New England Fishery Management Council
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MEMORANDUM

DATE: August 20, 2018

TO: Small-Mesh Multispecies committee and Advisory Panel

FROM: Andrew Applegate, Plan Coordinator

SUBJECT: **Streamlining regulations in the small-mesh multispecies fishery**

As part of a broader effort to examine our regulations and recommend how they can be streamlined, I reviewed all related small-mesh multispecies fishery regulations and developed the table below to indicate ones that could be considered for deletion or consolidation. These recommendations were previously reviewed by the PDT, Advisory Panel, and Committee members, and presented to the Council twice.

Nonetheless, issues were raised at the June Council meeting, sending the analysis back to the committee for review at the August 29, 2018 meeting. The committee recommendations will be presented to the Council at the September meeting for final approval.

Section and regulation	Description	Function	Recommendation Outdated, unnecessary, duplicative, or ineffective
§648.80(a) Regulated mesh areas	Defines specific areas where Multispecies restrictions on minimum mesh size, gear, and methods of fishing apply	Ensures that catches of small regulated groundfish are not selected by the fishery. Reduces discards.	Necessary regulation, unless new regulations specify where small-mesh and other gears MAY BE allowed.
§648.80(a)(6) Cultivator Shoal Whiting Fishery Exemption Area	Specifies area, season, gear characteristics, and possession limits for vessels targeting small-mesh multispecies.	Allows vessels to use small-mesh trawls when and where bycatch of regulated multispecies are below acceptable levels.	Necessary – many vessels utilize this regulation to target whiting and red hake. Outdated but necessary – Possession limits for incidental catch of lobster, monkfish, and other species may be in conflict with other incidental limits, such as the non-trap lobster possession limit and the incidental monkfish limit
§648.80(a)(6)(i)(A) (1)	Letter of authorization required	Increases enforceability	Outdated and unnecessary – Nearly all vessels have VMS. Enforcement officials know when the area is open and small-mesh trawls are allowed.
§648.80(a)(6)(i)(B)	Possession limits for whiting, red hake, and 8 other species (all other species have a zero possession limit)	Prevents vessels from targeting larger species with small-mesh trawls.	Necessary – removing the limits could encourage targeting young, immature fish.
§648.80(a)(6)(i)(C)	Minimum mesh size	Causes the net to be more size selective	Necessary – prevents targeting of young, immature fish
§648.80(a)(6)(i)(D) (2)	June 15 to October 31 open season	Confines fishing when non0target species catches area low.	Outdated – needs re-evaluation

Section and regulation	Description	Function	Recommendation Outdated, unnecessary, duplicative, or ineffective
§648.80(a)(6)(i)(E)	Transiting other areas with small-mesh trawls	Improves enforceability, reduces potential for discarding	Necessary – prevents vessels from using small-mesh trawls to target whiting in areas where bycatch may be excessive
§648.80(a)(6)(i)(F)	Using small-mesh trawls in the Cultivator Shoals Area and other open areas	Clarifies regulation and provides flexibility	Necessary – prevents a vessel from exceeding the Cultivator Shoals Area whiting possession limit by fishing in other areas where the possession limit is higher.
§648.80(a)(6)(ii) Sea sampling (3)	Directs the Regional Administrator to conduct sea sampling in the Cultivator Shoals Area	Sea sampling is needed to estimate discards and collect other important biological data	Outdated and duplicative – superseded by SBRM regulations.
§648.80(a)(6)(iii) Annual review (4)	The NEFMC shall conduct an annual review of Cultivator Shoals Area fishery data to determine if there are any changes in area or season designation necessary	Ensures analysis of discarding to alert the need to change regulations and minimize bycatch.	Ineffective – Although periodic analyses have been conducted, an annual analysis has not been done due to limits on time and resources. Data is not collected at the level of detail needed to reliably estimate discards for a specific area.
§648.80(a)(7) Transiting other small-mesh areas (5)	Gear stowage	Improves enforceability of mesh size requirements	Necessary, but duplicative? – prevents vessels from using small-mesh trawls to target whiting in areas where bycatch may be excessive. This provision might be clearer and more effective if written into the regulations for other exemption areas?

Section and regulation	Description	Function	Recommendation Outdated, unnecessary, duplicative, or ineffective
§648.80(a)(8) Addition or deletion of exemptions	New exemption areas or seasons	Provides flexibility if the Regional Administrator determines that bycatch of regulated multispecies is below acceptable limits.	Necessary – reduces the need for plan amendments or actions.
§648.80(a)(9) Small Mesh Area 1/Small Mesh Area 2	Specifies area, season, gear characteristics, and possession limits for vessels targeting small-mesh multispecies.	Allows vessels to use small-mesh trawls when and where bycatch of regulated multispecies are below acceptable levels.	Necessary – many vessels utilize this regulation to target whiting and red hake. Outdated but necessary – Possession limits for incidental catch of lobster, monkfish, and other species may be in conflict with other incidental limits, such as the non-trap lobster possession limit and the incidental monkfish limit. Lobsters, monkfish, and skate bycatch is low due to the raised footrope trawl requirement.
§648.80(a)(9)(ii) Raised footrope trawl	Gear configuration	Specifies the required characteristics of small-mesh trawls to be used in the area	Necessary – a raised footrope trawl has to meet certain specifications to be effective for reducing bycatch of flounders and other flatfish species.

Section and regulation	Description	Function	Recommendation Outdated, unnecessary, duplicative, or ineffective
§648.80(a)(15) Raised Footrope Trawl Exempted Whiting Fishery	Specifies area, season, gear characteristics, and possession limits for vessels targeting small-mesh multispecies.	Allows vessels to use small-mesh trawls when and where bycatch of regulated multispecies are below acceptable levels.	Necessary – many vessels utilize this regulation to target whiting and red hake. Outdated but necessary – Possession limits for incidental catch of lobster, monkfish, and other species may be in conflict with other incidental limits, such as the non-trap lobster possession limit and the incidental monkfish limit. Lobsters, monkfish, and skate bycatch is low due to the raised footrope trawl requirement.
§648.80(a)(15)(i)(A) Requirements (6)	Letter of authorization required	Increases enforceability	Outdated and unnecessary – Nearly all vessels have VMS. Enforcement officials know when the area is open and small-mesh trawls are allowed.
§648.80(a)(15)(i)(B) to §648.80(a)(15)(i)(G) (7)	Requirements	Improves enforceability and minimizes bycatch of young, immature groundfish and other species.	Duplicative – other than season, the requirements are the same as in other areas and could be combined with them.
§648.80(a)(15)(ii) Sea sampling (8)	Directs the Regional Administrator to conduct sea sampling in the Cultivator Shoals Area	Sea sampling is needed to estimate discards and collect other important biological data	Outdated and duplicative – superseded by SBRM regulations.

Section and regulation	Description	Function	Recommendation Outdated, unnecessary, duplicative, or ineffective
§648.80(a)(16) GOM Grate Raised Footrope Trawl Exempted Whiting Fishery	Specifies area, season, gear characteristics, and possession limits for vessels targeting small-mesh multispecies.	Allows vessels to use small-mesh trawls when and where bycatch of regulated multispecies are below acceptable levels.	Necessary – many vessels utilize this regulation to target whiting and red hake. Outdated but necessary – Possession limits for incidental catch of lobster, monkfish, and other species may be in conflict with other incidental limits, such as the non-trap lobster possession limit and the incidental monkfish limit. Lobsters, monkfish, and skate bycatch is low due to the raised footrope trawl requirement.
§648.80(a)(16)(i) to §648.80(a)(16)(ii) (9)	Requirements	Improves enforceability and minimizes bycatch of young, immature groundfish and other species.	Duplicative – other than season, the requirements are the same as in other areas and could be combined with them.
§648.80(a)(16)(iii) Annual review (10)	Annual review by Groundfish PDT to determine whether adjustments are needed.	To ensure that regulated species bycatch remains at a minimum	Ineffective – Although periodic analyses have been conducted, an annual analysis has not been done due to limits on time and resources. Data is not collected at the level of detail needed to reliably estimate discards for a specific area.
§648.80(g)(5) Restrictions on gear and methods of fishing	Net strengthener restrictions when fishing for or possessing small-mesh multispecies	Allows the fishery to use a net strengthener to prevent net failure while maintaining escapement of small fish	Necessary – if not allowed, gear costs would be high due to breakage and loss. If not specified, the fishermen could use the strengthener to affect net selectivity.

Section and regulation	Description	Function	Recommendation Outdated, unnecessary, duplicative, or ineffective
§648.86(d)(1) and (2) Small-mesh multispecies possession limits	Mesh-based size limits for whiting; Annual red hake possession limits	Primary control on mortality; mesh-based possession limits reduce targeting of juvenile whiting	Necessary – possession limits are adjusted to prevent the fishery from exceeding total catch limits.
§648.86(d)(3) Transfer whiting at sea for bait (15)	500 lbs. allowance for whiting and unlimited transfers of red hake	Provides flexibility for the industry to supply the at-sea fresh bait demand. Sometimes red hake sold at sea for bait has a higher price than if landed for food.	Possibly unnecessary – Transfers could be limited to the possession limit if it doesn't cause an enforcement problem
§648.86(d)(3) In-season accountability measures	In-season possession limit adjustments (2,000 lbs. whiting or 400 lbs. red hake)	Accounting for expected discard amounts, the in-season adjustment reduces targeting of small-mesh multispecies when landings reach levels that could cause overfishing.	Necessary and has been effective.
§648.86(a)(4)(iii)(G) GB yellowtail flounder catch by small mesh fisheries (11)	Sub-ACL for the small-mesh multispecies fishery in the Georges Bank yellowtail flounder stock area.	Triggers a requirement for vessels to use more selective gear to reduce the catches of Georges Bank yellowtail flounder and other flounders.	Costly and ineffective. The sub-ACL is very small and costly to monitor with acceptable precision.
§648.90(b)(1) to §648.90(b)(3) Three-year specifications process, annual review, and specifications package	A process for monitoring the fishery and providing management advice.	Determines when post-season accountability measures will be adjusted and provides management advice on an annual basis. It also requires specification adjustments every three years.	This measure has been carried out every year since 2013, including two regular three-year specification cycles. Although it is time-consuming, this process has been effective and necessary.
§648.90(b)(5) Accountability measures for the small-mesh multispecies fishery (12)	Specifies a trigger for in-season accountability measures in the fishery.	Determines when incidental possession limits are automatically required.	Necessary and has been effective, but could be clearer if combined with §648.86(d)(3).

Section and regulation	Description	Function	Recommendation Outdated, unnecessary, duplicative, or ineffective
§648.90(c)(1)(ii) Adjustment process	Frameworkable measures	Specifies measures for the small-mesh fishery that may be changed by a framework adjustment.	Reduces regulatory costs to make relatively minor adjustments to regulations.
§648.90(v) AM if the small-mesh fisheries GB yellowtail flounder sub-ACL is exceeded (13)	Post-season accountability measure for the small-mesh multispecies fishery if it exceeds the Georges Bank yellowtail flounder sub-ACL.	Requires vessels to use more selective, approved gears that reduce yellowtail flounder and other flounders catch.	The accountability measure has not yet been invoked, but it could be triggered by uncertainty in catch estimates and could be costly. Effectiveness is unknown.