



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
21 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0021

PATRICK KELIHER
ACTING COMMISSIONER

September 12, 2011

Mary Colligan, Assistant Regional Administrator
for Protected Resources
National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930

Attn: ALWTRP Scoping

Dear Ms. Colligan:

This letter constitutes the Maine Department of Marine Resources' (DMR) comments on the Scoping Document "Developing Conservation Measures Intended To Reduce The Risk Of Serious Injury And Mortality Of Large Whales Due To Entanglement In Vertical Lines" for the Atlantic Large Whale Take Reduction Plan (ALWTRP).

DMR held a series of meetings and met with over 100 industry leaders to develop ways to reduce the risk of serious injury and mortality of large whales due to entanglements in vertical lines from commercial fishing gear. Many ideas were generated that will protect whales and still allow Maine fishermen to continue to fish. DMR will continue to work with the industry as we continue to craft a tailored vertical line risk reduction strategy.

The major discussion points at these meetings were - where to manage, when to manage, how to manage, gear marking and reporting. The following are DMR's comments as they relate to the NMFS' Scoping Document.

1) *Where to manage?*

DMR supports using the NMFS co-occurrence model of right and humpback whales and gear density to define the areas that will be managed by these vertical line risk reduction measures. If humpbacks are downlisted or delisted, measures occurring in humpback driven co-occurrence areas must be rolled back.

DMR encourages and supports a method of regulating areas of risk, depending on the level of co-occurrence in different areas within the Gulf of Maine. DMR does not support any vertical line risk reduction measures being implemented in areas of low (1-10 co-occurrence score) to no co-occurrence. These areas include most of state waters, with some exceptions in Lobster Management Zones A and G, as well as some significant areas in federal waters off Zone D.

DMR does not support seasonal or year round closures as a risk reduction strategy. Closures in federal waters is not a feasible option, particularly from an enforcement perspective, since boats from other states would still be allowed to fish the proposed closed area.

2) *When to manage*

Broad-based vertical line risk reduction measures can be implemented year round despite the timing of elevated co-occurrence scores. Fishermen cannot be expected to change their gear several times a year to accommodate seasonal regulation changes.

3) *How to manage*

As stated above, DMR supports an area-based approach to reducing the risk of vertical lines to large whales in Maine. This should include broad-scale measures in co-occurrence areas by region year round. These broad-based measures should vary slightly by region or Lobster Management Zone depending on the current fishing strategies in each area. During meetings across the State of Maine, DMR heard broad support for a triple minimum in federal waters for most of the state, including all zones from 3-12 miles. This broad-scale modification would require some exemptions due to local fishing practices, including boat size exemptions and island exemptions. These areas will be outlined to the ALWTRT and can be made available to NMFS upon request. DMR does not support the use of only one vertical line on trawls greater than five.

DMR is confident in the Maine Marine Patrol's ability to enforce any local and/or seasonal measures that are put into place instead of single broad-based measures that create undue operational and financial burdens on Maine's fishing communities. Continued excellence has been demonstrated by patrol through the documentation of high compliance rates within the industry on previous entanglement risk reduction measures. Compliance surveys completed in 2009 and 2010 yielded compliance rates coast-wide of 93% with the sinking groundline gear modification.

Another viable approach of mitigating vertical line risk is to allocate a maximum number of vertical lines for an area, or a vertical line cap. This approach would allow fishermen flexibility to set gear in any configuration as long as they did not exceed their vertical line maximum. A system would need to be developed on the method of allocation, who is in the pool, future allocation, vertical line tags and tracking.

4) *How can the current gear marking strategy improve?*

DMR heard broad support for changes to the gear marking strategy from industry members coast-wide. There was agreement within the industry to get at least a unique marking color for the State of Maine, separate from nearby critical habitats in Massachusetts and other areas. Due to the size of the fishery in Maine as compared to other regions and states, it would have the least impact on fishermen to keep the red marker as a Maine color. Maine should continue to use the first colored marker for Area 1 as a whole (red), and then a second color to identify it as a Maine vertical line.

There is moderate support within the industry for increasing the frequency of markings necessary on a vertical line. Some fishermen are willing to increase the frequency of markings to two, with one a quarter of the way down from the buoy and retain the mid-water mark.

5) *How can gear characterization reporting improve?*

DMR supports the idea of increased data collection, as long as a long-term funding solution for the implementation of the program can be secured. Fishermen supported requiring federal lobster permit holders to report annually to aid in plugging current data reporting gaps.

The data collection would require only reporting the number of traps and vertical lines used by month in each reporting area. A similar program has been done on a voluntary basis through DMR in collaboration with NMFS. This method is considered more agreeable than lengthier surveys and/or increased trip reporting due to the ease in filling it out and short time it takes to complete. The information gathered through an annual log will be sufficient to monitor any changes in the number of vertical lines being used within the fishery, as well as trends in latency of both active licenses and the seasonal use of traps.

Ms. Mary Colligan
September 12, 2011
Page 3 of 3

Another challenge that Maine faces is the diversity of our fishery. Trawling up thresholds, vessel size, safety and fishing efficiency must be considered. Management options must be operationally feasible and not impose an undue economic burden on fishermen. Fishermen need flexibility in the vertical line rule, including a potential suite of gear modifications to choose from.

Thank you for the opportunity to comment on the scoping document. Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patrick Keliher', with a long horizontal flourish extending to the right.

Patrick Keliher
Acting Commissioner