

Small-Mesh Multispecies Amendment 22 Decision Document

December 2018

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Table 1. Purpose, need, and intent of Amendment 22.

Purpose	“To implement measures through limited access that would prevent unrestrained increases in fishing effort by new entrants to the fishery.”
Need	“To reduce the potential for a rapid escalation of the small-mesh multispecies fishery, possibly causing overfishing and having a negative effect on red hake and whiting markets, both outcomes having negative effects on fishery participants. The amendment will help ensure that catches of the small-mesh multispecies and other non-target species will be at or below specifications, reducing the potential for causing accountability measures to be triggered and resulting closure of the directed fishery”
Intent of amendment	<p>Limited access alternatives were developed to ‘freeze the footprint’ of the fishery, rather than reduce capacity. It is meant to establish a permitting framework that would make it easier to manage the fishery and address bycatch issues.</p> <p>Some alternatives recognize effort in the fishery that have occurred since the November 28, 2012 control date, allowing new entrants in the fishery to obtain a limited access permit. Other alternatives go beyond a 5-year base period and could qualify vessels that have landed small-mesh multispecies during 1996 to 2007, but have not recently been active in the fishery.</p> <p>Qualification is based on the total landings of silver and offshore hakes (whiting) plus red hake from any area or region. Vessels could qualify for a ‘high’ level Category I permit or a ‘low’ level Category II permit and fish for small-mesh multispecies in any area or region.</p> <p>If a limited access alternative is chosen in Action 1, two limited access permit categories and an incidental permit (vessels that do not qualify) may have differential or equal whiting and red hake possession limits by management area. These possession limits could then be adjusted as needed. Under Alternative 4 in Action 3, vessels with incidental permits would be exempted from the permit’s possession limit when fishing in areas requiring a raised footrope trawl.</p>

Table 2. Potential strategies and choices for Council approval.

Choices/Strategy	Intended outcome	Approval process
No Action	No Action would make no changes to small-mesh multispecies permits and the fishery would continue to be regulated using open access and other measures.	Vote to kill the amendment. Changes in whiting possession limits (i.e. Section 4.2) could be address as needed in future specification documents or framework adjustments.
Establish Category I and II limited access permits, but make no immediate changes to whiting and red hake possession limits	Establish a limited access framework, and keep status quo possession limits, until conditions warrant changing them.	Approve one of the five limited access qualification alternatives in Section 4.3.1, plus the three status quo alternatives in Action 2 (Sections 4.3.2.1.1 (Category I), 4.3.2.2.1 (Category II), and 4.3.2.3.1 (Incidental), and choose one or more alternatives for Action 3 for limited access permits (see Section 4.3.3.1 in the last table).
Establish Category I and II limited access and incidental permits, but allow vessels with incidental permits to fish in raised footrope trawl exemption areas with the same possession limits as a limited access vessel.	Establish a limited access program and an incidental permit, but make no changes to the whiting and red hake possession limits in raised footrope trawl exemption areas.	Approve one of the five limited access qualification alternatives in Section 4.3.1, a set of possession limit alternatives in Section 4.3.2, Category I and II permit characteristics in Section 4.3.3, and Alternative 4 for Incidental permits (Section 4.3.3.2.5).
Establish Category I and II limited access permits; and establish small-mesh multispecies possession limits for each permit type.	Establish a limited access program and an incidental permit, with associated possession limits and permit characteristics.	Approve one of the five limited access qualification alternatives in Section 4.3.1, a set of possession limit alternatives in Section 4.3.2, Category I and II permit characteristics in Section 4.3.3.1 and a set of Incidental permit allowances in Section 4.3.3.2.

Table 3. Recommendations for **Draft Amendment 22 preferred alternatives**, August 29, 2017

	Advisors	Committee
Action 1 Limited access	Alternative 1 (3-2)	No preferred alternative
Action 2 Possession limits	No recommendation	In-season trigger to adjust possession limits (not approved)
Action 3 Permitting	Alternatives 1 & 4 for limited access Alternative 3 (squid and herring) for incidental	Same

Table 4. Recommendations for **Amendment 22 final action**, following first round of public hearings, August 29, 2018

	Advisors	Committee
Action 1 Limited access	Alternative 4 (4-0-1)	Alternative 1 (No Action) with a trailing action to freeze Category K permits using the 2012 control date
Action 2 Possession limits	Alternative 1 (status quo) for limited access permits Alternative 2 (2000 lbs. whiting & 400 lbs red hake for incidental permit	No Action
Action 3 Permitting	Alternatives 1 & 4 for limited access Alternative 3 (squid and herring) for incidental	No Action

Table 5. Recommendations for **Amendment 22 final action**, December 3, 2018

	Advisors	Committee
Action 1 Limited access	TBD	TBD
Action 2 Possession limits	TBD	TBD
Action 3 Permitting	TBD	TBD

Table 6. Staff summary of public comments (individual written comments available online).

Public comments	Summary Observations	
<p>Fishermen that typically target other species, but want to maintain access to the small-mesh multispecies fishery (including fishermen that have begun taking recent small-mesh multispecies trips)</p>	<p>Fishermen did not want to be shut out of the fishery if it is not fully utilized.</p> <p>Fishermen thought that the bycatch in the small-mesh multispecies fishery should be managed with technological solutions, rather than limiting new entrants.</p>	<p>Many of these fishermen did not recognize that the intent of the amendment was to freeze the footprint of the fishery, not to take away the ability for existing fishermen to fish.</p>
<p>Fishermen that formerly targeting whiting but want older data to be considered for limited access qualification</p>	<p>Fishermen in this category targeted small-mesh multispecies in the past, but have not done so in recent years because they fish have become much less available near their ports.</p>	<p>These fishermen support limited access that recognizes the fisheries as they were in the 1980s and early 1990s. They favor alternatives that consider history back to 1996, but would prefer that even older history is considered for limited access qualification.</p>
<p>Fishermen that entered the small-mesh multispecies fishery recently want more recent data to be considered for qualification.</p>	<p>Fishermen that recently began fishing for small-mesh multispecies believe that they and others should continue to have that opportunity.</p>	<p>Some of these fishermen might qualify for limited access using history that extends through 2016, but would prefer that there be no limited access at all.</p>
<p>Fishermen that have targeted small-mesh multispecies since 2008 and before the control date have a high reliance on whiting fishery and want more conservative qualification criteria.</p>	<p>Fishermen fear that regulations to limit bycatch will create ‘choke’ species, shutting the fishery down early if there are new entrants.</p> <p>Fishermen believe that new entrants in the fishery have less experience and cannot avoid bycatch, increasing the chance that bycatch rates will increase and trigger more regulation.</p> <p>Some fishermen do not have groundfish limited access permits and no alternatives to fish if the small-mesh multispecies fishery is closed to address bycatch or if the fishery becomes overfished.</p>	<p>Most want conservative qualification criteria, particularly for Category I vessels, but are willing to compromise to get limited access in place.</p>

Public comments	Summary Observations	
Other	No one spoke in favor of maintaining the existing possession limits in exemption areas that require a raised footrope trawl.	No one spoke in favor of establishing limited access, but maintaining status quo possession limits until adjustments are needed.
Supplemental written comments	One advisor commented in favor of Action 1, Alternative 4 for limited access and status quo possession limits for Category I and II limited access vessels. He recommended that the Council not dwell on the actual number of qualifiers, because that will not be known with certainty until a qualification process has been completed.	No additional comments were made during the November 14, 2018 webinar.

Table 7. Staff summary of public hearing comments (individual meeting summaries are available online).

Hearings	Staff summary
Gloucester, MA July 19, 2018	Six fishermen commented on Amendment 22 alternatives. Not surprisingly, all were in favor of the Councils preferred alternative – No Action. There was a fear that limited access would allow the ‘big’ boats from down ‘south’ to come up and take the fish in the northern areas, which are perceived as not having a problem.
New Bedford, MA July 26, 2018	<p>This public hearing was also lightly attended, by two fishermen (one that was also at the Montauk hearing), Katie Almeida (advisor), and David Chosid (MA DMF).</p> <p>The two fishermen both spoke in favor of a relatively strong limited access program. Katie Almeida had made her oral comments at the Warwick hearing.</p>
Warwick, RI July 25, 2018 (Point Judith, RI)	<p>The Warwick, RI hearing was sparsely attended by two fishermen and Katie Almeida, an advisor.</p> <p>Unlike the other hearings, all participants were strongly opposed to limited access and preferred No Action. Commenters preferred that the Council manage bycatch and choke species issues with a combination of possession limit changes, selective gear requirements, and if necessary seasonal/area closures. They also recommended establishing a moratorium on the issuance of new Category K (small-mesh multispecies fishery open access) permits.</p> <p>The hearing attendees became aware of the status of southern red hake and declining biomass of southern whiting, but despite this situation they recommended the strategy above rather than limited access.</p>

Hearings	Staff summary
<p>Montauk, NY July 24, 2018</p>	<p>Six fishermen attended and gave comments. Mostly the fishermen represented the large, active whiting and squid fishing vessels. They fear that measures to address choke species (and southern red hake) will curtail the fishery and will be costly to the industry, especially without limited access to prevent new vessels from targeting whiting and increasing bycatch in the fishery.</p> <p>Nearly all therefore supported limited access, but most did not favor one alternative over the others. They said that they would study the documents more and submit written comments before the deadline.</p> <p>One additional issue brought up here was the squid exemption for sector vessels, that allow sector vessels to use small mesh to target squid on a trip declared into the Multispecies sector or DAS program. This regulation is seen as a loop hole and inconsistent with the rules for the whiting fishery where this practice is prohibited (I did bring up the sector exemption area in Southern New England).</p> <p>Although most supported limited access last night, the Council should keep in mind that there were many small day boat vessel owners and fishermen in Montauk during scoping hearings that would like to be recognized and accommodated. They fish seasonally and often land less than 10,000 lbs. of whiting on a trip, but do not have a large volume of landings during the qualification period.</p>
<p>Tinton Falls, NJ July 23, 2018 (Point Pleasant and Belford, NJ)</p>	<p>Fishermen here are very distrustful of anything government or NMFS related, and frankly a bit frustrated. Six fishermen commented on the amendment. One scientist from Rutgers Sea Grant (Doug Zemickus) attended. Attendees were appreciative that the Council held a public hearing in NJ.</p> <p>The NJ fishermen are fearful that limited access would lock them out of the whiting fishery, if there is ever a whiting fishery off NJ again, like it was in the 1970s and 80s. Any current access to the fishery was also negatively affected by the offshore gear restricted areas in the Mid-Atlantic to protect corals.</p> <p>That said, the NJ fishermen had been promoting limited access when the Council first submitted a limited access amendment that was then disapproved by NMFS.</p> <p>Most commenters supported a liberal limited access program that would qualify vessels that had fished long ago (and are currently fishing for other species, like fluke). They therefore support what they see as the one that uses the longest historic period with the most liberal qualification criteria, that being Alternative 4. Just one person favored No Action, but he was generally opposed to anything NOAA Fisheries or the Councils do.</p>

Hearings	Staff summary
Supplemental Webinar November 14, 2018	Council staff explained the source of the error in the public hearing document and compared the differences between the initial estimates and the final, corrected estimates. The data were corrected in April 2017. The correct data were presented to the Advisors, Committee and Council in August and September 2017 before the final draft document was approved for submission, but the summary of the estimated number of qualifiers was not corrected before submission. The Whiting Committee chair, three Council staff, and six additional people called into the webinar. Only one boat owner was on the webinar and the rest were either agency employees or plan development team members. After the presentation, there were no follow up questions or comments.

Table 8. Pros and cons of general limited access strategies and choices in Amendment 22.

Choices/Strategy	Pros	Cons
No Action	<ul style="list-style-type: none"> • Continues flexibility for fishermen to target whiting as an alternative to other species. • Allows new vessel participation in the fishery to achieve optimum yield 	<ul style="list-style-type: none"> • High uncertainty about the effectiveness of measures to control catch • Measures to manage catch would be more restrictive and costly to existing fishermen • Limited access would be costly (and may be impossible) to establish in the future, when there is a crisis.
Establish Category I and II limited access permits, but make no immediate changes to whiting and red hake possession limits	<ul style="list-style-type: none"> • Establishes a limited access framework and qualifies vessels for limited access, but continues to allow new entrants in the fishery as long as conditions allow it. • Continues flexibility for fishermen to target whiting as an alternative to other species. • Allows adjustments to possession limits by permit type to manage effort and catch in the fishery. 	<ul style="list-style-type: none"> • Significant implementation costs, particularly if it is not needed and used future regulations and adjustments. • Potential need for a secondary limited access program for vessels that target small-mesh multispecies with an incidental permit (viz. scallop general category).

<p>Establish Category I and II limited access permits, but allow vessels with incidental permits to fish in raised footrope trawl exemption areas with the same possession limits as a limited access vessel.</p>	<ul style="list-style-type: none"> • Establishes limited access but allows any vessel to fish for small-mesh multispecies in exemption areas using selective gear (i.e. raised footrope trawl). • Encourages adoption of selective gears in areas where it is not currently required. • Allows new fishermen to target small-mesh multispecies in some exemption areas. • Provides an alternatives for fishermen that currently fish for other species. 	<ul style="list-style-type: none"> • Raised footrope trawl has been effective in reducing bycatch of flatfish (e.g. flounders, skates, monkfish), but not roundfish (e.g. haddock, cod, pollock). • Regulatory and compliance costs may be just as high as they would be with no limited access to manage bycatch of roundfish.
<p>Establish Category I and II limited access permits, and establish small-mesh multispecies possession limits for each permit type.</p>	<ul style="list-style-type: none"> • Reduces uncertainty about effectiveness of measures to regulate the fishery and keep bycatch to acceptable levels. • Minimizes potential regulatory and compliance costs to fishermen that currently target small-mesh multispecies • Allows higher utilization of the fishery by existing fishermen, but reduces incentive to overcapitalize via new boats entering the fishery. 	<ul style="list-style-type: none"> • Reduces ability for new fishermen to enter the fishery. • Reduces alternatives for fishermen that currently fish for other species.

Table 9. Number of qualifying histories and the number fishing for whiting or whiting & red hake during 2014-2016, by alternative and qualification category. (Table 53; page 6-204)

Alternative	Category I			Category II			Non-qualifier	
	Qualifying histories	2,000 lbs. whiting or 400 lbs. red hake	2,000 lbs. whiting	Qualifying histories	2,000 lbs. whiting or 400 lbs. red hake	2,000 lbs. whiting	2,000 lbs. whiting or 400 lbs. red hake	2,000 lbs. whiting
1	40	33	33	74	44	38	35	26
2	20	19	19	203	83	68	10	10
3	51	44	44	90	53	46	15	7
4	55	42	42	124	44	39	26	17
5	84	43	43	159	36	31	33	23

Table 10. Action 2 choices (if one of the limited access alternatives in Action 1 is approved).

Alternatives	Intended outcome	Approval process
Category I possession limits	Keep Category I possession limits the same	Approve Alternative 1 (Section 4.3.2.1.1)
	Raise the whiting possession limit to 50,000 lbs. in Jan 1 to Jun 14 and/or lower the whiting possession limit to 30,000 lbs in Jun 15 to Dec 31.	Approve Alternative 2 (Section 4.3.2.1.2) and/or 3 (Section 4.3.2.1.3)
Category II possession limits	Keep Category II possession limits the same as Category I (unless Category I possession limits are revised)	Approve Alternative 1 (Section 4.3.2.2.1)
	Set a 15,000 lbs. whiting possession limit for Category II vessels	Approve Alternative 2 (Section 4.3.2.2.2)
Incidental permit possession limits	Keep whiting possession limits the same for everyone, regardless of limited access qualification.	Approve Alternative 1 (Section 4.3.2.3.1)
	Immediately implement limited access by reducing the whiting and red hake possession limits that apply to non-qualifying vessels	Approve Alternative 2 (Section 4.3.2.3.2)

Table 11. Action 3 choices (if one of the limited access alternatives is approved).

Alternatives	Intended outcome	Approval process
Limited access permit allowances (may approve Alternative 1 with one or more of Alternatives 2 to 5)	Make the permits have the same characteristics as a large-mesh multispecies limited access permit	Approve Alternative 1 (Section 4.3.3.1.1)
	Do not limit accumulation of permits by individuals or entities.	Approve Alternative 1 with Alternative 2 (Section 4.3.3.1.2)
	Do not allow a one-year extension of eligibility for vessel under construction as of the control date.	Approve Alternative 1 with Alternative 3 (Section 4.3.3.1.3)
	Qualify only one vessel based on a single history, history being tracked via the moratorium right ID and transferred upon vessel sale	Approve Alternative 1 with Alternative 4 (Section 4.3.3.1.4)
	Allow unlimited vessel upgrades	Approve Alternative 1 with Alternative 5 (Section 4.3.3.1.5)
Incidental permit allowances (may approve one or more of the alternatives with Alternatives 2a OR 2b)	Allow vessels using large-mesh groundfish gear while on a NE Multispecies DAS to exceed the incidental small-mesh multispecies possession limits.	Approve Alternative 2a (Section 4.3.3.2.2)
	Require a vessel with a NE Multispecies limited access permit to declare out of the fishery (DOF) to exceed the incidental possession limits	Approve Alternative 2b (Section 4.3.3.2.3)
	Allow only vessels with a limited access permit to target whiting and red hake while fishing in a small-mesh multispecies exemption program.	Approve Alternative 1 (Section 4.3.3.2.1)

Alternatives	Intended outcome	Approval process
	Allow vessels with a squid or herring limited access permit and declared into that fishery to exceed the small-mesh multispecies incidental limits	Approve Alternative 3 (Section 4.3.3.2.4)
	Allow non-qualifying vessels with incidental permits to target whiting and red hake in exemption areas that require a raised footrope trawl and exceed the incidental possession limits.	Approve Alternative 4 (Section 4.3.3.2.5)

Table 12. Matrix of Amendment 22 alternatives and expected impacts.

Alternative	Measures	Target species	Non-target species	Protected Resources	Physical Environment and EFH	Economy and Fishery-dependent Communities
No Action (preferred) (Section 4.1)	Retains open access fishery	Low negative	Negative	Low negative	Low negative	Positive
Action alternatives						
Whiting possession limits (Section 4.2)		Adjustments to whiting possession limits in the southern management area				
Alternative 1	Status quo	Low negative	Low negative	Low negative	Low negative	Positive
Alternative 2	Raise to 50,000 lbs.	Low negative	Low negative	Neutral to low negative	Neutral to low positive	Low positive
Alternative 3	Lower to 30,000 lbs.	Low positive	Low positive	Neutral to low positive	Neutral to low negative	Low negative
Action 1: Limited access alternatives (Section 4.3)						
Action 1: Qualification (Section 4.3.1)	Five alternatives to qualify vessels for Category I or Category II permits	Low positive	Low positive	Low positive	Low positive	Low positive for qualifying vessels Negative for non-qualifying vessels
Action 2: Possession limits (Section 4.3.2)	Whiting and red hake possession limits for Category I, Category II, and Incidental permits	Low positive	Low positive	Low positive	Low positive	Low positive for qualifying vessels Negative for non-qualifying vessels
Action 2: Whiting possession limits for Category I (Section 4.3.2.1)						
Alternative 1	Status quo	Low negative	Low negative	Low negative	Low negative	Positive
Alternative 2	Raise to 50,000 lbs.	Low negative	Low negative	Low negative to low positive	Neutral to low positive	Low positive
Alternative 3	Lower to 30,000 lbs.	Low positive	Low positive	Neutral to low positive	Neutral to low positive	Low negative
Action 2: Whiting possession limits for Category II (Section 4.3.2.2)						
Alternative 1	Status quo	Low negative	Low negative	Low negative	Low negative	Positive
Alternative 2	Lower to 15,000 lbs. whiting	Low positive	Low positive	Neutral to low negative	Neutral to low positive	Low negative
Action 2: Whiting possession limits for Incidental permits (Section 4.3.2.3)						

Alternative	Measures	Target species	Non-target species	Protected Resources	Physical Environment and EFH	Economy and Fishery-dependent Communities
Alternative 1	Status quo	Low negative	Low negative	Low negative	Low negative	Positive
Alternative 2	2000 lbs. whiting and 400 lbs. red hake	Positive	Positive	Neutral to low positive	Neutral to low positive	Low negative
Action 3: Permit allowances (Section 4.3.3)						
Limited access permits (Section 4.3.3.1)						
Alternative 1	Groundfish permit conditions	Depends on choice of Action 1 alternative	Same as impacts associated with the selected Action 1 alternative	Low positive	Low positive	Neutral
Alternative 2	No accumulation limit	Neutral or no meaningful impact	Neutral	Neutral	Neutral	Low positive
Alternative 3	Construction eligibility	Positive	Low positive	Low positive	Low positive	Low negative
Alternative 4	Qualification restriction	Positive	Low positive	Low positive	Low positive	Low positive
Alternative 5	Upgrading vessels	Neutral to low negative	Low negative	Neutral	Neutral	Low negative
Incidental permits (Section 4.3.3.2)						
Alternative 1	Fishing in exemption areas only by qualifiers	Low positive	Low positive	Low positive	Low positive	Low negative
Alternative 2a	May exceed incidental possession limit on a Multispecies DAS using large-mesh	Positive	Positive	Neutral	Neutral	Low positive
Alternative 2b	May not exceed incidental possession limit on a Multispecies DAS using large-mesh	Negative	Potentially negative	Neutral	Neutral	Low negative
Alternative 3	May exceed incidental possession limit when fishing for squids or herring	Positive	Positive	Neutral	Neutral	Low positive

Alternative	Measures	Target species	Non-target species	Protected Resources	Physical Environment and EFH	Economy and Fishery-dependent Communities
Alternative 4	Allow vessels with an incidental permit to fish in exemption areas requiring a raised footrope trawl	Neutral to low negative	Low positive on flatfish and low negative on roundfish	Low negative	Low negative	Positive