



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
E.F. “Terry” Stockwell III, *Chairman* | Thomas A. Nies, *Executive Director*

April 25, 2016

Ms. Karen Abrams
SSMC3-OSF-SF3
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
1315 East-West Highway
Silver Spring, MD 20910

RE: Standardized Bycatch Reporting Methodology, 81 Federal Register 9413

Dear Ms. Abrams:

Thank-you for the opportunity to comment on the Proposed Rule for the Standardized Bycatch Reporting Methodology (SBRM). In general, the Council supports the development of this rule. Establishing SBRM requirements and delineating the elements of an SBRM will help the Councils comply with section 303(a)(11) of the Magnuson-Stevens Fishery Conservation and Management Act. The Council offers a few comments for your consideration.

One issue that is not addressed in the proposed rule is how the underlying purpose of an SBRM might affect its design. Data provided by these programs can be used a number of different ways; the design needs to be appropriate for these uses. The design of an SRBM may be very different if it is primarily used to support stock assessments rather than fishery management decisions. As an example, the difference between a scientific or management focus could affect the level of stratification needed. In the former case, an argument could be made that the responsible science center should have extensive input in its development. On the other hand, if intended primarily to address the requirements placed on managers to minimize bycatch to the extent practicable, clearly the Council needs should have more weight. The proposed rule should suggest a clear discussion in the SBRM about how its design addresses the needs of scientists and managers.

The proposed rule requires a Council to consider “feasibility” when designing an SBRM, and it “must be designed to be implemented with available funding.” It is not clear how a Council can be expected to address either requirement since future funding for monitoring programs is unknown. This also relates to the primary purpose of the SBRM as discussed in the preceding paragraph. If designed primarily to support stock assessments, the SBRM could be considered an inherent governmental function that should be supported by federal funds and industry funding may not be appropriate. We suggest a more thorough discussion of how a Council is supposed to design a program for an uncertain funding amount. One example may be our SBRM, which scales coverage based on funding, but there may be other approaches that could be considered.

The clarification that the SBRM consists of the data collection and reporting programs and is distinct from the methods used to assess bycatch and the measures to minimize bycatch is a welcome improvement and should be retained in the final rule. This guidance will make it easier to develop comprehensive programs that are adequate for multiple fisheries. The regulation may need to be modified, however, to indicate that a Council can include other elements (such as the analytic approach used to assess bycatch) should it choose to do so. The background section of the proposed rule states that "...neither this rule nor the statute precludes discussion of those estimation methods in an FMP", but this language is not included in the rule itself.

Proposed section 600.1610(a)(2)(i) states that when reviewing an SBRM, the Council should consider the conservation and management objectives regarding bycatch in the fishery. We suggest making it clear that this does not establish a requirement that each FMP identify specific bycatch objectives beyond those required by the statute in section 303(a)(11). While a Council may on occasion identify specific bycatch objectives for a management action or fishery management plan (FM)), whether to do so or not should be at the discretion of the Council.

This same section repeatedly refers to a "fishery." In the Greater Atlantic Region, the current SBRM is designed around "fishing modes", which in some cases may not meet the statute's definition of a "fishery." The Council recommends that it be made clear that this approach meets the requirements of the statute.

The proposed rule calls for a periodic review of the SBRM (section 600.1610(d)). We suggest that a review be conducted after five years of data are available, rather than five years after implementation.

Please consider our comments as you prepare the final rule. Please contact me if you have any questions.

Sincerely,



Thomas A. Nies
Executive Director

CC: Mr. Alan Risenhoover
Mr. John Bullard
Regional Fishery Management Councils