – Surveys, Section I.A.1. Fisheries – Stock Assessments – Spatial-temporal distribution, and Section I.C.7. Fisheries – Fishery Performance and Monitoring. The PDT felt that given the magnitude of discards in the fishery and problems caused by “choke” species, that research focused on reducing bycatch or improving markets for catch that is otherwise discarded is the most important, more important than issues of red and silver hake stock structure. The latter lower-priority issue had been thoroughly reviewed at the last benchmark assessment and there was little new data that indicated that the northern and southern stocks were separate or combined. Furthermore, the recent large northern red hake year class was not observed in the south, argues for two separate stocks as they are currently assessed. Nonetheless changes in distribution, productivity, and changes in survey catchability (a measure of performance) seem to be occurring due to increasing water temperature. Thus, evaluating performance of and possible changes in the exemption areas to make them more effective was given a higher priority than research to address stock structure issues. Estimating bycatch and methods to reduce bycatch were given the highest ranking by the PDT.

Although the last benchmark assessment indicated there was a high degree of uncertainty in the northern shrimp fishery silver hake discard estimates, which would have implications for estimating silver hake recruitment, the committee demoted the PDT’s #1 priority to last, because the northern shrimp fishery has been closed in the past few years and appeared unlikely to open soon due to low northern shrimp productivity. The committee also did not believe that research to improve marketing of hakes would be productive to reduce bycatch and increase fishery revenue. For this reason, the committee decided to remove marketing research from the priority list.

MOTION #1 The motion carried by consensus.

AGENDA ITEM #2: GARFO SUMMARY OF EXEMPTED FISHERY PERMIT (EFP) WORKSHOP PLANNING

Mr. Ruccio asked to brief the committee on recent activity to hold a workshop on exempted fishery permitting, specifically addressing the performance of the small-mesh exemption areas.

He said that over the last couple of years, there has been increasing interest in modifying the dates when the areas are open for small-mesh fishing and evaluating new areas, but existing data is insufficient for the Regional Administrator to take action. Furthermore, fishermen and researchers cannot use small-mesh trawls when the areas are closed to fishing to determine bycatch rates. On one hand, GARFO cannot develop the necessary EFP applications, but fishermen and researchers need help to understand what would be needed to apply for an EFP and what kind of research results would be helpful in determining whether new areas or seasons could open to small-mesh multispecies fishing.

Mr. Ruccio explained that GARFO, working with Council staff, was developing a workshop in February or early March with the following objectives:

- Catalogue changes that people want
- Number of potential collaborators to participate
- Background on EFPs and process

Mr. Ruccio explained that the NE Multispecies FMP gives the Regional Administrator limited authority to create new exemptions or modify existing ones, with Council consultation. Although the intent is to collect data and research areas that might be approved under Regional Administrator authority, there is a potential intersection between that and the actions that the Council might contemplate through an amendment, framework adjustment, or specifications package. Mr. Applegate explained how the timing of the potential research data and Amendment 22 or the 2018-2020 specifications package would mesh. Although the Regional Administrator authority could be taken under Amendment 7 and Amendment 13 procedures, the Council could also recommend action using different considerations, i.e. it might be more flexible if the planned EFP research did not meet the criteria that the Regional Administrator could use.

This issue was raised during scoping hearings and the committee discussed including exemption area adjustments in Amendment 22, with alternatives to be left as a place-holder until the research data becomes available. If the research data is not available for the draft amendment, the placeholder would be dropped from the amendment, i.e. it would not delay limited access

AGENDA ITEM #3: SCOPE OF AMENDMENT 22

PRESENTATION: SCOPING HEARING COMMENTS

Mr. Applegate summarized the scoping hearing comments for the committee. Five scoping hearings and a webinar were held between December 1, 2015 and January 20, 2016. Except for the hearing in Warwick the night before, all of the scoping hearing summaries were available for the committee (see Document 2). During the scoping comment period, the Council received about a dozen written comments (see Document 3) which were also available to the committee before the meeting. The comment period closed on January 20th and comments received during the previous day had been emailed to the committee.

Mr. Applegate explained that the public turnout was pretty good at all hearings except for Portland, ME where there were no public comments. In addition to the Portland, ME hearing, hearings were conducted in Gloucester, MA; New Bedford, MA; Montauk, NY; and Warwick, RI. A webinar was conducted for fishermen and others to provide oral comments. Two

fishermen or representatives gave comments during the webinar: Jim Lovgren and Greg DiDomenico from NJ. Except for the Penobscot East Resource Center, all comments were made by fishermen or their industry representatives.

Mr. Applegate categorized and summarized the comments as follows:

- Fishermen operating large, more active boats in the whiting fishery, who supported limited access with a tiered approach using five or ten years of data before the 2012 control date.
- Less active whiting fishermen who supported limited access with liberal (i.e. low) qualification criteria. These fishermen feared being left out to the exclusion of a few large vessels. They fished for whiting on a few trips a year or as an important component of their trip's landings. They did not want to have their flexibility to target a variety of species restricted by limited access. Some favored a tiered approach while others favored a low qualification criteria with single limited access permit (i.e. everyone the same).
- Another set of fishermen wanted the qualification criteria history to go back as far as possible to admit fishermen that were previously very active in the fishery. In recent years, these fishermen had been prevented from fishing either by the large-mesh regulations in the north, or by lack of available whiting in the south off NJ.
- A fourth set of fishermen opposed any type of limited access and they felt that using limited access to address problems with "choke species" was the wrong approach. They recommended that the Council instead look toward gear research and other measures that would address that issue. They thought that the Council should encourage fishermen to target healthy stocks like red hake and whiting, instead of restricting access to the fishery to benefit a small number of fishermen.

Mr. Applegate further explained that some fishermen, particularly in the northern area, supported different qualification criteria from those in the south, which fishermen in the southern area tended to support a single set of qualification criteria for all fishermen, with different fishing rules in the north, if needed to meet biological objectives. He added that overall, the comments were all over the place, depending on the commenter's perspective. He said that although individual fishermen were clear on what they wanted, there was a lack of general consensus for limited access or for any particular set of qualification criteria.

Mr. Applegate reviewed the previous effort to develop limited access for the whiting fishery, including an amendment in 1997 which was partially disapproved because the qualification criteria would have treated similar fishermen in different ways, depending on where they operated even though they fished in the same areas. Another attempt in 2006 and 2007 began developing alternatives with very extensive analysis of landings histories, but could not reach a consensus on what those alternatives and qualification criteria should be. As in the disapproved amendment, data issues were also a problem due to inaccurate or non-reporting of landings by dealers. Due to these problems and other management priorities, the Council deprioritized the amendment in November 2007.

In light of this round of scoping comments and data issues that still existed as recently as 2012, Mr. Applegate said that it would not be likely that the staff and PDT could come up with any

new approaches that hadn't been considered before. The scoping comments during the recent hearings had the same issues and considerations that had been prevalent during 2006 and 2007.

Mrs. Nolan thought that the range of comments gave the committee good direction in outlining the range of alternatives that should be considered. Some committee members pointed out that the circumstances were different before, because overfishing was a greater concern than it is now. Mr. Applegate agreed and added that the justification for the previous partial disapproval was that the liberal 50,000 lbs. qualification criteria coupled with the unresolved data problems was thought that it would be ineffective in preventing overfishing and would not address rebuilding needs.

Mrs. Goethel said that there have been a couple of changes in the fishery, including the harm that catches of choke species would have on the fishery. Another option not allowed in the last attempt would be an option to allow new entrants into the fishery as long as the sub-ACLs were not being exceeded. She thought that we have a control date and a really long qualification period would not be advantageous. She thought that using logbooks for qualification in addition to dealer records would address some of the data issues. Some other committee members disagreed with allowing historic entrants into the fishery when there are new fishermen that would like to get into the fishery.

Mr. Balzano pointed out that we are now observing landings of whiting in the large-mesh fishery because the whiting stocks have improved. He asked whether those landings should be restricted by limited access criteria that the large mesh fishermen are unlikely to have. He thought those people should deserve to fish for whiting with large mesh when large whiting are available. Mr. Balzano thought that 1996, when trip reports were first required, would be as early as the Council could reasonably go as a starting point. He suggested looking at cumulative landings by vessel over entire qualifying periods as far back as 1996, using both dealer and trip reports.

Mr. Reid thought that we need to define what we consider to be "new" entrants and asked about when the control date becomes 'stale', because most people wanted to use the control date as the basis for qualification. Mrs. Goethel thought that an option that could provide flexibility is to set an annual limit on landings, which would accommodate both incidental catch and fishermen that took a low number of directed trips.

Mr. Ruccio asked about whether the PDT and staff had a database that could be used for evaluation of limited access alternatives. Mr. Applegate replied that he and Dave Thomas had worked with GARFO staff to develop an annual summary of whiting landings and trips through 2014 from dealer, trip reports, and DMIS data, as a database that can be used to develop alternatives. Mr. Ruccio explained that GARFO normally does a pre-qualification phase using existing data sets followed by an appeal process that allowed fishermen to present other data or have data corrected in order to qualify. Mr. Applegate explained that the best data source (dealer or VTRs) could be used without raising National Standard 4 concerns over fairness and equity, but one additional problem is tracking history correctly using a permit's moratorium right ID for vessels with existing limited access permits in other NE Region fisheries.

2. MOTION: Mr. Reid/Dr. McKenzie

That for the purposes of developing Amendment 22, that the control date of November 28, 2012 remain in effect.

Discussion on the Motion: The committee discussed using the existing control date as the basis for qualification. Mr. Reid thought that the Council should re-affirm the control date and intent to utilize it as the basis for qualification, instead of the possibility that it is refreshed. Mr. Gibson replied that the Council could use the control date, but could decide to use a later date. Mr. Applegate added that the Council used a different date for monkfish qualification (G and H permits) to accommodate a new fishery in NC where fishermen thought that they would not be affected by limited access qualification because they were outside of the management unit, but later found that they were in the management unit. Mr. Ruccio said that the Council could set up differential criteria before and after the control date without raising National Standard 1 concerns.

Hank Lackner believed that the control date was on the verge of becoming stale and recommended that the Council consider use past and present fishery participation to determine qualification. Mrs. Nolan thought that it would be useful to examine how the qualification alternatives would affect the fishery as it occurred after the control date.

After consideration, the committee decided that it would be beneficial to clarify and re-affirm the use of the control date for the basis of limited access qualification criteria.

MOTION #2 The motion carried by a show of hands 9-0.

3. MOTION: Mr. Alexander/Mrs. Goethel

To develop Amendment 22 to address potential for unconstrained entry into the whiting fishery with alternatives that include no action and limited access alternatives to include equal qualification criteria (north and south), differential qualification criteria (north and south), tiered and not tiered with different qualifying periods using the existing control date.

Further Discussion on the Motion: The committee debated how to structure the limited access alternatives in light of the public scoping comments. Mrs. Goethel suggested establishing alternatives with different qualification criteria in the northern area than in the southern area. Mr. Applegate expressed concern that doing so might cause National Standard 4 concerns to arise if the qualifying vessels would be able to fish in all areas, although they would have qualified with a different landings threshold. He said that if there were different limited access permits by area, some vessels will qualify under both permits and would be able to fish in both areas, creating potential enforcement concerns. Mrs. Goethel said that it would require vessels to only fish in one area and trip declarations. Mr. Ruccio explained that different criteria by area is possible without raising National Standard 4 concerns, which was an approach approved in the Monkfish FMP. Mr. Applegate pointed out that some data issues would be likely with differential qualification because it would require the history to be attributed to one area or the

other and the north/south management area boundary for whiting cuts across the middle of three-digit statistical areas reported on the VTRs (which also add some data quality concerns about qualification history).

In response to a question from Mr. Gibson, Mr. Applegate explained that a motion would be needed to describe the issues to be address by the amendment and a general range of alternatives to be developed, without a lot of detail about the structure or details of those alternatives. He thought that the committee could give informal guidance to the PDT about the structure of alternatives that the committee would like to see and provide the staff guidance about how to go about developing the alternatives using joint or separate meetings of PDT, the Advisory Panel, and the Committee.

The committee decided that alternatives for exemption area modifications should be in the alternative but it should be taken up in a separate motion.

MOTION #3 The motion carried by a show of hands 8-0-1.

4. MOTION: Mr. Ruccio/Mr. Balzano

To recommend for inclusion in Amendment 22 potential revisions to the existing whiting exemption programs.

Further Discussion on the Motion: Although Mr. Ruccio thought that more focused amendments proceed quicker without add ons and it was not clear what data would be needed or available for the amendment, the committee decided that it would be best to include such an alternative as a placeholder, because it would be easier to drop the alternative if supporting research data were not available rather than try to add it to the amendment later if research data is available and the Regional Administrator cannot approve under existing Amendment 13 procedures. Mr. Applegate was concerned that not including the issue in the amendment might create a need for another action later when it is not on the Council priority list. He said that the Council could also modify the exemption areas through a framework action or specifications package in 2017, however. Mr. Balzano thought that the timing of the research would not fit into the Amendment 22 timeline, but he seconded the amendment because it is easier to later eliminate the alternatives if the data are not ready, than it is to add it to the amendment later.

MOTION #4 The motion carried by a show of hands 6-2-1.

5. MOTION: Mr. Alexander/Mrs. Goethel

To develop Amendment 22 alternatives, the committee would like to first have an advisory panel meeting to get their input, passed to the PDT for their recommendation and data evaluation, followed by a committee meeting.

Further Discussion on the Motion: In response to a question from the chair, Mr. Applegate explained that he would find it helpful for the committee to provide some guidance about how far to develop the alternatives before it comes back to the committee, or how the PDT should interact with the Advisory Panel. The committee felt that the PDT should develop data-driven strawman alternatives independently, which would be reviewed and discussed by the Advisory

Panel and then by the committee. Mr. Applegate pointed out that the PDT would be reluctant to go back before 1996 because of greater concerns about the earlier data.

MOTION #3 The motion carried by a show of hands 4-0-5.

The Small-Mesh Multispecies Committee meeting adjourned at approximately 2:00 p.m.

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