

ATLANTIC LARGE WHALE TAKE REDUCTION TEAM

Meeting Teleconference: October 1, 2014, 1p-5pm

MEETING SUMMARY

I. OVERVIEW

NOAA's National Marine Fisheries Service (NMFS) convened a meeting of the Atlantic Large Whale Take Reduction Team (Team) via teleconference on Wednesday, October 1, 2014. The purpose of this meeting was to review a proposal submitted to NMFS by the Massachusetts Division of Marine Fisheries (DMF) to modify the Massachusetts Restricted Area trap/pot closure of the Atlantic Large Whale Take Reduction Plan (Plan). NMFS sought input from the Team regarding potential spatial and temporal modifications to the closure given the upcoming January 1, 2015 implementation date for the Massachusetts Restricted Area. The Team agreed to move forward with the spatial and temporal changes to the closure and to continue the discussion on other aspects of DMF's proposal at a future in-person Team meeting in January 2015.

II. PARTICIPATION

The following is a list of Team members and alternates who participated on the teleconference:

Lisa Bonacci	Caroline Good	Shannon Madsen	Sarah Uhlemann
Tom Burgess	Mike Greco	Patrice McCarron	April Valliere
Elizabeth Casoni	Heidi Henninger	Dan McKiernan	April Wobst
Sarah Cotnoir	Samantha Hoover	Bill McLellan	Sharon Young
Jane Davenport	Bob Kenney	Cheri Patterson	Regina Asmutis-Silvia
Cindy Driscoll	Scott Kraus	Tom Pitchford	
Clay George	David Laist	James Powell	
Mark Swingle	Colleen Giannini	Scott Landry	

The Following NOAA Fisheries staff participated in and/or attended the teleconference: David Gouveia, Kate Swails, Michael Asaro, Allison Rosner, Lanni Hall, David Morin, Kevin Collins, Peter Burns, John Higgins, John Kenney, Glenn Salvador, Jessica Powell, Barb Zoodsma, Lisa White, and Richard Pace. Brian Morrison, Neal Etre, and Bob Black with Industrial Economics (IEc) also participated in the teleconference.

III. MEETING MATERIALS

NMFS distributed the following materials to the Team via email prior to the teleconference:

- Teleconference agenda
- Massachusetts DMF amendment proposal
- Chart of closure areas
- IEc analysis of the DMF proposal
- NMFS summary of the process for submitting take reduction plan exemption requests

IV. MEETING SUMMARY

a. INTRODUCTION

The teleconference began with introductions from David Gouveia and Kate Swails. Kate Swails reviewed the meeting agenda and ground rules.

David Gouveia discussed the objectives in reviewing the proposal submitted by DMF. The proposal submitted contained the following components:

- Year-round exemption to trawling up requirements in Massachusetts State waters within Northern Inshore Trap/Pot Waters
- Exemption to the trawling up requirements in part of Massachusetts State waters within the Northern Inshore State Trap/Pot Waters, with modified gear marking.
- Modification to the Massachusetts Restricted Area eliminating the January closure and expanding the spatial area to encompass the outer Cape Cod area.
- Creation of trap/pot storage areas within the Massachusetts Restricted Area along the Massachusetts South Shore and inside Cape Cod Bay near the coast of Provincetown, MA.

David Gouveia explained NMFS's decision to convene the Team via teleconference and discuss only the spatial and temporal modifications proposed for the Massachusetts Restricted Area and the creation of trap/pot storage areas. The Team was convened via teleconference and without traditional facilitation services because NMFS had not anticipated a meeting in 2014 because of the recently approved vertical line rule (June 2014). Therefore, a full Team meeting had not been budgeted for travel costs and facilitation services. Given the importance of the timing associated with the DMF proposal, NMFS chose to meet via teleconference and without traditional facilitation services. However, it was noted that NMFS plans to convene a facilitated face-to-face meeting in mid-January 2015 to discuss the exemption component of the DMF proposal along with other exemption proposals submitted by Team stakeholders.

The rationale for discussing only the proposed modifications to the Massachusetts Restricted Area during the teleconference was to allow the Team an opportunity to determine if the modifications are warranted in advance of the beginning of the closure period on January 1, 2015. The remaining components of the DMF proposal will be reviewed in detail at the aforementioned in-person Team meeting – tentatively planned for mid-January 2015.

David Gouveia explained NMFS' expectations for receiving Team feedback on the proposal. He indicated that NMFS prefers (although is not required by the Marine Mammal Protection Act) to have a consensus agreement among Team members in order to adopt a proposal.

b. MASSACHUSETTS DIVISION OF MARINE FISHERIES PROPOSAL PRESENTATION

Dan McKiernan presented the Massachusetts DMF proposal, highlighting the potential impacts to lobster fishermen in Massachusetts that would result from the January closure period in Cape

Cod Bay. He noted the difficulties fishermen face in removing gear from the water, particularly in the winter months in adverse weather conditions. He emphasized that the conservation benefits of removing the January closure would be offset by the proposed spatial expansion of the Massachusetts Restricted Area to include the outer Cape Cod area.

Several Team members supported the inclusion of a conservation offset in the closure modification proposal. Some members questioned whether inclement weather in late January would delay the ability of fishermen to remove gear in time for the beginning of the closure in February. David Gouveia indicated that law enforcement officials routinely monitor winter weather conditions in the days leading up to the start of fishing closures.

One member questioned if additional law enforcement resources could be allocated to monitoring fishing activity in the closure area in January and February. David Gouveia indicated that NMFS has allocated funding for enforcement of take reduction plan regulations on an annual basis through its Joint Enforcement Agreements (JEA) with its state partners (Maine, New Hampshire, Massachusetts, Rhode Island, and New Jersey). He also noted that in addition to the annual JEA funding, that over the past two years NMFS has also provided additional funding set aside for law enforcement to investigate potential “hot spots.” Hot spots are those areas identified as areas of concern and in need of additional enforcement. Several Team members suggested that DMF consider a start date of the closure to be January 15 instead of February 1. Dan McKiernan reiterated his preferences to have the closure begin on February 1.

c. INDUSTRIAL ECONOMICS ANALYSIS OF THE DMF PROPOSAL

Neal Etre of IEc presented an analysis conducted on the potential effects of the DMF proposed Massachusetts Restricted Area modifications. The Vertical Line Model was updated to include the elimination of the month of January from the closure period and the spatial expansion of the closure to include the outer Cape Cod area. The updated Vertical Line Model indicated that the proposed amendments to the Massachusetts Restricted Area would likely result in an equal or slightly greater reduction in vertical lines and co-occurrence when compared to the Massachusetts Restricted Area as analyzed in the 2014 Final Environmental Impact Statement.

Following a series of clarifying questions for DMF and IEc, David Gouveia, with agreement from several Team members, proposed conducting a poll of the Team to gauge its level of support for the modifications to the Massachusetts Restricted Area contained in the DMF proposal.

d. DISCUSSION OF PROPOSED STORAGE AREAS

Dan McKiernan presented the proposal to create storage areas for lobster fishing gear in Cape Cod Bay during the closure period. He emphasized the hazards fishermen face when attempting to remove all lobster gear from the water for a given time – especially in poor winter conditions.

Several Team members expressed concern about the proposed storage areas. Common concerns included the size of the proposed areas, and the potential for highly concentrated areas of stored gear to result in an increased entanglement risk. One member expressed an understanding of the need for wet storage of gear during the closure, but could not reconcile that need with the potential for increased entanglement risk. One member requested that additional analysis be

conducted on the proposed storage areas and that the topic be revisited at a future in-person Team meeting. One Team member expressed concern over the increased sightings of right whales in the western waters of Cape Cod Bay in recent years, near the proposed storage areas.

David Gouveia explained NMFS's concerns with the proposed storage areas. These included reservations regarding the necessity of wet storage areas, the size of the proposed areas, and the potential for entanglement risk during the closure period given the potential for a high volume of gear being set in an area and time known to have aggregations of right whales. David Gouveia, with agreement from several Team members, proposed conducting a poll of the Team to gage its level of support for the gear stowage requirements within the Massachusetts Restricted Area contained in the DMF proposal.

e. SUMMARY OF THE TEAM POLLING

Prior to polling the Team, NMFS and the Team reviewed its polling/voting criteria and re-affirmed its polling criteria. The polling signified Team members' "support level" of the proposal as submitted by DMF. Polling was based on the following criteria:

<i>YES:</i>	<i>SUPPORT</i>
<i>MAYBE:</i>	<i>PARTIALLY SUPPORT</i>
<i>NO:</i>	<i>DO NOT SUPPORT</i>

The Team agreed that a "Yes" or "Maybe" vote would signify the level of support for the DMF proposal.

Two series of polls were conducted, with Team members indicating their vote via telephone. The first poll asked Team members whether they supported the proposed spatial and temporal modifications to the Massachusetts Restricted Area only, independent from the proposed storage areas. This included the removal of January from the closure period and an expansion of the closure to include the outer Cape Cod area. The results from this series of votes were:

<i>YES:</i>	24
<i>MAYBE:</i>	2
<i>NO:</i>	0

The second poll asked Team members to indicate their support for the proposed trap/pot storage areas in Cape Cod Bay. The results from this series of votes were:

<i>YES:</i>	4
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With so few Team members in favor of the storage areas, voting was suspended after recording the "Yes" votes.

As a result of the polling, by consensus, the Team agreed to recommend that NMFS modify the Massachusetts Restricted Area as proposed by DMF. However, the Team recommended (by majority vote) that NMFS not act on DMF's proposed trap/pot storage areas. David Gouveia

reiterated NMFS's plans to schedule an in-person Team meeting to continue discussions on the remainder of DMF's proposal. He then thanked Team members and adjourned the meeting.

V. NEXT STEPS

With no Team members opposed to the proposed spatial and temporal modification to the Massachusetts Restricted Area, David Gouveia indicated that NMFS would present the outcome of the teleconference to NMFS leadership to determine whether the Massachusetts Restricted Area should be amended via rulemaking before it becomes effective on January 1, 2015. As discussed with the Team, a potential rulemaking would include an analysis of the proposed spatial and temporal modifications to the Massachusetts Restricted Area to satisfy NMFS' requirements under the National Environmental Policy Act. However, the Team recommended that NMFS not act on DMF's proposed trap/pot storage areas. NMFS is also moving forward to convene an in-person Team meeting tentatively scheduled for January 2015. The remainder of DMF's proposal (as well as other state and conservationist proposals) will be analyzed and discussed with the Team during this meeting.