

# Joint New England and Mid-Atlantic Council Omnibus Alternative Gear-Marking Framework Adjustment

## Plan Development Team/Fishery Management Action Team (PDT/FMAT)

### Meeting 5 Summary

July 8, 2025

10 AM – 12 PM Eastern Time

Attendance: Caroline Potter (GARFO), Alli Murphy (GARFO), Nicole Morgan (GARFO), Dan Mckiernan (MA DMF), Erica Fuller (CLF), Sefatia Romeo Theken (MA), David Chosid (MA DMF), Emily Bodell (NEFMC), David McCarron (NEFMC), Erin Wilkinson (ME DMR), Hayden Dubniczki (MAFMC), Jen Goebel (GARFO), Jay Hermesen (GARFO), Brendan Reilly (MA DMF), Caitlin Starks (ASMFC), DMR (unknown), Heidi Henninger (NEFSC), Kaleigh Hill (GARFO), Katline Barrows (SERO), Mackenzie Peacock, Robin Frede (NEFMC), Sam Duggan (GC), Virginia Olsen (MLU), Megan Ware (ME DMR), Alexander Dunn (NEFMC), Marianne Randall (GARFO), Chao Zou (GARFO), Loyd Chenoweth (public), Bob Glenn (MA DMF), Hank Soule (AOLA), Danielle Palmer (GARFO), Unknown call in number

## Meeting Objectives

- Discuss Alternative Set 1 and 2 to the extent desired by Team members
- Discuss any needed changes to the list of functional equivalence elements
- Discuss upcoming meetings and task timeline
- Provide opportunity for public comment

## Alternative Sets

### **Alternative Set 1: Authorization of approved gear-marking alternatives**

**Purpose:** The purpose of Alternative Set 1 of this framework adjustment is to establish optional surface marking provisions for fixed-gear fisheries in the Greater Atlantic Region. This regulatory modification would allow for the use of fixed gear without a persistent buoy line.

**Need:** The need for Alternative Set 1 of this framework adjustment is to provide fishermen additional opportunities to fish in areas where, and during times when, the use of persistent buoy lines is restricted.

**Alternative 1A: No Action.** This alternative would not allow for alternative gear marking and would continue to require current surface markings (radar reflectors, highflyers, etc.).

**Alternative 1B: Region-wide alternative gear marking.** This alternative would allow the use of alternative gear marking in all Federal waters within the Greater Atlantic Region.

**Alternative 1C: Spatially and temporally limited alternative gear marking.** This alternative would allow alternative gear marking during and within persistent buoy line ~~seasonal~~ restricted areas established by the Atlantic Large Whale Take Reduction Plan.

**Alternative 1D: Spatially limited alternative gear marking.** This alternative would allow alternative gear marking within persistent buoy line ~~seasonal~~ restricted areas established by the Atlantic Large Whale Take Reduction Plan during ~~seasonal~~ closures and in the same geographical areas when closures are not in place.

***The following was discussed:***

- The importance of clarifying that the current alternatives, 1C and 1D, would allow approved gear-marking alternatives in *current* and *future* Atlantic Large Whale Take Reduction Plan (TRP) vertical line restricted areas, including one-end-ropeless areas. And to clarify that Alternative 1B would not put in place any temporal restrictions (i.e. alternative-gear markings could be used all year).
- The possibility of including additional alternatives/sub alternatives/etc. that would include a period of time of more restricted geographical use of gear-marking alternatives and then, after consultation with the Councils, NOAA Fisheries could increase the areas where gear-marking alternatives could be allowed. A Council action and subsequent rulemaking could take 1.5 years or more and thus members expressed concerns about being too restrictive now with where alternative-gear markings could be approved for use and having to create another action in the future to adjust where it is allowed.
- The option of limiting alternative gear marking to only *currently established* TRP vertical line restricted areas and then (after a certain amount of time and consideration and potentially consultation with the Councils) gear-marking alternatives could be allowed in a greater geographical area without needing to create another Council action. It was discussed that this concept could create confusion if there were future changes to the boundaries of currently established restricted areas.
- That the Secretary of Commerce would consult with the Councils on future Take Reduction Plan modifications and the Councils could provide recommendations on the appropriateness of allowing gear-marking alternatives in any proposed vertical line restricted areas.
- The approval process for gear-marking alternatives. Approval could include the Regional Administrator considering *where* a gear-marking alternative should be allowed.
- The next steps in the broader process of adopting gear with alternative gear marking should be clarified in the framework document. It was noted that there is a lack of understanding of when fishermen and other stakeholders will be able to provide input on additional steps toward the approval and use of on-demand gear and gear-marking alternatives.
- A public participant highlighted that it could be helpful for fishermen to know where they should expect to not encounter gear without surface markings.

**Alternative Set 2: ~~Training Educational~~ requirement to use an approved gear-marking alternative**

Alternative Set 2 would only be considered if the Councils choose **Alternative 1B, 1C, or 1D.**

**Purpose:** The purpose of Alternative Set 2 of this framework adjustment is to promote the accuracy of alternative gear-marking location information.

**Need:** The need for Alternative Set 2 of this framework adjustment is to reduce the likelihood of inaccurate gear location marking which could lead to gear conflict, unsuccessful gear retrievals, and reduced fishermen safety.

**Alternative 2A: No Action.** This alternative would not require a person to demonstrate knowledge of any approved gear-marking alternatives.

**Alternative 2B: Educational Requirement.** This alternative would require a person to demonstrate knowledge of an approved gear-marking alternative.

*The following was discussed:*

- Approval of gear-marking systems could include a requirement that each manufacturer provide educational materials on how to mark the location of its gear.
- Fishermen could be provided information on common mistakes when using gear-marking alternatives. The focus of the educational requirement could be on fishermen demonstrating they understand how to mark their gear and not on them being “educated.”
- The educational program and how alternative gear marking users would be required to demonstrate their knowledge should depend on how an on-demand fishery develops. Thus, while the decision whether or not an educational requirement should be required could be determined now, the specifics of that educational requirement would be best determined at a later date. An educational program could be further developed when there is more certainty around how an on-demand gear fishery would be operationalized on a larger scale, or when it is more clear what types of alternative gear-marking systems the Regional Administrator would be approving. Therefore, the Team agreed that it would be acceptable for the Councils to proceed with requiring an educational component with the intention that the educational requirement would be fully developed at a later, more appropriate date. In addition, it should be clear that the educational requirement would be determined by the Regional Administrator as gear-marking alternatives are approved. However, key topics for a requirement could be identified sooner.
- A public commenter suggested that an educational requirement should not be burdensome or intensive. This is partly because essentially all lobster fishermen already digitally mark their gear on their chart plotters to track where they set their gear. The difference with current practice and marking with alternatively marked gear is that the location data of the latter may need to be shared so others ocean users can also see the markings. Creating stringent educational requirements could create a bottleneck for the adoption of on-demand gear that is not sustainable if a large number of people want to use it.

## Functional Equivalence

### Background

The Regional Administrator would approve gear-marking alternatives based on their functional equivalence to current surface markings. As such, NMFS intends to define functional equivalent in regulations.

- Previously developed [Buoy and On-Demand Systems Chart](#)
- California allows alternative gear for the Dungeness crab fishery [[14 CCR §132.8\(h\)](#)]

### **Potential Elements of a Functional Equivalent**

- Detectability: ocean users are able to locate the gear
- Retrievability: gear must have an identified means of retrieval
- Identification: gear is marked with identifying information that replicates what is currently required (e.g., owner, vessel, permit information)
- Enforceability: enforcement is able to locate, retrieve, and redeploy the gear
- Viewing distance: gear can be detected/located from a similar minimum distance as current surface markings
- Set direction: gear's set direction is identifiable
- Timing: gear location information is accessible by others at the time of deployment and while the gear persists in the water

#### ***The following was discussed:***

- Whether the ability to detect digitally marked gear on an open access platform should be specified in the functional equivalence elements. Ideally all digitally marked gear would be visible on one platform.
- The desired/needed accuracy of digital markings compared to the actual bottom location of gear.
- The technological feasibility of highly accurate gear location as well as the cost of increased bottom position accuracy.
- The [Proposal for Functional Data Specifications of On-Demand Fishing Gear](#) as a useful resource.
- Timing and real time marking was raised by a Team member as an essential element of a functionally equivalent system.

### **Action Timeline**

February 19, 2025	PDT/FMAT Meeting 1
March 12, 2025	PDT/FMAT Meeting 2
April 2025	NEFMC & MAFMC - Initiated action
April 28, 2025	PDT/FMAT Meeting 3
May 2025	ASMFC Meeting - Update
May 20, 2025	PDT/FMAT Meeting 4
June 2025	NEFMC & MAFMC - Updates
July 8, 2025	PDT/FMAT Meeting 5

August 2025	ASMFC - Updates
September 2025	NEFMC takes final action
October 2025	MAFMC takes final action ASMFC - Update

## Follow-Up/Writing Responsibilities and Timeline

- Drafters should consider incorporating information by reference, where appropriate
- Writers should draft 508 compliant

Gear Marking Framework Adjustment	Person(s) Responsible
Title Pages	Leads
Executive Summary	Leads
Table of Contents, Tables, Figures, Maps, Appendices, Acronyms	Leads
1. Background and Purpose	Leads
2. Alternatives Under Consideration	Leads
3. Affected Environment	
3.1 Introduction	Leads
3.2 Affected Species	Leads
3.3 Protected Species	Jen Goebel/PRD Staff
3.4 Physical Environment and Essential Fish Habitat	Leads
3.5 Human Communities	Chao Zou/Kaleigh Hill
4. Environmental Impacts of Alternatives	
4.1 Introduction	Leads
4.2 Impacts on Species	Leads
4.3 Impacts on Protected Species	Leads
4.4 Impacts on Physical Environment and Essential Fish Habitat	Leads
4.5 Impacts on Human Communities	Chao Zou/Kaleigh Hill
4.6 Cumulative Effects Analysis	Leads
References	All Writers
Appendices	
A. Applicable Laws/Executive Orders	
Magnuson-Stevens Fishery Conservation and Management Act (MSA)	Leads
Atlantic Coastal Fisheries Cooperative Management Act (ACA)	Leads
National Environmental Policy Act (NEPA)	Leads
Marine Mammal Protection Act (MMPA)	Leads
Endangered Species Act (ESA)	Leads
Administrative Procedure Act (APA)	Leads

Paperwork Reduction Act (PRA)	Leads
Coastal Zone Management Act (CZMA)	Leads
Information Quality Act (IQA)	Leads
Executive Order 13158 (Marine Protected Areas)	Leads
Executive Order 13132 (Federalism)	Leads
Regulatory Flexibility Act (RFA)	Chao Zou/Kaleigh Hill
Executive Order 12866 (Regulatory Planning and Review)	Chao Zou/Kaleigh Hill

## **Timing**

- PDT/FMAT draft *Meeting Summary* to PDT/FMAT by: End of Day (EOD) *July 10*
- PDT/FMAT edits/comments on *Meeting Summary* to leads by: EOD *July 14*
- Remaining writer *Framework Adjustment* updates to leads: EOD *August 1*
- Draft *Framework Adjustment* to PDT/FMAT for review: *August 8*
- PDT/FMAT edits/comments on *Framework Adjustment* to leads: EOD *August 22*
- *Framework Adjustment* to NE Council for September meeting: *September 12*
- *Framework Adjustment* to MA Council for October meeting: *September 25*
- *Framework Adjustment* to GARFO staff for review after fall Council meetings (this will start the 1-year FONSI timeline)

## **Upcoming Meetings**

- ASMFC Lobster Advisory Panel meeting: July 14
- ODWG meeting (brief action update): July 23
- PDT/FMAT meeting 6: August 21, 9 am – 11 am
- Public input session for action: August 26
- ASMFC summer meeting: American Lobster Management Board on August 5
- Joint Groundfish and Recreational Advisory Panel meeting: September 3
- PDT/FMAT meeting 7: September 11, 10 am – 12 pm
- Scallop Advisory Panel meeting: September 12
- Council Meetings: NEFMC September 23-25. MAFMC October 7-9

## Current Gear-Marking Regulations

### **Magnuson Stevens Act**

General Prohibitions at § 648.14(k)(10): ***Gear marking requirement for all persons.*** It is unlawful for any person, including any owner or operator of a vessel issued a valid NE multispecies permit or letter under § 648.4(a)(1)(i), unless otherwise specified in § 648.17, to fail to comply with the gear-marking requirements of § 648.84.

Management Measures for the Northeast Multispecies and Monkfish Fisheries at 50 CFR 648.84: (b) Bottom-tending fixed gear, including, but not limited to gillnets or longline gear, must be marked so that the westernmost end (measuring the half compass circle from magnetic south through west to, and including, north) of the gear displays a standard 12-inch (30.5-cm) tetrahedral corner radar reflector and a pennant positioned on a staff at least 6 ft (1.8 m) above the buoy. The easternmost end (meaning the half compass circle from magnetic north through east to, and including, south) of the gear need display only the standard 12-inch (30.5-cm) tetrahedral radar reflector positioned in the same way.

Management Measures for Red Crab at § 648.264(a)(5): ***Gear markings.*** The following is required on all buoys used at the end of each red crab trawl:

- (i) The letters “RC” in letters at least 3 inches (7.62 cm) in height must be painted on top of each buoy.
- (ii) The vessel's permit number in numerals at least 3 inches (7.62 cm) in height must be painted on the side of each buoy to clearly identify the vessel.
- (iii) The number of each trap trawl relative to the total number of trawls used by the vessel (i.e., “3 of 6”) must be painted in numerals at least 3 inches (7.62 cm) in height on the side of each buoy.
- (iv) High flyers and radar reflectors are required on each trap trawl.

Management Measures for Black Sea Bass § 648.144(b)(1): ***Gear marking.*** The owner of a vessel issued a black sea bass moratorium permit must mark all black sea bass pots or traps with the vessel's USCG documentation number or state registration number.

- Buoy assumed, but not explicitly required.
- No additional gear-marking requirements in the ASMFC's BSB Interstate FMP.

Management Measures for Scup § 648.125(b)(3): ***Pot and trap identification.*** Pots or traps used in fishing for scup must be marked with a code of identification that may be the number assigned by the Regional Administrator and/or the identification marking as required by the vessel's home port state.

### **Atlantic Coastal Act**

Lobster Gear Marking at § 697.21(b) ***Deployment and gear configuration.*** In the areas of the EEZ described in paragraph (b)(4) of this section, lobster trap trawls are to be displayed and configured as follows:

- (1) Lobster trap trawls of three or fewer traps deployed in the EEZ must be attached to and marked with a single buoy.

(2) With the exception of Maine permitted vessels fishing in Maine Lobster Management Zones that can fish up to ten lobster traps on a trawl with one buoy line, lobster trap trawls consisting of more than three traps must have a radar reflector and a single flag or pennant on the westernmost end (marking the half compass circle from magnetic south through west, to and including north), while the easternmost end (meaning the half compass circle from magnetic north through east, to and including south) of an American lobster trap trawl must be configured with a radar reflector only. Standard tetrahedral corner radar reflectors of at least 8 inches (20.32 cm) (both in height and width, and made from metal) must be employed. (A copy of a diagram showing a standard tetrahedral corner radar reflector is available upon request to the Office of the Greater Atlantic Regional Administrator.)