

## **Lobster Pot Fishery in the Standardized Bycatch Reporting Methodology (SBRM)**

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### **Action Plan**

**Councils:** New England and Mid-Atlantic Fishery Management Councils

**Fishery:** All Fishery Management Plans (FMP)

**Title of Action:** SBRM Omnibus Framework Adjustment

**Goal:** The goal of this action is to better meet the Magnuson-Stevens Act requirement for FMPs to establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery. This action would reduce potential sources of bias in sampling and discard estimates for the New England and Mid-Atlantic lobster pot fleets, as soon as practical, while minimizing the administrative burden on these vessels.

**Background:** The SBRM uses Vessel Trip Reports (VTRs) to identify how many fishing vessels are active in a fleet and determine the amount of fishing activity occurring throughout the year. The Federal lobster permit does not require a vessel to submit VTRs. However, many lobster pot vessels do submit VTRs as a condition of another Federal permit. These vessels may not be a truly representative cross section of the overall lobster pot fleet in Federal waters. Although this discrepancy was identified in the SBRM Omnibus Amendment, increased observer coverage assigned to the New England lobster pot fleet in 2015 highlighted the limitations of the current process. In October 2015, the Atlantic States Marine Fisheries Commission (ASMFC), States, Northeast Fisheries Science Center (NEFSC), and Greater Atlantic Regional Fisheries Office (GARFO) convened a workshop on several issues related to lobster observers, including the potential impact of this selection criteria.

The workshop led to the development of an expanded SBRM lobster sampling frame that uses permit information and dealer data to identify all active lobster pot vessels, regardless of whether the vessels submit VTRs. This would ensure that all trips made by vessels with Federal lobster permits are in the sampling frame for the lobster pot fleets. As a result, it provides a more representative sample of the fishery, which in turn would result in less potential for bias in estimates of bycatch in lobster pot gear. This also spreads the burden of carrying an SBRM observer over more vessels and so reduces the inconvenience on any single vessel.

However, analysis within the SBRM Omnibus Amendment specifically states the Amendment would not apply to vessels with only a lobster permit that do not submit VTRs. Although the expanded sampling frame is widely agreed to be an improvement to the process, this language in the SBRM Omnibus Amendment means that the public may not have been able to adequately foresee and comment on the potential application of SBRM observer coverage to the entire universe of Federal lobster pot vessels. As a result, we continue to use the original, more narrow lobster sampling frame until a more permanent solution can be implemented.

This action would clarify that the Councils intend for the SBRM process to monitor bycatch of federally managed or protected species from the entire lobster pot fleet. This is effectively

equivalent to simply removing the conflicting sentence from the SBRM Omnibus Amendment. This action would allow the NEFSC to include fishing activity and catch data (e.g., trip length, date, pounds kept, port of landing, etc.) for all active lobster pot vessels in the annual SBRM analyses, and to assign Northeast Fishery Observer Program (NEFOP) coverage to any Federal lobster pot vessel, regardless of whether the vessel is required to submit VTRs. The precise method for identifying active lobster vessels may be adjusted in the future without additional Council action; for example, if the ASMFC modifies reporting requirements for lobster vessels.

#### **Proposed Actions/Solutions/Alternatives:**

- No Action.
- Stipulate the SBRM New England and Mid-Atlantic lobster pot fleets include all active vessels that fish with this gear in Federal waters. (This could be accomplished using the expanded sampling frame already devised, and could be modified in the future without further Council action to better reflect the lobster fleet.)
- Require all Federal lobster vessels to submit VTRs for all trips. (This may not be consistent with the proposed goal of this action.)

#### **Likely Impacts:**

This action would be administrative. It would simply clarify the Councils' intent for the SBRM analyses to incorporate all active federally-permitted lobster pot vessels regardless of whether they submit VTRs; effectively removing the conflicting sentence from the SBRM Omnibus Amendment. This action would not increase or decrease the total number of observer sea days assigned to the New England or Mid-Atlantic lobster pot fleets, but would spread coverage over a larger number of vessels. This action is not anticipated to add any additional reporting requirements for lobster vessels, and vessels with a Federal lobster permit are already required to carry an observer if requested. Vessels must provide accommodation, but are not required to pay for NEFOP observers. Therefore, this action is not anticipated to result in any changes to the operation of the lobster pot fisheries, including where, when, or how vessels fish.

#### **Applicable Laws and Regulations:**

- NEPA Analysis
  - (EIS/EA/CE/SIR) – mainly an administrative action

Magnuson-Stevens Act	Yes
Administrative Procedure Act	Yes
Regulatory Flexibility Act	Likely certified
Paperwork Reduction Act	Unlikely, unless expanding VTR
Coastal Zone Management Act	Unlikely, action is administrative
Endangered Species Act	Unlikely, action is administrative
Marine Mammal Protection Act	Unlikely, action is administrative
E.O. 12866 (Regulatory Planning and Review)	Likely
E.O. 12630 (Takings)	Unlikely, legal review will confirm
E.O. 13132 (Federalism)	Unlikely, legal review will confirm
Essential Fish Habitat	Unlikely, action is administrative

Information Quality Act	Yes
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**Responsibility:** NMFS agreed to take the lead role in drafting the framework adjustment and associated analysis to address this issue. The Councils will be consulted on the scope and provide review and comment on a draft and final action.

Agency	Name	Responsibility
NMFS GARFO SFD	Douglas Potts	Coordinate writing, analysis, and rulemaking
NMFS GARFO NEPA	Marianne Ferguson	Analysis and review
NEFMC	[TBD, if needed]	
MAFMC	[TBD, if needed]	
NEFSC	Susan Wigley	Implement changes to SBRM process

**Timeline:**

- June 2017 – Councils review draft omnibus framework action and review/approve draft action plan, proposed purpose and need, and proposed alternatives for consideration (first framework meeting).
- August/September 2017 – Councils take final action.
- Fall/Winter – GARFO completes any remaining analysis and rulemaking.
- April 2018 – 2018 NEFOP observer year begins, using sea day schedule based on new sampling frame.