



New England Fishery Management Council

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MEETING SUMMARY

**SMALL MESH MULTISPECIES COMMITTEE
WHITING ADVISORY PANEL
March 13 2017**

**Fairfield Inn & Suites
185 MacArthur Drive
New Bedford, MA**

The Small-Mesh Multispecies (Whiting) Committee met jointly with the Whiting Advisory Panel on March 13, 2017 in New Bedford, MA.

MEETING ATTENDANCE:

Mark Gibson (Chairman), Mark Alexander, Peter Kendall, Eric Reid, Laurie Nolan, and Emily Gilbert (committee members); Andrew Applegate, Naresh Pradhan, and Lou Goodreau (NEFMC staff); Peter Burns (NMFS GARFO staff); John Almeida (NOAA General Counsel), and Tom Testeverde, Dan Farnham, Hank Lackner, and Katie Almeida (Whiting advisors). Three members of the public attended, including: Joe Orlando, Vito Giacalone, and Joe Jurek, all from Gloucester, MA.

Meeting documents were posted at the following location: <http://www.nefmc.org/calendar/mar.-13-2017-joint-whiting-committee-and-advisory-panel-meeting> .

KEY OUTCOMES:

- After reviewing written description of the alternatives and qualification estimates for them, the Whiting Advisory Panel (AP) and Whiting Committee added and revised alternatives to complete the full range of alternatives to be analyzed in the draft environmental impact statement. Both committees also reviewed the purpose and need draft. The range of alternatives will be proposed at the April Council meeting for approval and complete analysis. Preferred alternatives will be chosen and recommended at a future meeting.

AGENDA ITEM #1: TIMELINE OF 2017 WHITING ACTIONS

Presentation: Mr. Applegate presented a combined timeline chart (<http://s3.amazonaws.com/nefmc.org/Document-1-2017-Small-mesh-fishery-management-actions-timeline.pdf>) for two planned 2017 small-mesh multispecies actions, including Amendment 22 in progress and a 2018-2020 specifications package to begin in July. He also showed how these actions related to Ecosystem Based Fishery Management (EBFM) activities, since he is tasked with both committee actions. He stressed the importance of making progress on Amendment 22 early in 2017, specifically approving a range of alternatives at the April Council meeting and preferred alternatives at the June Council meeting. If the Council is unable to approve a range of alternatives for the April Council meeting, work on Amendment 22 would conflict with other whiting and EBFM actions later in the year, potentially delaying public hearings on the draft amendment for four to six months. He also pointed out that some 'efficiencies' would be possible if the fishery summaries are prepared together for Amendment 22 and for the specifications document.

Discussion: Mr. Goethel asked whether the assessment update for the specifications document could evaluate red hake stock structure, without a benchmark assessment. He pointed out that work on this had been requested several times, but the response has been that this type of review requires a benchmark assessment, which has not been scheduled for the foreseeable future. He felt that by combining the 'stocks' into one set of specifications would help to resolve the low annual catch limits (ACLs) and overages in the northern management area.

Mr. Applegate responded that the 2012 benchmark assessment took a hard look at red hake stock structure and found the evidence equivocal. Thus, the assessment continued to provide separate specifications for a northern and southern 'stock'. Mr. Applegate also reminded the committees that recent surveys indicated that the southern red hake specifications would be considerably less, following the biomass trends that have been observed in recent spring surveys.

AGENDA ITEM #2: AMENDMENT 22 PURPOSE AND NEED, ACTION 1 QUALIFICATION CRITERIA ALTERNATIVES

Presentation: Mr. Applegate reported that he had expanded on the purpose and need statement in the Amendment 22 scoping document, incorporating an improved description in the draft amendment document. The committees read the paragraphs at the meeting and had no further questions of comment.

There were three separable actions described in the initial draft Amendment 22 document. The first action had four alternatives, focused on limited access qualification criteria. Mr. Applegate continued, describing the draft of the four alternatives in the amendment document (http://s3.amazonaws.com/nefmc.org/2_-Amendment-22-initial-draft.pdf). The status quo, or No Action alternative is described which the Council could choose if it decided not to propose a whiting limited access program, following public hearings on the draft amendment. It would be compatible with Category I possession limit alternatives in Action 2, but not with Category 2 possession limits, incidental permit whiting possession limits, or with permit conditions in Action 3.

The second and third alternatives were developed and proposed by a previous joint Plan Development Team and Advisory panel meeting, both relying on a 2008-2012 (through the control date) qualification period. Compared to Alternative 1 (500,000 lbs. Category I; 100,000 lbs. Category II), Alternative 2 had a higher threshold for a Category I permit and a lower threshold for a Category II permit (1,000,000 lbs. Category I; 20,000 lbs. Category II). The qualification criteria for these alternatives were recommended in light of a fleet history analysis provided at the previous joint meeting. A third alternative was developed by the small-mesh multispecies committee at a meeting that followed it, based on a longer qualification period, 1996-2012 (control date).

Using a combination of dealer (CFDBS), vessel trip report (VTR), and the dealer-matching imputation system (DMIS), the highest reported landings were identified for each history ID or permit during the entire qualification period. Summary of fleet history data and 2014-2015 whiting fishery activity were presented during this meeting.

Alternative 1 would qualify 48 permits for Category I and 88 permits for Category II. Of these, 31 and 42 vessels landed at least one-pound of whiting during 2014-2015, respectively. Only two Category II vessels had no trips with more than 2,000 lbs. of whiting. There were 375 non-qualifying permits, but only 48 had any trips with more than 2,000 lbs. of whiting. There were 124 vessels with whiting landings and no history during 2008-2012, but none had trips over 2,000 lbs. of whiting.

Alternative 2 would qualify 25 permits for Category I and 229 permits for Category II. Of these, 19 and 102 vessels landed at least one-pound of whiting during 2014-2015, respectively. Only 20 Category II vessels had no trips with more than 2,000 lbs. of whiting. There were 327 non-qualifying permits, but only 18 had any trips with more than 2,000 lbs. of whiting. There were 124 vessels with whiting landings and no history during 2008-2012, but none had trips over 2,000 lbs. of whiting.

Alternative 3 would qualify 97 permits for Category I and 180 permits for Category II (1,000,000 lbs. Category I; 200,000 lbs. Category II during 1996-2012). Of these, 27 and 38 vessels landed at least one-pound of whiting during 2014-2015, respectively. Only two Category II vessels had no trips with more than 2,000 lbs. of whiting. There were 417 non-qualifying permits, but only 69 had any trips with more than 2,000 lbs. of whiting. There were 106 vessels with whiting landings and no history, but none had trips over 2,000 lbs. of whiting.

Discussion:

The committee agreed that the Purpose and Need section was satisfactory and needed no modification. The advisors and committee questioned how the fleet history data were used and how NMFS would use the data for actual qualification, after Amendment 22 is approved. Mrs. Gilbert asked how the permit histories were tracked and other committee members asked if the VTR data would be considered for actual qualification.

Mr. Applegate replied that the fleet histories were associated with the Moratorium Right ID (MRI), consistent with the assumption NMFS applies to limited access (groundfish, scallop,

herring, squid, mackerel, butterfish, etc) vessel sale and permit transfers, not just the permit number. He mentioned that he had tracked about 12 related vessels and permit transfers in the fishery to understand and apply this procedure. Mr. Applegate said that during 2008-2012, the highest landings of small-mesh multispecies (silver, offshore, and red hakes) were identified for each MRI or permit (ones with no MRI association) from all three data sources. VTR and dealer data were used for 1996-2012. These landings were compared with the Category I and II thresholds for each alternative to identify potential qualifiers and evaluate their 2014-2015 fishing activity. He said that there was not yet sufficient time to incorporate complete 2016 calendar year data.

Mr. Applegate was unaware of a circumstance where an amendment specified the type of data that NMFS should use for qualification, but that it was customary for NMFS to use dealer data for initial qualification, and that fishermen could bring in other sources of data, including VTR, to substantiate their qualification. He said that discrepancies between the data sources often occurred because in the whiting fishery, vessels would frequently land a trip at multiple dealers and one of the dealers did not report, or reported the landings with a second trip by the vessel. He also found cases when a dealer reported landings from multiple trips as if it were one, making trip matching difficult unless there was an accurate VTR serial number on the dealer report.

The advisors and committee thought that the document could be improved by explaining these issues in the qualification procedure (alternatives in Action 3) and be clear that other sources of data besides dealer reports could be submitted or used to substantiate a vessel's qualification.

Mr. Goethel thought that the analysis confirmed his expectations about the number of qualifying vessels. He thought the range of alternatives was about right, showing a tradeoff between number of qualifiers, their recent activity, and the qualification criteria thresholds. He felt that Alternative 3, with the 17-year qualification period would qualify an additional 70 to 140 vessels having no recent landings and that these qualifiers would be a potential pool of permits to be bought for others to enter the fishery. He added that an additional 12-15 qualifiers would be added by extending the qualification period through 2015.

Several fishermen from Gloucester spoke against using the chosen qualification periods for determining limited access. They pointed out that there was a vibrant Ipswich Bay fishery in the 1970s and 1980s conducted by vessels that have been fishing short-handed in the groundfish fishery in recent years, particularly since 2008. Some vessels began targeting whiting with the advent of 2:1 counting in 2016. They felt that this historic participation was not addressed or acknowledged, nor the potential for a more active northern fishery to develop. They saw the potential in the existing alternatives for more vessels from the southern area coming north to fish, when other vessel and fishermen in the northern area would be excluded. They said that it would be common for day-boat trips to land 5,000 to 7,000 lbs. from Ipswich Bay.

Letters from several fishermen with similar thoughts were received by the Council and provided to the meeting participants as correspondence.

The committee asked if the analysis of recent fishing activity could be broken down into northern and southern areas. Mr. Applegate agreed that we could do that, but cautioned that the

committee chose one set of qualification criteria across the board to avoid problems in identifying where landings originate from for the purposes of qualification.

1. MOTION: Mr. Goethel / Mr. Farnham (advisors)

To add Alternative 4 to Alternative 1 qualification criteria with 2008-2016 (calendar year) period for qualifying history.

2. MOTION: Mr. Kendall / Mr. Alexander (committee)

To approve the AP motion for inclusion in A22.

Rationale: This alternative would include historic fishery that might not qualify for activity in a short 2008-2012 qualification period, which have been recently active in the fishery

Discussion on the Motions:

The committee also asked about whether the Council could consider history for qualification since the control date. Mrs. Gilbert replied that the control date's purpose was to reduce the incentive for speculative entry into the fishery, but that the Council could and has extended the qualification period when needed. The advisors and committee members felt that including 2013-2016 in the qualification period would acknowledge new participation in the fishery, yet for most vessels would still require significant participation in the fishery before the control date. Mr. Testeverde was against deviating from the control date because it would do a better job protecting the livelihood of whiting fishermen that participated throughout. Mr. Alexander was concerned that selecting 2016 and omitting 2017 as the terminal year could run into a legal issue.

These motions would apply the Alternative 1 qualification criteria (500,000 lbs. for Category I and 100,000 lbs. for Category II) to a longer 2008-2016 calendar year period. The committee recognized that the threshold is actually lower than for Alternative 1, because a vessel might qualify with more years of history. The advisors and committee also recognized that the moratorium right ID (MRI) number would be used (and was used in the presented analyses) to track a vessel's history in the fishery. Some vessel owners did not retain the history when they sold a vessel and did not understand the potential future consequences. For this reason, the advisors recommended that this alternative in Motion 1 apply the Alternative 1 qualification criteria over a longer period of time, thereby giving owners that 'lost' history due to a vessel sale and replacement a better chance at qualification based on the newer vessel's history. The advisors and committee would like to see this alternative analysis to evaluate its potential biological and economic effect.

**ADVISORY PANEL MOTION #1 The motion carried 3-2 (chair in favor).
COMMITTEE MOTION #2 The motion carried 5-0.**

3. MOTION: Mr. Reid / Mr. Kendall (committee)

To add an alternative with a 500,000 lbs. criteria for Category 1 and 100,000 lbs. for Category 2 during 2000-2016 (calendar year).

Rationale: By applying the Alternative 1 qualification criteria to a longer fleet history period, this alternative would liberalize the qualification criteria for past and present participants.

Discussion on the Motion: The committee viewed fleet history data as being more reliable than it was from 1996-1999 and would probably not create as much latent effort or inactive qualifying permits. It would also give the vessels a longer period to meet the qualification criteria, reducing the possibility of displacement due to a selection of years for qualification. Moving the time period up to 2016 would qualify more current participants and reduce the number of latent permits issued that would have otherwise qualified during 1996-1999.

COMMITTEE MOTION #3 The motion carried 5-0.

4. MOTION: Mr. Kendall / Mr. Alexander (committee)

To add an alternative to Section 4.1 to Category 1 landings of 500,000 lbs. and Category 2 landings of 20,000 during 2000-2016 calendar years.

Rationale: This potential alternative would be consistent with the Category 2 qualification criteria and would allow potentially more vessels that fished in the historic Ipswich Bay fishery to qualify.

Discussion on the Motion: Most thought that the Category 2 threshold was much too low (averaging a little over 1,000 lbs. per year). They felt that this would continue an open access small-mesh multispecies fishery, only in a different way (i.e. via a very liberal qualification criteria).

COMMITTEE MOTION #4 The motion failed 1-4.

AGENDA ITEM #3: ACTION 2 LIMITED ACCESS CATEGORY I AND II POSSESSION LIMIT ALTERNATIVES

Presentation: Mr. Applegate explained that the alternatives in Action 2 were identified by the committee at previous meetings, relating the possession limits to fishing capacity and number of qualifiers for an alternative. The committee also deferred consideration of raising the whiting possession limit in the southern area to 50,000 lbs. during the winter months, when whiting landings would not conflict with the northern area whiting fishery. He also pointed out that the southern area whiting possession limit was raised to 40,000 lbs. a few years ago to maintain profits when fuel prices spiked. Now that fuel prices have declined and stabilized, it could be beneficial to restore the 30,000 lbs. whiting possession limit, particularly during the summer and fall months when the higher volumes of whiting landings have created marketing problems for the northern whiting fishery.

Alternative 1 essentially describes the status quo, but would apply to vessel that qualify for a Category I permit. It could also serve as a No Action alternative in the case if the Council does not choose to create a limited access program, following public hearings. Alternatives 2 and 3 could also apply to a Category I permit, or to the Category K (existing) permit for vessels in an exempted small-mesh multispecies fishery if there is no limited access program established. In all alternatives, the whiting possession limit would be consistent with existing limits if the vessel uses trawls with less than 3-inch mesh.

Alternative 2 would raise the southern whiting possession limit to 50,000 lbs. during December 1 to April 30, developed from a previous request for consideration by the advisors. Alternative 3 would restore the southern whiting possession limit to 30,000 lbs. during May 1 to November 31.

5. MOTION: Mr. Farnham /Mr. Testeverde (advisors)

To change Alternative 3 so that possession limit changes to 30,000 lbs. during June 15 to December 31.

Rationale: The dates would correspond with the range of dates that the northern exemption area fishery, matching when the Cultivator Shoals Area is open to fishing.

6. MOTION: Mr. Goethel /Mr. Farnham (advisors)

In Alternative 2 to raise the possession limit to 50,000 during Jan 1 to Jun 14.

Rationale: Increase capacity to take optimal yield when weather is good and market impacts are less problematic to the northern fishery.

7. MOTION: Mr. Alexander /Mr. Reid (committee)

To adopt the AP amendments to sections 4.2.1.2 and 4.2.1.3.

Discussion on the Motions:

The advisors and committee refined the alternatives to be more consistent with the exemption area dates.

ADVISORY PANEL MOTION #5 The motion carried 4-0.

ADVISORY PANEL MOTION #6 The motion carried 3-1.

COMMITTEE MOTION #7 The motion carried 5-0.

AGENDA ITEM #4: ACTION 2 INCIDENTAL PERMIT POSSESSION LIMIT ALTERNATIVES FOR NON-QUALIFYING VESSELS

Presentation: Mr. Applegate explained that Alternative 1 is included as a ‘status quo’ option that could apply to vessels with an Incidental permit, i.e. a non-qualifying vessel. This alternative would not really apply if the Council did NOT select a limited access program, but it would enable the Council to establish limited access without implementing reduced possession limits for non-qualifying vessels. While this may not make immediate sense, the alternative would give the Council the ability to allow the fishery to achieve optimum yield and reduce the possession limit for non-qualifying vessels later if needed.

The 2,000 lbs. whiting possession limit for Alternative 2 was identified by the advisors and committee at a previous meeting, after seeing that in 2014-2015 non-qualifying vessels rarely exceeded 2,000 lbs. per trip. The analysis given at this meeting confirmed those findings.

Discussion: The advisors and committee confirmed that a 400 lbs. red hake incidental limit would also apply in Alternative 2 and asked that the text be corrected. A committee member asked if this would be a triggered limit or if it would require a framework adjustment. Mr. Applegate explained that this would not be a triggered limit and would apply at the beginning of the fishing year. He said this measure could be changed by specification and he would check whether the existing language would allow such an adjustment and clarify the amendment document language if necessary.

AGENDA ITEM #5: ACTION 3 PERMIT CONDITIONS AND ALLOWANCES

Presentation: To prepare this section and present potential alternatives, Mr. Applegate reviewed the limited access permit characteristics and conditions in the regulations for three related plans: NE Multispecies, Atlantic Herring, and Squid, Mackerel and Butterfish Fishery Management Plans (FMP). While the limited access permit regulations were mostly the same across plans, there were some important differences among them, including but not limited to ownership caps and permit renewal requirements. A summary of the limited access permit regulations for the three FMPs was given in Table 3 of the draft Amendment 22 document.

Mr. Applegate thought it was important for the small-mesh multispecies fishery to make the permit regulations as compatible as possible to minimize cost and inconsistencies. Although the small-mesh multispecies vessels often fish in other small mesh fisheries (e.g. herring, squid, and northern shrimp), the small-mesh multispecies regulations are part of the NE Multispecies FMP and could be compatible with that plan.

Thus, in Section 4.3.1 (Action 3) pertaining to Category I and II limited access small-mesh multispecies permits, Alternative 1 includes the limited access permit conditions and allowances that are consistent with the NE Multispecies limited access permit regulations, including caps on ownership, vessel upgrades, permit renewal, and construction extension of eligibility for qualification. For conditions and allowances that vary among related FMPs, an alternative for each was written into the document. Alternative 2 would omit any ownership caps. Alternative 3 would disallow qualification on the basis of a vessel under construction. Alternative 4 would limit the use of a permit or MRI history to qualify only one vessel. Alternative 5 would allow limited access vessels to be upgraded without restriction. Rationale for each alternative is given in the draft Amendment 22 document.

Section 4.3.2 contained alternatives that would apply to non-qualifying vessels having an incidental small-mesh multispecies permit. The alternatives describe whether a vessel could fish for small-mesh multispecies when fishing in other related fisheries. The alternatives are not mutually exclusive, in other words one or more could be chosen as preferred.

Alternative 1 would prohibit vessels using small-mesh trawls from fishing in the exemption areas when they are targeting species other than whiting and red hake. Thus, only vessels with limited access small-mesh multispecies permits could fish in the exemption areas using small-mesh trawls.

Alternative 2 would specify that a vessel with a NE Multispecies limited access permit AND a small-mesh multispecies limited access permit must not be on a NE Multispecies DAS and declare itself DOF (declared out of the fishery) to use small-mesh trawls in a small-mesh multispecies exemption area.

Alternative 3 would allow vessels fishing for herring or squid (with a limited access permit) to exceed the incidental limits for whiting and red hake while fishing in an exemption area.

8. MOTION: Mr. Goethel /Mr. Testeverde (advisors)

To add an alternative in Section 4.3.2 that allows a multispecies vessel on a DAS to exceed the incidental possession limit for whiting.

Rationale: This alternative would allow a vessel with both a NE Multispecies and small-mesh multispecies limited access permits to target whiting and red hake using small-mesh trawls while on a NE Multispecies DAS. It would not allow the vessel to exceed the groundfish (and other species) possession limits for the exemption area, however.

9. MOTION: Mr. Alexander /Mrs. Nolan (committee)

To adopt the AP amendments to sections 4.3.2.

Discussion on the Motions: Mr. Goethel pointed out that the incidental limit alternatives as written could create a problem for vessels participating in the northern shrimp state waters fishery. Those vessels are presently able to retain fish up to 50% of the total weight of shrimp onboard. It was not immediately clear whether these vessels also have Federal fishery permits or are state-water vessels only. If it is the latter, the committee believed that the alternatives would not affect the shrimp fishery. If the vessel has Federal fishery permits, then the incidental permit conditions would apply to it and may change the whiting and red hake possession limits wherever the shrimp fishing occurs.

The advisors and committee thought that Alternative 2 pertaining to the use of NE Multispecies DAS was confusing. Once it was sorted out, the advisors thought that an additional alternative should be added to allow vessels on a NE Multispecies DAS to fish for small-mesh multispecies while using small-mesh trawls. It was not clear what advantage this would have, but the trips by these vessels would still be subject to exemption area possession limit for species other than whiting and red hake.

Mr. Goethel thought that Alternative 3 would create a large loophole for vessels with herring and squid permits to target small-mesh multispecies, even though they might not qualify for a small-mesh multispecies limited access permit. He thought that vessels on a herring or squid trip should be subject to the 2000 lbs. whiting and 400 lbs. red hake limit, unless the vessel qualifies for limited access. If the Council agrees, it could simply not choose alternative 3 for the final amendment. In other words, another alternative is not needed in the document.

**ADVISORY PANEL MOTION #8 The motion carried 4-0.
COMMITTEE MOTION #9 The motion carried 5-0.**

AMENDMENT 22 FINAL APPROVAL OF THE RANGE OF ALTERNATIVES

10. MOTION: Mr. Kendall /Mrs. Reid (committee)

To recommend that the Council approve the range of alternatives in Amendment 22 draft DEIS, as amended during the AP and Committee meeting.

This is the formal recommendation of the committee that the Council approve the full range of alternatives for the draft amendment, beginning the analysis of alternatives and development of a draft environmental impact statement.

COMMITTEE MOTION #10 The motion carried 4-0-1 (Mrs. Gilbert abstaining).

After all were satisfied with the range of Amendment 22 alternatives, the meeting adjourned at approximately 3:00 p.m.