

levels, should the Council require such a benchmark when developing a new limited access program.

The Whiting Monitoring Committee (WMC) recommended that the Council consider establishing a new control date for small mesh multispecies because circumstances in Northeast fisheries have changed since the establishment of the September 1996 control date. Amendment 5 to the FMP prevented fishing with small mesh in the northern stock area until exempted fisheries could be established that reduce the bycatch of regulated multispecies to less than 5 percent. Since implementation of Amendment 5 in 1994, experimental and exempted fisheries for small mesh multispecies in the northern stock area have evolved through cooperative experimentation, gear research, and gear technologies that significantly reduce bycatch of non-target species, especially regulated multispecies. Many of these technologies took years to develop and, as a result, the 1996 control date does not capture current levels of participation or fishing practices in the small mesh multispecies fishery, especially in the northern stock area. Therefore, it is unlikely that the Council would utilize a dated control date in the development of a new limited access program for small mesh multispecies. A new control date is more likely to be utilized in a limited access program because it would capture current participation in the small mesh

multispecies fishery and provide a more suitable benchmark.

This notice establishes March 25, 2003 as the new control date for potential use in determining historical or traditional participation in the small mesh multispecies fishery. Consideration of a control date does not commit the Council or NMFS to develop any particular management regime or criteria for participation in this fishery. The Council or NMFS may choose a different control date, or may choose a management program that does not make use of such a date.

Fishermen who have not participated in the small mesh multispecies fishery or change their level of participation in this fishery are notified that entering this fishery or changing their level of participation after this control date may not qualify them as previous participants, should such a criterion be the basis for future access to the small mesh multispecies resources. Fishermen are not guaranteed future participation in the fishery, regardless of their entry dates or intensity of participation in this fishery before or after the control date. The Council and NMFS may choose to give variably weighted consideration to fishermen active in the fishery before and after the control date. The Council and NMFS may also choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded. Any action by the Council or NMFS will be taken

pursuant to the requirements for FMP development established under the Magnuson-Stevens Act.

Establishing a new control date for the small mesh multispecies fishery may help to discourage an influx of new participants as a short-term response to the restrictions expected to be implemented under Amendment 13 to the FMP. This could aid in preventing rapid stock declines and help keep the fishery viable for current and historical participants. The 2002 Stock Assessment and Fishery Evaluation Report, prepared by the WMC, expressed concern that effort may increase in the small mesh multispecies fishery as a result of increasing restrictions in other fisheries, such as the large mesh multispecies (groundfish) fishery, which are currently under development by the Council.

This notification also gives the public notice that interested participants should locate and preserve records that substantiate and verify their participation in the small mesh multispecies fishery in Federal waters.

Authority: 16 U.S.C. 1801 *et seq.*

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