NMFS received 533 letters from commenters on the Draft Environmental Impact Statement (DEIS) and proposed rule via Regulations.gov, letter, fax, or email. Additionally, two form letters were received on the DEIS via letter and email; approximately 27,500 of one form letter, 13,500 of another form letter, and approximately 1,300 slight variations to the form letters. A summary of all comments received on the DEIS are included in Chapter 1. Copies of the 533 letters and a copy of the form letters are included below. Transcripts on the public hearings are available upon request.

THE HUMANE SOCIETY
OF THE UNITED STATES

RECEIVED
SEP 1 6 2013

HSUS
FORM LETTER

BY:_____

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September 12, 2013

Mary Colligan
Assistant Regional Administrator
Protected Resources
NMFS Northeast Region
55 Great Republic Drive
Gloucester, MA 01930

Re: Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan Regulations, NOAA–NMFS–2013–0095

Dear Ms. Colligan,

On behalf of The Humane Society of the United States, the nation's largest animal protection organization, I am writing to provide letters from our supporters on the proposal to amend the regulations implementing the Atlantic Large Whale Take Reduction Plan. Several thousands of individuals sent comments directly to our organization, and we are submitting them to you here on a disc. We understand these comments will be uploaded to your website and reviewed during your consideration of the petition.

The disc contains a total of 28,823 comments. Of those, 27,583 are identical to the below exemplar, and are contained in one folder titled "Unedited Letters".

Exemplar:

To National Marine Fisheries Service:

Thank you for proposing to restrict fishing gear to protect endangered right whales. I support the restrictions you propose but I oppose exempting large areas in New Hampshire and Maine from having to protect the whales. I also support marking fishing ropes so we know where whales become entangled.

Fewer than 500 endangered North Atlantic right whales remain in a population that numbered in the thousands before commercial whaling. Even though we are not hunting them, the heavy ropes in commercial lobster and gillnet fishing still drown or seriously injure them and are a serious threat to their recovery.

It is important to limit commercial fishing gear in the seasons and areas where right whales gather to feed and to give birth. All coastal states in the northeast and

southeast should have the same protections. It is also important to require that ropes be marked in many different areas so that, if whales still become entangled, we can learn more about where they are at greatest risk.

Thank you for the opportunity to provide input. I look forward to hearing your final decision.

Sincerely,

An additional 1,242 comments are contained in a folder titled, "Edited Letters". These comments contain similar statements to the unedited ones, but were amended by our members to include further information.

Thank you for providing our members the opportunity to weigh in on the proposed rule. If you need any further information or materials, please do not hesitate to let me know.

Sincerely,

Gillian Lyons
Regulatory Specialist
The Humane Society of the United States
glyons@humanesociety.org

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Large whale proposed rule

carolynbarnes6@aim.com <carolynbarnes6@aim.com> Wed, Aug 21, 2013 at 6:53 AM
To: nmfs.ner.whale@noaa.gov

IFAW FORM LETTER

Mary Colligan
NMFS Northeast Region
55 Great Republic Dr
Gloucester MA
01930

Dear Mary Colligan,

As a supporter of the International Fund for Animal Welfare (IFAW), and a concerned member of the public, I am writing to comment on the proposed rule to amend the Atlantic Large Whale Take Reduction Plan to reduce the risk of entanglement in vertical lines.

With human-induced serious injury and mortality due to incidental entanglement in fishing gear exceeding the recommended Potential Biological Removal (PBR) level defined for these species it is imperative that more is done to reduce this threat. Therefore, I support the measures laid out in NOAA's preferred alternative, Alternative 5, and ask that the agency include these measures as well as those described below in the final rule making process.

Of particular importance for inclusion are the seasonal closures for Jordan Basin, Jeffrey's Ledge and Cape Cod Bay/Outer Cape, aimed at reducing fishing effort in key areas known to have high concentrations of right whales co-occurring with high fishing activity. Without these closures, the recommended measures are unlikely to achieve the necessary reduction in risk required to reduce take below PBR. So I strongly urge NOAA to include these closures as described in Alternative 5 in the final rule.

While the proposed rule makes many strides to improve upon current regulations, there are a few areas that are insufficient in accomplishing this goal. The exemptions included for Maine and New Hampshire state waters are of major concern, particularly as Maine state waters include approximately 50% of all recorded vertical lines in the Northeast region. This high number of lines, even in waters infrequently traversed by whales, represents a significant risk that should be addressed in the final rule.

Likewise, the proposed gear-marking scheme that only adds new fishing line markings for these state exempted waters is likely to fall short of the needs of the scientists, fishermen and NOAA alike. For recorded large whale entanglements from 1997 to 2008, the type of fishery and location where the gear was set was only able to be determined for 15% of all cases. To achieve targeted spatial and temporal regulations with the biggest impact we need to have more information about what type of gear is entangling these whales and where they are being entangled. Therefore, I encourage NOAA to include additional gear marking for trap/pot and gillnet fisheries, particularly in the Northeast to allow scientists to better make these determinations.

Furthermore, I am concerned by the patchwork of regulations set up for the Southeast region. By establishing different regulations across critical habitat, state waters and federal waters, the proposed rule will make it more challenging for fishermen to adjust their gear accordingly, while also making enforcement more difficult. And with many of the proposed "restrictions" in the Southeast and Mid-Atlantic calling for retaining the status quo, the risk in these areas, particularly for right whale mother and calf pairs and humpback whales, respectively, does not seem to be adequately addressed.

However, all of these efforts will go to waste without continued and improved enforcement and monitoring. NOAA needs to increase their effort and funding for enforcement to improve compliance with existing regulations, while also establishing plans for enforcement of these new regulations. As part of this effort, ensuring continued funding for large whale research and disentanglement is imperative. Boat and aerial surveys funded by private and federal research grants allow scientists to track changes in the whale populations, monitor their status and inform our understanding of the impact and effectiveness of these regulations. Without these surveys, and support of large whale disentanglement teams, many more injured whales will go unaided. With the North Atlantic right whale just beginning to show signs of slow recovery, now is not the time to back down on these efforts.

While this proposed rule is intended to only address the threat of vertical lines associated with trap and pot fisheries, the cumulative impact from gillnet fisheries and other human activities, such as offshore wind farms, needs to be more fully accounted for before final rule making is completed.

I commend NOAA on their efforts to develop this new rule and encourage continued support of Alternative 5 with the additional points for strengthening this proposal as described above.

Sincerely,

carolyn barnes
186 county road 3a
greene NY 13778
US
carolynbarnes6@aim.com

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

5 copie s of w hale re duction plan

2 messages

antpinny@comcast.net <antpinny@comcast.net> Sat, Jul 20, 2013 at 1:30 PM
To: NMFS.NER.whale@noaa.gov

To the NMFS,

I cannot believe that my husband got 5 copies by mail of the same letter. That's a waste of tax payers money to the tune of 46 cents postage times 5 for each fishermen.Maybe you should worry about reduction of mail rather worry about whale entanglement. Our fishermen watch out for our whales and other fish.Why is it always the little guys fault.We have huge tankers on the water what do they do nothing. Wow this is getting old god put the whales here not you so stop making it about commercial fishing gear there are alot of factors in this problem.Stop putting it all on the fishermen lay blame on the big tankers and other factors.I am not sure how you know how many whales are in the ocean you cannot count them. I wish that's all i had to worry about is a whale.Our fishermen have to feed there families and all you want to do is make it more expensive to do so.You should realize the fisher men are on the whales side which side are you on making more money for yourselves and big government and the scientist. I guess you will be happy when we can no longer fish.Then all your rich sail boat friends and speed boats can have the ocean to yourselves.Then see what happens. Our fishermen's are the best thing we have they care about our oceans too.

Thank you for your time.

Penny Wallace

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov> Sat, Jul 20, 2013 at 1:30 PM
To: antpinny@comcast.net

Thank for you for submitting comments on the proposed rule and DEIS to amend the Atlantic Large Whale Take Reduction Plan.

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

alwtrp large whale rule

2 messages

Beverly Lynch <braelynch@yahoo.com> Thu, Jul 25, 2013 at 12:37 PM
Reply-To: Beverly Lynch <braelynch@yahoo.com>
To: "NMFS.NER.whale@noaa.gov" <NMFS.NER.whale@noaa.gov>

We prefer alternative 1, no action
The other alternatives require fishermen to spend money on weaker links and sinking rope. Weak links cause them to lose gear. Fishermen can't afford to lose gear or spend more money. Bringing gear in at the end of each day would also cost income. There are fewer fishermen and more whales. As whale populations increase, more will be injured.

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov> Thu, Jul 25, 2013 at 12:37 PM
To: braelynch@yahoo.com

Thank for you for submitting comments on the proposed rule and DEIS to amend the Atlantic Large Whale Take Reduction Plan.

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

(no subje ct)

2 messages

Dustypup01@aol.com <Dustypup01@aol.com> Thu, Jul 25, 2013 at 2:09 PM
To: NMFS.NER.whale@noaa.gov

I chose alternative option 1. NO ACTION

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov> Thu, Jul 25, 2013 at 2:09 PM
To: Dustypup01@aol.com

Thank for you for submitting comments on the proposed rule and DEIS to amend the Atlantic Large Whale Take Reduction Plan.

PUBLIC SUBMISSION

As of: July 29, 2013
Received: July 17, 2013
Status: Pending_Post
Tracking No. 1jx-86iq-u0vc
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0001
Comment from Drew Martin

Submitter Information

Name: Drew A Martin
Address:
Lake Worth, FL,

General Comment

I support changes that improve the health of whales and reduce the risk of entanglement. I believe that these changes will reduce whale mortality.

I encourage you to move forward with changes that will protect our whale population. I support reducing the number of vertical lines in the ocean and expanding protected areas.

Whales are under pressure and have suffered from entanglement. This is particularly true of young whales.

I oppose the no-action alternative. I believe that some action to improve whale protections is necessary. Alternative 5 seems reasonable. I support taking action and moving forward with improved regulations to protect Large Whales from being harmed.

PUBLIC SUBMISSION

As of: July 29, 2013
Received: July 20, 2013
Status: Pending_Post
Tracking No. 1jx-86ki-ftxv
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0002
Comment from Alex Brown

Submitter Information

Name: Alex Brown
Address:
46 Franklin St
Provincetown, MA, 02657
Email: vicfishab@hotmail.com
Phone: 508-487-0471
Organization: VICTORY FISHERIES

General Comment

Dear Ms, Colligan,
I am a small boat/skiff lobsterman working out of the port of Provincetown. I now lobster out of a 19' skiff due to circumstances beyond my control, anyway I am very disturbed about the fact of trying to fish any amount of trawls out of my boat. I would have way to much line on the deck to safely haul and service my gear never mind the weight of multiple traps on the rail of the boat. As I am fishing 60' of water you can figurre that I would have an un godly amount of line on deck never mind the hazaerd ofsetting the gear back. If you guy's are hell bent on putting this regulation in, in the spirit of compromize would you consider exempting people who fish in 24' and under vessel. We don't and arn't able to fish the max amount allowed for traps anyway. Also if you again are hell bent on putting this rule in anyway I hope you are going to extend this to the recreational sector, approx 4500 rec permits issued each year with potential of 10 + traps fished per license that come to 4500+ traps and lines that could potentialy cause an entanglement too!
My hope is that you guy's will apply common sense here.
Thank You

PUBLIC SUBMISSION

As of: July 29, 2013
Received: July 23, 2013
Status: Pending_Post
Tracking No. 1jx-86mj-hhlk
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0003
Comment from Jarrett Drake

Submitter Information

Name: Jarrett Drake
Address:
6 County Road
Marion, MA, 02738
Email: jarrettcdrake@verizon.net

General Comment

I am writing in support of option 1: status quo. At the present, endangered whale populations have increased (since the ban on whaling) as a result of measures taken by fishermen and maritime commerce. These measures include sinking ground lines, breakaway weak links, seasonal area closures, and reduced ship speeds. All of these measures are working and will continue to work under status quo. There is no need to further hinder and financially strain our fishermen or our economy with a new set of rules.

Please resist the pressures of environmental groups who will stop at nothing until every possible risk is averted, basically no fishing or maritime commerce. The MMPA and ESA have become tools for these groups and are being abused by them to enforce their will.

We need to address the specific wording of the MMPA and ESA to acknowledge that endangered species are rebounding and that what has been done so far is working. We do not need to keep adding more measures to them.

Acknowledging our current successes, I again support option 1: status quo.

PUBLIC SUBMISSION

As of: July 29, 2013
Received: July 26, 2013
Status: Pending_Post
Tracking No. 1jx-86oj-59ov
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0004
Comment from Brendan Adams

Submitter Information

Name: Brendan Adams
Address:
Eastham, MA, 02642
Organization: Lobsterman

General Comment

Hello,
This is my public comment for the ALWTRP. I have taken the time to read both the EIS and the proposed changes to the federal register twice. In the past lobstermen have worked hard to comply with helping reduce the interaction between their gear and marine mammals. We seem to be in a really good place right now with what we have done to reduce entanglement and mortality to whales, but now a plan has been concocted which may or may not reduce entanglement, but may increase mortality if implemented. It is a statistical fact that a marine mammal caught in a "single" trap arrangement is much more likely to get free without injury than a marine mammal tangled with a heavier burden. That being said, traditionally some lobstermen set all singles, some set all trawls, and some set some of each. One of the problems with this proposal is that it absolutely creates a safety issue for fishermen fishing alone and/or in vessels 25 feet in length or smaller. There are stability issues involved, and a real chance of a vessel capsizing due to distribution of weight and weather conditions - I have seen it happen. Also, setting trawls alone is a very dangerous concept even on a larger vessel. Is the life of a man worth less than that of a whale because one is bigger than the other? There are the financial burdens of converting to trawls. The cost would be greatest to fishermen that fish all singles/fish alone. Gear conflicts/territorial disputes would absolutely be even more common. Lets not forget that everything except the price of lobsters has gone up in the past ten years. Some smaller fishing operations would be forced to sell out or retire at the whim of a bureaucratic pen stroke. It will create consolidation in the industry, there is a major lack of socio-econconomic data in the ALWTRP. MY CONCLUSION IS THAT WE STAY WITH THE STATUS QUO - ALTERNATIVE 1 - NO ACTION . It allows everyone to operate their businesses as they see fit with maximum safety to men and whales alike

RECEIVED
SEP 11 2013
BY:_____

To: Mary Colligan,
National Marine Fisheries Service

Attn: ALWTRP Large Whale Plan:

Myself, having been involved with various fisheries since the early 1970's, I have never seen a whale entanglement. That doesn't mean that they don't happen, they do, but rarely.

I think if you are pushing for vertical line reductions, trawls would do this, but it would adversely affect the smallest of fishing operations. Going from single lobster traps to trawls eliminates the one man/small boat operations through larger boat competition and safety issues.

If you want to eliminate the independent, hard working individuals, then, by all means go to trawls with "whale safe bouy lines". But if you think going from one to two traps per bouy is feasible, think again.

On the outer cape, storms, boat traffic and strong tides are going to create gear conflict and much gear loss.

I think five traps or more for trawls is a must.

However, inside of 12-14 fathoms, I have rarely seen whales, those being minkes and a finback or two. Never, if ever, in my career have I seen humpbacks or larger whales in those shallower waters in the outer cape area. The lobster trap fisheries has to depend on singles inside 12-15 fathoms because traps must be spread out further to have the right effectiveness and efficiency.

Also, on safety, I have seen, first hand, a small boat (25 ft. or less) roll over trying to haul lobster traps on trawls (four trap trawls) during medium conditions. In very fair weather it would be ok but you can't control the weather.

I, myself, fished singles out of a 21 ft. boat for 15 years, but now fish a 31 footer with my son. I fish 1/3 of my traps in trawls now, so effectively have already reduced my vertical lines by a lot. Also, I think the breakaways reduce entanglements. The sinking groundlines on trawls are expensive but I think the idea has brought good results.

One stipulation to improve the status quo would be mandatory training for disentanglement, as calling coastal studies or whoever and then waiting for maybe hours doesn't make good sense during a rescue situation.

The ship strike being the biggest whale death offender needs to be addressed somehow. Our own U.S. Navy has been known to pick off a few whales with the bulbous bows of their warships not to mention the effects of explosives on creatures under the water.

I respect the environmentalists who take the time to comment but my own *belief* is that many of their opinions are undereducated to what really is happening in the fishing community. No one that I know of is really wanting to have gear conflicts with whales. We are all going out of our way not to have entanglements.

And while we are on the subject of marine mammals, it is overdue to be addressing the over population of seals on the Northeast coast of North America.
I am told that countries that have reduced their seal populations have started to see some of their fish stock beginning to recover. There are usable products that can come from this renewable resource of seals. I want to be on the ground floor of that harvest. (I am not joking about this.)

Yours,

Christian Adams
FV Lunasea II
774-722-0017
greydoorstudio@gmail.com

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Whale rules

Bruce Fernald <fernaldbruce@gmail.com> Thu, Aug 1, 2013 at 12:07 PM
To: "NMFS.NER.whale@noaa.gov" <NMFS.NER.whale@noaa.gov>

To whom it may concern

I have been a lobster fisherman for 39 years out of LIttle cranberry island,me.ever since the whale rules have come out I Have followed them correctly.The one rule that should be changed is the floating rope.If there are more rules coming at us at least work with us to get it back to the 3
Mile line.This rule has been a disaster since the beginning.there is no proof ,to my knowledge that it has done anything,but be a waste of our time,money,and resources.Not to mention the safety factor.I agree that reducing vertical lines the further offshore is a good thing to do.I fish up to 10 miles off and I might see one whale a year.The further off you go the more whales there are,so please make rules accordingly.

I realize it's hard to get something back once it's gone but it's worth a try.

Bruce Fernald
Box57
Islesford,Me.
04646

Sent from my iPad .

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Trap/Pot

Robert Power <rpowers1952@gmail.com> Thu, Aug 1, 2013 at 2:30 PM
To: NMFS.NER.whale@noaa.gov

What's next? No bouy lines? Grapple for your pots and hope your GPS works accurately? I believe the current laws are sufficient. would love some feedback, thank you, sincerely, Robert Powers.

Kate Swails - NOAA Federal <kate.swails@noaa.gov>

PUBLIC COMMENT ON FEDERAL REGISTER Fw d: TAKING 20 Y EARS TO SAV E WHALES - AGENCY NOTMOVING ON IT

bk1492@aol.com <bk1492@aol.com> Sat, Aug 3, 2013 at 5:00 PM
To: KATE.SWAILS@noaa.gov, KRISTY.LONG@noaa.gov, BARB.ZOODSMA@noaa.gov, INFO@oceana.org, INFO@opsociety.org, INFO@peta.org, INFO@idausa.org, AMERICANVOICES@mail.house.gov
Cc: INFO@wdc.greenpeace.org, INFO@seashepherd.org, INFO@pewtrusts.org, SPEAKERBOEHNER@mail.house.gov, COMMENTS@whitehouse.gov, INFO@lohv.org

Subject: TAKING 20 YEARS TO SAVE WHALES - AGENCY NOTMOVING ON IT

I OPPOSE YOUR DOING SO MANY MEETINGS ALL IN ONE AREA ABOUT THIS SUBJECT. I THINK YOU ARE SEEKING TO HOLD OFF ANY REAL MOVES TO SAVE WHALES FOR 20 YEARS BY HAVING LONG LONG PERIODS ON THIS. I ASK FOR RADICAL IMMEDIATE MOVES ON A TEMPORARY BASIS TO SAVE WHALES. THE TEMPORARY EMERGENCY ORDER SHOUDL BE PUT IN PLACE IMMEDIATELY BECAUSE THIS AGENCY IS SITTING ON THIS ISSUE INSTEAD OF MOVING ON IT. STOP ALL TRAWLING. AND STOP LONG LINE NETS. THE SPENDING ON THIS ISSUE IS RIDICULOUS. THIS COMMENT IS FOR THE PUBLIC RECORD. WE NEED SMALLER CHEAPER GOVT. WE NEED LESS SPENDING BY THIS AGENCY. PLEASE ACKNOWLEDGE RECEIPT. JEAN PUBLIC REGULATIONS GOV IS NOT WORKING. IT DID NOT WORK YESTERDAY. IT IS NOT WORKING TODAY. YOU ARE SENDING THE PUBLIC ON A WILD GOOSE CHAS TO A WEBSITE THAAT IS NOT WORKING.

[Federal Register Volume 78, Number 142 (Wednesday, July 24, 2013)]
[Notices]
[Pages 44536-44538]
From the Federal Register Online via the Government Printing Office
[www.gpo.gov]
[FR Doc No: 2013-17737]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-BC90

Marine Mammals; Notice of Availability of a Draft Environmental Impact Statement To Amend the Atlantic Large Whale Take Reduction Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Availability of a Draft Environmental Impact Statement; notice of public hearing meetings; request for comments.

SUMMARY: NMFS proposes to amend the regulations implementing the Atlantic Large Whale Take Reduction Plan (Plan). The proposed rule revises the management measures for reducing the incidental mortality

and serious injury to the North Atlantic right whale (Eubalaena glacialis), humpback whale (Megaptera novaeangliae), and fin whale (Balaenoptera physalus) in commercial trap/pot and gillnet fisheries to meet the goals of the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA). A Draft Environmental Impact Statement (DEIS) was prepared in accordance with the National Environmental Policy Act (NEPA), to analyze impacts to the environment of the management alternatives under consideration. NMFS will hold 16 public hearings along the East coast in August and September for the purpose of answering questions and receiving public testimony on the DEIS.

DATES: The public hearings will be held in August and September. For

specific dates, times, and locations see SUPPLEMENTARY INFORMATION section. The public comment period is from July 12, 2013, to September 13, 2013.

ADDRESSES: You may submit comments on this document, identified by 130201095-3095-01, by any of the following methods:

[[Page 44537]]

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0095 click the ``Comment Now!'' icon, complete the required fields, and enter or attach your comments.

Mail: Submit written comments to Mary Colligan, Assistant Regional Administrator for Protected Resources, NMFS Northeast Region, 55 Great Republic Dr., Gloucester, MA 01930, Attn: Large Whale Proposed Rule.

Fax: 978-281-9394 Attn: Large Whale Proposed Rule

In-Person: Attend a public hearing. See SUPPLEMENTARY INFORMATION section for locations, dates, and times.

FOR FURTHER INFORMATION CONTACT: Kate Swails, NMFS, Northeast Region, 978-282-8481, Kate.Swails@noaa.gov; Kristy Long, NMFS Office of Protected Resources, 301-427-8440, Kristy.Long@noaa.gov; or Barb Zoodsma, NMFS Southeast Region, 904-321-2806, Barb.Zoodsma@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

Large whale entanglements resulting in serious injuries and mortalities are still occurring; therefore, NMFS believes modifications to the Plan are needed to meet the goals of the Marine Mammal Protection Act (MMPA). Under the MMPA, NMFS is required to reduce the incidental mortality and serious injury to three strategic large whale stocks--the Western Stock of the North Atlantic right whales (Eubalaena glacialis), the Gulf of Maine stock of humpback whales (Megaptera novaeangliea), and the Western North Atlantic stock of fin whales (Balaenoptera physalus)--incidentally taken in commercial fisheries to below the Potential Biological Removal (PBR) level for each stock.

Atlantic Large Whale Take Reduction Team (Team)

At its 2009 meeting, the Team agreed on a schedule to develop a management approach to reduce the risk of serious injury and mortality due to vertical line. As a result of this schedule NMFS committed to publishing a final rule to address vertical line entanglement by 2014. The approach for the vertical line rule will focus on reducing the risk of vertical line entanglements in high impact areas versus a wide-broad scale management scheme. Using fishing gear survey data and whale sightings per unit effort (SPUE), a model was developed to determine the co-occurrence of fishing gear density and whale density.

The Team's Northeast Subgroup met in November 2010 and the Mid-Atlantic/Southeast Subgroup met in April 2011 to review the model and consider its implications for an overall management strategy to address vertical line entanglements.

The Team agreed NMFS should use the model to consider and develop possible options to address fishery interactions with large whales by reducing the potential for entanglements, minimize adverse effects if entanglements occur, and mitigate the effects of any unavoidable entanglements.

To solicit additional stakeholder involvement, on June 14, 2011, NMFS published a Notice of Intent in the Federal Register (76 FR 34654) to announce the agency's intent to prepare an Environmental Impact Statement that would analyze the impacts of alternatives for amending the Plan. In July and August 2011, NMFS held 15 scoping meetings to solicit feedback on the vertical line risk reduction strategy. The information provided at the scoping meetings was also reviewed at a full Team meeting in January 2012. Team members further refined their vertical line risk reduction proposals and the team met via teleconference in February 2012 to review the final proposals submitted. The Team reviewed five proposals: three from state agencies, one from the scientist/academic community, and one from

one from the scientist/academic community, and one from the conservation community. Results of the proposals were presented via teleconference in April 2012. Each vertical line risk reduction proposal was analyzed to assess its impact on both the number of vertical lines and co-occurrence scores relative to the baseline in the Northeast and coastwide.

NMFS designed the proposed alternatives in the DEIS based on comments received during public scoping and using many of the measures submitted by the team in their stakeholder proposals. The alternatives include measures requiring increased traps per trawl, the use of weaker weak links and/or vertical lines of lower breaking strength, and potential time-area closures.

Several of the background documents for the Plan and the take reduction planning process can be downloaded from the Plan Web site at http://www.nero.noaa.gov/whaletrp/. Copies of the DEIS/Regulatory Impact Review for this action can also be obtained online. NMFS has scheduled public hearings on the DEIS. The purpose of the hearings is to provide the public the opportunity to ask questions and provide comments on the upcoming action.

Hearing Dates, Times, and Locations

The dates, times, and locations of the meetings are scheduled as follows:

1. Monday, August 5, 2013--Machias, ME 6-9 p.m.

University of Maine at Machias (Science Building), 116 O'Brien Avenue,

Machias, ME 04654

2. Tuesday, August 6, 2013--Ellsworth, ME 6-9 p.m.

Ellsworth Public Library, 20 State Street, Ellsworth, Maine 04605

3. Wednesday, August 7, 2013--Rockland, ME 6-9 p.m.

Oceanside East High School (Auditorium), 400 Broadway, Rockland, ME 04841

4. Thursday, August 8, 2013--Portland, ME 6-9 p.m.

Portland City Hall (State of Maine Room), 389 Congress St., Portland, ME 04101

5. Tuesday, August 13, 2013--Chatham, MA 6-9 p.m.

Chatham Community Center (Large Meeting Room), 702 Main St., Chatham, MA 02633

6. Wednesday August 14, 2013--Plymouth, MA 6-9 p.m.

Plymouth Public Library, 132 South St., Plymouth, MA 02360

7. Thursday, August 15, 2013--Narragansett, RI 6-9 p.m.

URI Campus, Coastal Institute Building (large conference room), 215 South Ferry Road, Narragansett, RI 02882

8. Monday August 19, 2013--Gloucester, MA 6-9 p.m.

NOAA Northeast Regional Office (Hearing Room A&B), 55 Great Republic Dr., Gloucester, MA 01930

9. Tuesday, August 20, 2013--Portsmouth, NH 5-8 p.m.

Urban Forestry Center 27, Elwyn Road, Portsmouth, NH 03801

10. Monday, August 26, 2013--Wilmington, NC 5:30-7:30 p.m.

New Hanover County Public Library-Main Library (Masonboro Rm), 201 Chestnut St., Wilmington, NC 28401

11. Tuesday, August 27, 2013--Virginia Beach, VA 6-9 p.m.

11. Tuesday, August 27, 2013--Virginia Beach, VA 6-9 p.m.

Meyera E. Obendorf Central Library (Auditorium), 4100 Virginia Beach Blvd., Virginia Beach, VA 23452

[[Page 44538]]

12. Wednesday, August 28, 2013--Manahawkin, NJ 6-9 p.m.

Stafford Township (Court room), 260 E. Bay Ave., Manahawkin, NJ 08050

13. Monday September 9, 2013--Ormond Beach, FL 4:30-6:30 p.m.

Ormond Beach Public Library, 30 S. Beach St., Ormond Beach, FL 32174

14. Tuesday September 10, 2013--Jacksonville, FL 5-7 p.m.

Jacksonville Port Authority (Board Room), 2831 Talleyrand Avenue, Jacksonville, FL 32206

15. Wednesday September 11, 2013--Brunswick, GA 5-7 p.m.

Georgia Department of Natural Resources (Classroom), 1 Conservation Way, Brunswick, GA 31520

16. Thursday September 12, 2013--Charleston, SC 5-7 p.m.

South Carolina Department of Natural Resources, Marine Resources Research Institute (Auditorium), 217 Ft. Johnson Rd., Charleston, SC 29412

Special Accommodations

These meetings are physically accessible to people with disabilities. Request for sign language interpretation or other auxiliary aids should be directed to Kate Swails (978) 282-8481 at least 7 working days prior to the hearing date.

Authority: 16 U.S.C. 1361 et seq.

Dated: July 18, 2013.

Helen M. Golde,
Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013-17737 Filed 7-23-13; 8:45 am]
BILLING CODE 3510-22-P

Kate Swails - NOAA Federal <kate.swails@noaa.gov>

Atlantic Large Whale Take Reduction Plan

alexis rogers <lxsrgrs18@gmail.com> Tue, Aug 6, 2013 at 7:10 PM
To: Kate.Swails@noaa.gov

I am highly concerned with your changes to the inshore lobster fishery. I do not think it is a good idea to do away with single line lobster traps. I am a 20 plus year lobster fisherman in Greater Blue Hill Bay, I have never seen a whale and have spoken to other fisherman who have also never seen a whale in Blue Hill Bay in that time period. I fish 800 traps, 400 of which are singles. It does not make any sense to push this rule onto fishermen in this area because this area has never had any whales. Fishing in and around all the shallow bays with all the rocks and rugged bottom, fishing pairs would create singificant loss and damage. The areas that I am mostly speaking of are Morgan Bay, Union River Bay, Western Bay, Bartlett's Island, Harwood Island, Tinka's Island, Barr Island, Long Island, (all these areas are parrt of Greatere Blue Hill Bay) .I really do not understand your reasoning in pushing this rule on us when there are not now nor have there ever been whales seen in Blue Hill Bay. Where are the facts in passing this law for this area?

Thank you for taking my e-mail and listening to my comcerns.

Sincerely,

Jeff W. Clark

Date: August 8, 2013

To: National Marine Fisheries Service

From: Robert Sloane

Subject: Comments: Proposed Rule Atlantic Large Whale Take Reduction Plan Regulations

As a lobsterman operating from April – October in LMA 2 (Martha's Vineyard), I want to offer my comments concerning the Proposed Rule; Atlantic Large Whale Take Reduction Plan Regulations. My understanding of the proposal is as follows:

Present regulations allow the deployment of single traps in State waters as well as 3 – 12 miles (Federal Waters).

The proposed regulations would result in 3 trap per buoy trawls in State waters and 10 trap minimum trawls in 3 – 12 mile (Federal Waters).

1. Presently LMA 2 lobstermen are awaiting final approval by NMFS re: Trap reduction plan. The result of this plan will mean either fishing less traps or having to purchase additional licenses to maintain fishing at current level. I see no mention of how this impacts the Whale Take in LMA 2 nor is it noted that lobstermen can be faced with the cost of re-rigging to meet the whale take plan simultaneously with cost of the trap reduction plan.

2. When viewing the Whale Take Reduction Plan overall, it appears that concessions were made to minimize the hardship in meeting the plan's goal. For example: Downeast Maine lobstermen were allowed to carry on fishing doubles instead of being forced to re-rig with trawls. Instead in LMA 2, the proposed regulations reflect the most severe measures, for example: three traps per buoy in State waters vs. doubles being allowed. It appears that LMA 2 lobstermen are disproportionately being affected by the proposal. There is probably 30 -50% fewer vertical lines in LMA 2 today than 10 – 15 years ago due to the lobster stock collapse.

3. LMA 2 lobstermen who have survived the recent dramatic downturn in lobster abundance are largely operating marginal businesses. To achieve a profit, I have operated single-handed, reduced boat size, and operated at most economical speeds. To optimize the yield per trap, I fish with single traps in both State and 3 – 12 mile Federal Waters. Over the past 30 years, I tried doubles and 10 trap trawls. The simple fact is a single trap will result in the highest yield per trap. It also offers a method of lobstering that minimizes the threat of " human entanglement" in the line. From a common sense view, having a whale entangle in a 5/16" buoy line with a 40 lb. trap seems less serious than an entanglement with a 10 trap trawl.

4. Realistically I could foresee re-rigging from singles to doubles in both State Waters and 3 – 12 mile Federal Waters, economically I could continue lobstering in LMA 2. Unfortunately, if a 10 trap trawl minimum is required, I can state with assurance, that I will be one of those projected by the proposal as having to leave the fishery due to the economic burden and safety concerns of the Whale Take Reduction Plan Regulations.

5. The Whale Take Reduction Plan is not based on science or actual data. It is based on the simplistic idea that removing vertical lines in the ocean will minimize whale entanglements. No one knows now where the entanglements originate from or any specifics. Based on the few sightings of whales near my gear over 30 years, removing my vertical lines will probably have no effect on the number of entanglements. If the whale population increases probably entanglements will increase, what then? This Plan as presented does have one definite effect, I am regulated out of lobstering for the sake of claiming that "something" whether effective or not is being proposed.

PUBLIC SUBMISSION

As of: August 12, 2013
Received: August 09, 2013
Status: Pending_Post
Tracking No. 1jx-86xw-ynqi
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0006
Comment from Lucky Beckett

Submitter Information

Name: Lucky Beckett
Address: United States,

General Comment

I have had the privileged to meet scientists like Mads Peter Heide-Jorgensen a senior Danish researcher on the topic of North Atlantic whales. These creatures have to fight for survival as they rival the massive ships that share the ocean and are exposed to horrific sonar and underwater explosions by oil companies and pollution and human harvesting. The rudders of ships tear at them and they inadvertently consume human garbage and toxins.

I believe I speak for many people in this country and abroad who would also make their opinion known if they knew the process. Count my request for greater conservation of the whales as not one voice but thousands.

Many years ago Greenpeace came to my Ohio hometown in an effort to mediate with a large purveyor of North Atlantic whitefish from Iceland, a country which was in violation of the moratorium on whaling, citing "scientific use" which turned out to be false. They showed me volumes of data which was astounding concerning the whale and other species. The decline in size and volume. People here in Ohio came out in droves to protest. I personally learned for example how important whale feces is as a nutrient for micro-species that feed fish. They serve as a keystone species in that aspect.

Nature has been used and abused by humans. The oceans and their inhabitants need your help. Please place the most stringent sanctions in place.

National Marine Fisheries Service
Southeast Regional Office, F/SER32
263 13th Avenue South
St. Petersburg, FL 33701

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ROBERT METZ
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SAVE MONEY, NOT WHALES.
CLOSE DOWN NATIONAL MARINE FISHERIES
THIS WILL CREATE JOBS. DISBAND THE
COMMERCE DEPT., DEPT OF EDUCATION,
AND MANY OTHER FEDERAL AGENCIES
DESIGNED TO DESTROY THE U.S. ECONOMY
BY OVER REGULATION AND INEQUITABLE
RULES THAT ARE ARBITRARY AND CAP-
RICIOUS. GO HOME or GO HELP OUT ON
OUR SOUTHERN BORDERS.

Robert Metz

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Comments on Measures to Reduce Takes of NARWs from Fixed Fishing Gear

David Dow <ddow420@comcast.net> Mon, Aug 12, 2013 at 8:44 AM
To: NMFS.NER.whale@noaa.gov
Cc: David Dow <ddow420@comcast.net>

Since I will be unable to attend tomorrow night's meeting in Chatham, Ma. on the NOAA Docket #: NOAA-NMFS-2013-0095, I wanted to submit some thoughts on the importance of the shifting baseline in the ocean and its consequences on the protection of North Atlantic Right Whales (NARWs) by NOAA Fisheries. The agency needs to do all that it can to reduce the incidental takes of NARWs from fixed fishing gear and ship strikes, but I feel that the shifting baseline in the marine food chain from a combination of climate change and eutrophication will require alterations in the NARW critical habitat and the restricted/seasonal closure areas in which the fixed fishing gear proposals are to take place in order to reduce adverse effects on NARWs.

As a resident of Cape Cod and retired biological oceanographer, I don't know how the large zooplankton prey of NARWs will change in time and place as we move into the future in Southern New England, Georges Bank and the Gulf of Maine, but it is bound to influence the whales feeding aggregations and potential interactions with fixed fishing gear. As the Spring diatom bloom changes in location and intensity, the large zooplankton that support forage fish and NARWs will have to respond to their changing food sources. This grazing food chain will be replaced for longer periods of time by the microbial food web (which dominates when the water column is stratified from Spring through the Fall) which reduces the food available to NARWs and forage fish (since it increases the length of the marine food chain and increases the respiratory loss of the phytoplankton particulate and dissolved production at the base of the food chain). If the ocean food chain transfer efficiency is altered as we move into the future, it could have profound implications for the resources that NOAA Fisheries manages

The Northeast Fisheries Science Center's Ecosystems Status Group has already observed some of these changes in the zooplankton community. One consequence is that they were asked by the New England Fishery Management Council (NEFMC) to develop an ecosystem approach for fisheries pilot project by 2015. Both the Marine Mammal Protection Act (MMPA) and Endangered Species Act (ESA) conservation measures assume that an ecosystems-based management perspective will be utilized. It is not apparent to me that this is being done for NARWs, so that the current fixed gear regulations should consider this changing context in which the NARWs exist. The Living Marine and Protected Resource scientists/managers within NOAA Fisheries don't appear to be working on integrated, ecosystem-basedf approaches for the protection and conservation of LMRs and PRs.

The NEFSC hydro-acoustic surveys for forage fish and ecosystem surveys that utilize towed plankton recoding devices could provide data that could be useful in addressing this shifting baseline phenomenon in the marine food chain. NOAA might want to consider using some forage fishing vessels as research platforms, since they sample where forage fish are abundant (providing different types of data than the NEFSC transect surveys on forage fish and zooplankton distribution). Over the longer term, the NEFSC should convert the Bottom Trawl Surveys for groundfish into ecosystems-based surveys and improve ways to convert this data into information useful for management (data rich, but information challenge). This would require an adaptive, ecosystem-based management philosophy for NARWs which would appear to be a paradigm shift from the current focus on reducing NARW incidental takes from ship strikes and fixed fishing gear. Hopefully NOAA's NERO could explore this concept with the Atlantic Large Whale Take Reduction Team and interested members of the public.

Biological oceanographers have known about the two components of the marine food chain: grazing food chain and microbial food web, since the late 1960's when Dr.Lawrence Pomeroy wrote a paper pointing out the importance of the microbial food web in the ocean food chain. Most of the biological oceanographic research on this topic has explored the interaction between climate change and the carbon cycling in the plankton. The NEFSC EMaX modeling project pointed out the consequences of these two components of the planktonic food

web to the linkage between forage fish and LMRs, PRs and Natural Trust Resources (NTRs). Unfortunately it takes time to convert scientific understanding into practical management applications.

The recent warm Winters appear to have diminished the Spring diatom bloom as zooplankton predation has continued to feed on phytoplankton in the bottom waters, while warmer Summers have increased the intensity of the water column stratification which favors the microbial food web. Climate change has also altered the cycling of nitrogen and phosphorus between the sediments and water column in coastal waters, with nutrient enrichment from human activities in coastal watersheds (eutrophication) exacerbating this problem. This is a complex scientific problem that will require a variety of management solutions and perhaps some pilot test projects to see what works.

Since NOAA Fisheries doesn't have any regulatory authority over climate change and eutrophication, it will have to adapt its management approaches to account for these non-traditional human stressors that appear to be the cause of the shifting baseline in the marine environment. In my view this will require more dynamic management approaches to protect NARWs in which scientific data from a variety of sources will be converted into information useful to managers and constituents. NOAA might still utilize restricted areas and seasonal closures for fixed fishing gear as management tools, but their application may have to be more dynamic based on the response of NARWs to their shifting environment and changes in the marine food web. My analogy would be the adage that one can't see the forest because of the different tree species. It takes an intact forest to preserve the plant and animal species that live in the forest and are subject to a variety of human stressors that effect the species if different ways. We need an adaptive, ecosystem-based management framework to achieve the MMPA and ESA goals for NARW recovery. The status quo approaches need to be supplemented with more dynamic solutions.

Thanks for considering these comments.

Dr. David D. Dow
18 Treetop Lane
East Falmouth, Ma. 2536-4814
508-540-7142; ddow420@comcast.net

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Comments DEIS

Kurt Martin <timebandit100@hotmail.com> Sun, Aug 18, 2013 at 1:35 PM
To: "NMFS.NER.whale@noaa.gov" <nmfs.ner.whale@noaa.gov>

To Whom It May Concern:
I'd like to express my comments on the DEIS and Proposed Rule. I am in support of status quo, Option 1. As a commercial fishermen, I have reduced the vertical lines in the water since I started fishing- through going to trawls and decrease of traps in the water.
There is a reason why the fishermen fish singles in certain areas. Going to pairs and small trawls for fishermen with small boats is going to increase being set over and gear conflicts. The ocean is going to end up with more ghost gear in the water.
More and more people are voluntarily switching to trawls because they are changing their fishing practices, but those who choose to stay with singles should be able.

There is a 10% trap reduction every time a transfer is made, that reduces vertical lines.
There is already a 2 month winter closure, and there are only a handful of people who fish late into the season. We very rarely see whales that time of year. Other gears that use vertical lines can be fished during the proposed closure time, why prohibit lobsterman?

Over the past couple years there have been dead whales floating with no gear on them. There have been pair trawlers fishing in a regular basis in this area. NMFS should have followed with the Councils rule and not allowed dumping of trawl nets and placed observers on all of the trips. They fish where the bait is, that is where the whales are.
Kurt Martin

It's unfortunate the federal government types a 900 page document and expects us to comment on every portion of it.

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

(no subje ct)

Jay Vanderpool <vanderpool_jay@yahoo.com> Mon, Aug 19, 2013 at 7:55 PM
To: "nmfs.ner.whale@noaa.gov" <nmfs.ner.whale@noaa.gov>

I am a lobsterman from rockport. Im in favor of alternative 1. Any other alternative is unacceptable and will NOT be followed. Furthermore i am sick and tired of nmfs taking and taking from what fisherman are left. You people are done taking from me. good day sir.

Sent from my iPhone

PUBLIC SUBMISSION

As of: August 26, 2013
Received: August 23, 2013
Status: Pending_Post
Tracking No. 1jx-8779-l3mt
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0007
Comment from Nina Monasevitch

Submitter Information

Name: Nina Monasevitch
Address: United States,

General Comment

I agree Alternative 5 is preferable, HOWEVER:

The waters off New Hampshire and Maine should NOT be exempted.
Additional gear marking strategies must be included to differentiate gear types and regions.
Gillnets should not be exempted from entanglement reduction strategies.
A seasonal closure for black sea bass traps in the Southeast Restricted Area must be implemented to protect newborn critically endangered right whales.

PUBLIC SUBMISSION

As of: August 26, 2013
Received: August 24, 2013
Status: Pending_Post
Tracking No. 1jx-877y-gcpt
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0008
Comment from Marcia Salmond

Submitter Information

Name: Marcia Salmond
Address: United States,

General Comment

It is my firm and unshakable belief that all human life is dependant on a healthy functioning environment.The environment of the sea forms the greater part of this planet and by every measure has neen damaged severly by human behaviour in the last 200 years.I think it is important to realize that most of our clever little abilities have only recently come into being:do we have the right to endanger future generations by failing to act with restraint and prudence at this critical time.
I think we do not and I would urge you in the strongest possible terms to come to the defense of the Oceans and in this instance the whales.I believe they are vital to a balanced eco system and that we must work urgently to restore this balance.
For the first time in modern history there is now a glimmer of hope that this is possible.Recent scientific developments have lead to cheap and simple ways to desalinate ballast water which would make the removal of micro and some macro stoways profitable for ships,as they could produce a second cargo of water for sale at landfall,instead of dumping and contaminating the port cities at which they dock.This is good news,fabulous news really it provides for the possibilty of reintroducing native species.
There are further break throughs of great promise with magnatized nano prticles that may be able to be developed for use in the Oceans currently they are being applied to drinking water which will facillitate the roll out for Ocean use by establishing the facilities for manufacture and the global distribution of these facilities.All.of which will aid greatly in improving the water quality in various localities which again will aid in the recovery of so many species that have declined due to pollution.So we are close to seeing tremendous gains made in once again having healthier seas.

It is vital to us all that people such as yourselves remain staunch in their defense of the seas.This is not a partisan issue nor is it an issue of today it is an issue of forever.There amoungst us people of limited awareness and tremendous greed who seek to promte the exploitation of the seas and their right to profit above the rights of all of mankind and every other living thing in the Ocean.This is unbalanced it is sad travesty of civiization that we must even consider these immature demands. Wright whales have endured everything we have done to them and we are so close to losing them forever,I implore you not to let that happen let us use all of our intelligence to aid them.Let us use all of our science to save them.Let us find in our hearts and minds in our very souls the will to do what we owe the future and let us be content with the thanks of those still not born to praise what we have done for them and for their children.

I thank you for your consideration of my opinion.

PUBLIC SUBMISSION

As of: August 26, 2013
Received: August 24, 2013
Status: Pending_Post
Tracking No. 1jx-8781-3ul6
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0010
Comment from Helen Bobat

Submitter Information

Name: Helen Bobat
Address:
204 Saddlesmith Circle
Kanata, Ontario, Canada, K2M 2Y6
Email: helenabobat@gmail.com
Phone: 6135913564

General Comment

Please help reduce the entanglements of right and humpback whales. We desperately need to protect large whales in the oceans and seas. I am an avid cetacean lover and watcher and spend large amounts of tourist dollars in my endeavours to see whales and other marine mammals in their natural habitats, where they belong. I am also a financial and vocal supporter of Whales and Dolphins Conservation. The National Oceanic and Atmospheric Administration (NOAA) is proposing to restrict the use of risk-prone lines that go from the lobster and crab pots to the surface buoys. Reducing vertical lines in the water will reduce entanglements of whales and this is important to the species which are already at risk. In the NOAA proposals, I prefer Alternative 5. In the NOAA proposals, I do not want Maine or New Hampshire waters exempted. In the NOAA proposals, gillnets should be added and included. According to research conducted by NOAA, serious injuries and mortalities to right whales have been recorded at nearly double the sustainability rates. According to research conducted by NOAA, serious injuries and mortalities to humpback whales have been recorded more than double the sustainability rates. According to NOAA research only protecting the right and humpback whales will save their species. It is time for the government and NOAA to do something to help these species and to stop their untimely and unnecessary demise.

PUBLIC SUBMISSION

As of: August 26, 2013
Received: August 24, 2013
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Tracking No. 1jx-8783-gjq9
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Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0011
Comment from Ivonne Teoh

Submitter Information

Name: Ivonne Teoh

General Comment

Dear NOAA,

Please lower the VERTICAL LINES to prevent hurting marine animals like whales, dolphins, etc.

They are getting tangled up in the lines, which cause pain and suffering!

I have seen photos of a fin whale, etc being caught up in the lines, and they die in pain, unable to move, trapped.

Please help!

Thanks,
Ivonne Teoh
Sydney Australia

PUBLIC SUBMISSION

As of: August 26, 2013
Received: August 25, 2013
Status: Pending_Post
Tracking No. 1jx-878i-jspz
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0012
Comment from Wim Breeman

Submitter Information

Name: Wim Breeman
Address:
Singel 9
Rhoon, 3161 BJ
Email: wim124@hotmail.com
Phone: +31653288635

General Comment

Please reconsider the vertical lines! Besides we have to protect these animals, Whale watching is a big industry and is getting more and more important as a income. Show your commitment as a good example from developed countries to less developed countries and ban the vertical lines and do not promote the fishing industry

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

whale take reduction

Kurt Schmidt <kurtschmidt1@gmail.com> Fri, Aug 23, 2013 at 5:21 PM
To: NMFS.NER.whale@noaa.gov

Hello, I am 73 years of age and have been fishing the outer cape for 40 years.
I have been able to support my family (wife and 2 daughters) with lobstering plus part time work in the off months.
The facts of the dangers of trawl fishing have been documented for many years causing many deaths from drowning along with cold water. Most areas are unlike the outer cape where the water moves at speeds up to 6 knots, pulling the bouys under for much of there fishing time. In that enviroment , the dangers of getting caught in trawl lines on small boats is much higher than in other areas. and cold water in the early and late season adds to the possibility of drowning.
All the backside lobstermen have been able to work (with single lines and bouys) a good working program with each other in a thin fishing area with success for many years.
If we are forced to trawl fish, with traps that can not be seen. there will be one on top of another,and then the cutting begins. After all these years of working together. the end result will be hate and rope lines and traps all over the bottom. I am shocked you do not see the obvious.
Thank you for your attention to this matter.

Kurt Schmidt
permit 003517

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

DEIS Large Whale Take Reduction Plan

phil Mason <keeperlobster@verizon.net> Mon, Aug 26, 2013 at 12:12 PM
To: NMFS.NER.whale@noaa.gov

To: Mary Colligan

Assistant Regional Administrator for Protected Resources

National Marine Fisheries Service

Attn: ALWTRP Large Whale Rule

From: Philip Mason

Captain F/V POT LUCK

Federal Permit # 262659 (my first # was 100002)

State Permit # 017283

From: Peter Mason

Captain F/V Kestrel

Federal Permit # 221967

State Permit # 002543

Subject: DEIS / Large Whale Take Reduction Plan

We both agree to Alternative #1

We both lobster 12 months a year.

We both lobster in Cape Cod Bay

REASONS FOR ALTERNATIVE # 1 TO REMAIN IN EFFECT:

Our Individual average income for the last 10 years from November thru April is between $ 50,000 and $60,000.

We include November and December because to be out of the water by January one must start bringing in gear during those months.

The Right Whale population has in fact increased from below 300 to over 500. What is the number when they are taken off of the endangered list? No one could or would answer that question. The current plan is working; just let it work.

The Presenters at the Plymouth hearing could not give any details as to where or when any whales became entangled. They had no details on ship strikes and appeared vague when questioned about the Stellwagen research vessel striking a Right Whale.

Their presentation appeared to single out lobstermen rather than all causes of whale entanglements.

The Presenters knew nothing of current studies except their own. To wit: The Maine Lobster Community Alliance , along with the New England Aquarium and the Gulf of Maine Research Institute are studying potential gear modifications for vertical lines. “The project follows on an aquarium study that found whales best discern the color red.” Quoted from The Working Waterfront 7/10/13. The state representatives at the meeting knew of the study.

Closing any area thinking the lobstermen will move out and over to another area, shows how little the bureaucrats know about the territorial areas. If we did move there would be a wall of traps around the closed area. However there are people in all harbors who will cut lose any intruder. So is it wiser to bring your traps home and lose income than move ALL your traps? (ours now sell for $70 / trap 800 x70= $56000.) Worst case you lose the income and traps or both. Either way we are down at least $ 50K-$60k or worst $100000K.

Safety for the lobsterman is also a concern. Winter weather prevents one from going to work as one pleases. When pushed for deadlines lobstermen will take a risk on the days when they should be shore side. I (Phil) can speak personally on this issue. I capsized on 2 /9/1980. My partner was lost at sea. The doctors told me I should be dead. I spent approximately 1 hour in and out of 28 degree water. We went on a day we should have stayed home, instead we chased a dollar. The same chasing will be true with closures. Lobstermen will keep their traps fishing until the last possible moment, then risk life and limb to meet the closure date.

In summary we oppose any closure; history shows closures only grow with time. The Right Whale is on the way back. Take no action and let the current rules continue.

Captain Phil Mason

keeperlobster@verizon.net

Captain Peter Mason

pmkesterl@gmail.com

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Large whale proposed rule

larrypennington@hotmail.com <larrypennington@hotmail.com> Wed, Aug 21, 2013 at 6:14 PM
To: nmfs.ner.whale@noaa.gov

Mary Colligan
NMFS Northeast Region
55 Great Republic Dr
Gloucester MA
01930

Dear Mary Colligan,

As a supporter of the International Fund for Animal Welfare (IFAW), and a concerned member of the public, I am writing to comment on the proposed rule to amend the Atlantic Large Whale Take Reduction Plan to reduce the risk of entanglement in vertical lines.

Ive erased a large portion of the IFAW email as composed, in order to simply state the following:

I do try to encourage National Park Services to secure abandoned mines.
I also work with farm families to find and cover abandoned wells on old farms.

But the care of the oceans are too big a concern for me to handle. I must depend on rules like these to address needs at the point of need.

I commend NOAA on their efforts to develop this new rule and encourage continued support of Alternative 5 with the additional points for strengthening this proposal as described above.

Sincerely,

larry pennington
729 plainfield rd
knoxville TN 37923
US
larrypennington@hotmail.com

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Large whale proposed rule

janepelt@gmail.com <janepelt@gmail.com> Wed, Aug 21, 2013 at 6:35 PM
To: nmfs.ner.whale@noaa.gov

Mary Colligan
NMFS Northeast Region
55 Great Republic Dr
Gloucester MA
01930

Dear Mary Colligan,

I am writing to comment on the proposed amendment of the Atlantic Large Whale Take Reduction Plan to reduce the risk of entanglement in vertical lines.

I support the measures laid out in NOAA's preferred alternative, Alternative 5, and ask that the agency include these measures in the final rule making process.

In addition, please include seasonal closures for Jordan Basin, Jeffrey's Ledge and Cape Cod Bay/Outer Cape, to reduce fishing effort in these key areas with high concentrations of right whales.

Maine state waters include about half of all recorded vertical lines in the Northeast region. This high number of lines, even in waters infrequently traversed by whales, represents a significant risk that should be addressed in the final rule.

More information is needed about what type of gear is entangling these whales and where they are being entangled, so NOAA should require gear marking for trap/pot and gill net fisheries, particularly in the Northeast.

Another thing: many of the proposed "restrictions" in the Southeast and Mid-Atlantic retain the status quo, and the risks for right whale mother and calf pairs and humpback whales are not adequately addressed. Different regulations across critical habitat, state waters and federal waters will make it more difficult for fishermen to adjust their gear accordingly, and will thus hinder enforcement.

While planning for enforcement of new regulations, NOAA must increase its enforcement of existing regulations and ensure continued funding for large whale research and disentanglement. Boat and aerial surveys funded by private and federal research grants allow scientists to track changes in the whale populations, monitor their status and inform our understanding of the impact and effectiveness of these regulations. Without these surveys, and support of large whale disentanglement teams, many more injured whales will go unaided. With the North Atlantic right whale just beginning to show signs of slow recovery, now is not the time to back down on these efforts.

Sincerely,

Jane Pelton
15654 Rattlesnake Rd
Grass Valley 95945
US
janepelt@gmail.com

PUBLIC SUBMISSION

As of: August 28, 2013
Received: August 27, 2013
Status: Pending_Post
Tracking No. 1jx-879o-axho
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0013
Comment from Sal Henderson

Submitter Information

Name: Sal Henderson
Address: United States,

General Comment

I am an avid whale watcher and lifelong cetacean campaigner. I am delighted you are identifying ways to help protect the larger whales and support Alternative 5. However, this needs to be strengthened with the inclusion of:

-maine and New Hampshire waters
-gill nets

Please also consider all possible avenues to prevent cetaceans becoming entangled in vertical line fishing gear.

By taking these actions you will help protect the critically endangered right whale whose mortality/injury rate, as your own research shows, is twice the sustainable limit.

Industrial scale fishing is decimating the oceans and having a devastating effect on marine species. I urge you to do all you can now to protect these awe inspiring animals.

PUBLIC SUBMISSION

As of: August 28, 2013
Received: August 27, 2013
Status: Pending_Post
Tracking No. 1jx-879v-u1cz
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0014
Comment from Fiona Stuart

Submitter Information

Name: Fiona Stuart
Address:
6111 Estate Nazareth
St Thomas, VI, 00802

General Comment

I'm writing because I believe we have a responsibility to the other creatures with whom we share this planet and an obligation to protect them from harm caused by our own species whether it be intentional or accidental.

I urge you to restrict vertical lines and gillnets that are harming humpback whales. Such restrictions should not exclude any other States such as Maine or New Hampshire. Your own research has shown that the number of serious injuries and fatalities exceed the number that will allow sustainability of the species.

Please help protect the humpback whales in our waters to ensure the survival of their species.

Thank you.

Fiona Stuart

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Large Whale Propose d Rule

demonraeca@gmail.com <demonraeca@gmail.com> Tue, Aug 27, 2013 at 1:32 AM
To: nmfs.ner.whale@noaa.gov

Mary Colligan
NMFS Northeast Region
55 Great Republic Dr
Gloucester MA
01930

I'm writing to comment on the proposed rules for the Atlantic Large Whale Take Reduction Plan which is meant to reduce the risk of entanglement in vertical lines. The measures in Alternative 5 are a good starting point, starting with seasonal closures in Jordan Basin, Jeffery's Ledge and Cape Cod. Unfortunately New Hampshire and Maine waters are not included which is troubling as these account for almost half of all vertical lines in the Northeast. The Southeast meanwhile is a mis-mash of regulations for state waters, federal waters, etc that will make for difficulties in monitoring and enforcement, and a nightmare for fishermen to adjust to. Lastly, it would be good to see more funding found (never an easy thing) for monitoring and enforcement of these rules.

Thank you for your time.

Sincerely,

Jason Lanum
1800 El Cerrito Place
Los Angeles CA 90027
US
demonraeca@gmail.com

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Large whale propose d rule

gerrit.crouse@gmail.com <gerrit.crouse@gmail.com> Sat, Aug 24, 2013 at 10:50 PM
To: nmfs.ner.whale@noaa.gov

Mary Colligan
NMFS Northeast Region
55 Great Republic Dr
Gloucester MA
01930

Dear Mary Colligan,

Re: proposed rule to amend the Atlantic Large Whale Take Reduction Plan to reduce risk of entanglement in vertical lines.

Human-induced serious injury & mortality due to incidental entanglement in fishing gear now exceeds the recommended Potential Biological Removal level defined for whales. As an emeritus member of the American Institute of Biological Sciences (AIBS), I ask you to include NOAA's preferred Alternative #5 in the final rule making process.

Include seasonal closures for Jordan Basin, Jeffrey's Ledge, & Cape Cod Bay/Outer Cape to reduce fishing effort in areas with high concentrations of right whales.
Exemptions for Maine & New Hampshire state waters are of major concern, particularly as Maine state waters include half of all vertical lines in the Northeast region.

Good information about what type of gear is entangling whales & where is required. NOAA needs to include additional gear marking for trap/pot & gillnet fisheries, particularly in the Northeast to allow scientists to make these determinations.

There is now a patchwork of regulations set up for the Southeast region. Different regulations across whale habitat in state waters & federal waters will make it harder for fishermen to adjust their gear accordingly, & make enforcement more difficult. Retaining the status quo in the southeast & midAtlantic for nearly extinct right whale mother & calf pairs & humpback whales is not an adequare response.

NOAA needs to increase funding for monitoring & enforcement to improve compliance with existing & new regulations. Boat & aerial surveys funded by private & federal research grants allow scientists to track changes in whale populations to determine understanding of the impact & effectiveness of these regulations. Large whale disentanglement teams need to be supported.

The proposed rule is intended to address the threat of vertical lines of trap & pot fisheries, but impact from gillnet fisheries & offshore wind farms needs to be accounted for before final rule making is completed.

Sincerely,

Gerrit Crouse
38 4th Avenue
Apt 2-N
Nyack NY 10960

US
gerrit.crouse@gmail.com

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Please Help Protect Whales from Entanglement

fultura@yahoo.com <fultura@yahoo.com> Wed, Aug 21, 2013 at 3:08 PM
To: nmfs.ner.whale@noaa.gov

Mary Colligan
NMFS Northeast Region
55 Great Republic Dr
Gloucester MA
01930

Dear Mary Colligan,

Please make the visionary decision to protect whales from injury and death due to entanglement in fishing gear.

People all over the U.S. are hoping that you support the new proposed rule to reduce the impact from vertical lines running from surface buoys down to traps and pots at the ocean bottom is the next step to reduce this risk.

Thank you for your consideration.

Sincerely,

Cynthia Tracy
25 Algonquin Road
Canton MA 02021
US
fultura@yahoo.com

8/22/13

Mary Colligan

in Regard to proposed Closures

Jefferies Ledge + Jordan Bason

My name is Jason Polisson FV ~~Rhumbo~~

Rhumboogie 143860 I have Fished

these Aeras over the Last 30-40 Years

Shrimp Dragging During these Times

We have Not seen 10 whales in

Total I dont Know why you think

There is A Problem You made us

give up Floating Rope this Costs me

At Least 50 pots per year when Cut

or droped or Towed off by draggers

it is impossible to grapple them up

deeper than 10 fathoms You made us

use week Links wich Also Costes me

50-60 bouys more Each Season when

will it be enough Closing these Aeras At

Prime Lobster season is Extreemly

hurtfull to my income And Serves

Really No Purpos We Are there Every

Fishible days And dont See Any more

than 4 or 5 each ~~Seas~~ Winter Season

Please dont hunt us any more
we have ben driven out of fish
dragging at least 40% of my income
if we loose this winter fishing our prime
time it will be devastating

Thanks For Your Time

Jason Polesser
FV Rhumboogie
143860

Nathaniel "Laddie" Dexter
201 Arlington St.
Marshfield, MA 02050
(781) 834-6426
(617) 930 0264 cell

RECEIVED
AUG 2 2 2013
BY:_____

August 15, 2013

U.S. Department of Commerce, NOAA, NMES,

I am writing to comment on the public hearing held by you on Wednesday August 14, 2013 at the Plymouth, MA Town Library. I will admit I was late for the initial opening of the hearing due to a massive one plus hour traffic jam. I do in fact have the written hand out and commenting on the proposals for area one.

First I would mention that I have over fifty years experience fishing in area one. Also to indicate my involvement in the good and long term conservation of the lobster fishery I was awarded the 1994 Ambassador Award, awarded jointly between "the Republic of the United States and Canada." I am also past president of the Massachusetts Lobstermen's Association having served as such for 16 years until my retirement.

A quick couple of comments prior to my actual comments on proposed alternatives; on the first page of the hand out under "purpose" it states that the number of mortalities is increasing and must be reduced. If you have more whales out there, the number of whales has increased substantially in recent years, it stands to reason that statistically there will be more interaction with them i.e. look at the number of dead deer along the road side compared to a number of years ago, more of anything increases the interaction. You greatly overlook the major cause of mortalities which is in fact ship strikes. If you were just swimming along on the ocean surface and a ship traveling along at normal speed ran into and gave you a smack in the head you will probably roll around for a while without any idea what you were doing. That is where the entanglement comes into being. As an example of this scenario I site the days of hand line fishing for tuna on Stellwagon Bank. At that time there multi hundreds of boats with six to ten hand lines, made of pot wrap, off of each of these boats which were so close to each other you could talk to each other. During this time all kinds of whales would swim right through the middle of this fleet. I never once heard of any entanglements as a result of this interaction. This also holds

true as many days in the past as I was hauling traps whales would spend time around the boat in a curious manner, again no entanglements and the whales would get bored after a while and swim away.

This past spring as you know there was a large number of whales on the west side of Cape Cod Bay. You could see them as you were standing on the town pier. There were no entanglements, why you ask, none of them were conked on the head by a ship and they could navigate properly as they have for centuries. I know is it tough to go after big business, shipping, but until you get that straightened out your problem will never go away and with the increase in whales the number of mortalities will most likely continue to increase.

ALTERNATIVE 1

This system has been agreed upon by the fishermen and regulators. It still allows fishermen to work, although there is a substantial cost to the fishermen, and allows relative protection to the whales.

ALTERNATIVE 2

I have long been an advocate for trawls which greatly reduce the number of ghost traps. I personally fish tens in shoal water and the two together for 120 plus feet of water. This is quite common in Cape Cod Bay.

ALTERNATIVE 3

The trawl length is covered in Alternative 2. A major problem exists in the closure dates. Usually there is a good run of lobsters through the end of December. In order to take 800 traps ashore at that time of year it would take upwards of one month. That would substantially affect a person's income. I ask can you afford an income reduction in today's economy. Add the fact although possible, whale sightings by me in January are so rare that I can't remember the last time I saw one in January.

ALTERNATIVE 4

Covered in alternative 3.

ALTERNATIVE 5

Covered in alternatives 3 & 4.

ALETRNATIVE 6

Appears to be more of the previous alternatives, 2, 3, 4, and 5 and is basically redundant.

As I am sitting in my kitchen watching the news, one of the lead stories is about a young girl being attacked by a black bear, the girl survived. The news reporter interviewed an environmental police officer. His comment was as the bear population increases interaction will be more common. I believe this only reiterates the major point of my letter. So what does this mean? People can no longer walk in the woods or use the ocean? We can and must do better than this.

In closing I would be more than happy to talk, either by phone or in person, to any of the agencies involved in this matter. No one will be completely happy with the outcome but possibly an experienced voice of reason could clear up some of the issues.

Respectfully submitted,

Nathaniel "Laddie" Dexter

Nathaniel "Laddie" Dexter

W. William Anderson
702 Dixie Road
So. Trescott, Maine 04652
Phone (207)733-2179
Fax (207) 733-2179

RECEIVED
AUG 29 2013
BY: KB

August 26, 2013

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

Dear Ms. Colligan:

I attended your public hearing in Machias on August 5, 2013. After attending that meeting I want to provide this further comments on your Amendment to the Atlantic Large Whale Reduction Plan.

While I am not opposed to additional gear marking on buoy lines if this will help identify a problem. I would like to know that this additional work will actually help identify a problem. If my buoy line with additional markings, is cut off by another fisherman. Then a whale becomes entangled in it. Does this help identify the problem?

You are considering having a different color mark for the Maine and New Hampshire exempted areas. This would be a real problem for a fisherman like myself that is fishing around the line. Where I live and fish this exempted area is a very thin strip very close to shore. One week I might be inside the exemption line and the next week I might be outside or be fishing on this line. One end of the trawl inside and the other end outside. I had been just marking all my buoy lines no mater where I fish them so I would be in compliance no mater where I fished. Having to have one marking for gear inside the line and a different mark outside the line would be difficult to stay in compliance with. There is no line on my chart plotter telling me exactly where this line is and I am not exactly sure when I am in exempted waters and when I am not. I would find it very difficult to know when I was in compliance and when I was not. Then I would have to be constantly checking my buoy lines to see if I had the right color markings for where I was going to set this gear now.

You are proposing several closed areas. While I made no comment on this at the public hearing because I do not fish anywhere near these closed areas. I have been thinking about what you and others said about closed areas I question the value of these closed areas for the following reasons.

1. You said in some of these areas there is already little fishing in these areas at the time of the closures. These fisherman are already complying with all whale rules and if effort is at a low level then the chance of entanglement is already at a

very low level. So I can see almost no reason to justify closing these areas as long as the fishermen fishing there are in compliance with all rules to reduce the risk of entanglement.

2. Closing these areas will displace the few fishermen who do fish there and force them to go to other areas which may already be crowded and difficult to find room to set your gear in. While the National Marine Fisheries Service has been talking about the need to reduce the risk of entanglement MNFS allowed the number of federal lobster permits to double in Lobster Management Area 1. This has made this area very crowded and now you want to further limit where all these fishermen can fish. I really question National Marine Fisheries Service's Leadership here and I could say a lot more but I will not at this time.

3. An area like the Cape Cod Bay Critical Habitat area is a near shore area and this is fished with small boats many of them not capable of moving to another area to fish such as a large 80 foot offshore vessel would be capable of doing. If there are a few fishermen who do fish in Cape Cod Bay and they are in compliance with all your whale rules for this area. It is my opinion that they should be allowed to fish. Unless you can show that there is an entanglement problem in this area at this time that can not be resolved by rules to reduce the risk of entanglement.

4. I am opposed to any closed areas unless you can show that there are so many entanglements in an area at a time of year that all gear should be removed.

5. Maybe you should do a better job of managing fishing effort and spend less time trying to write rules about how a fisherman can fish. When I started in this business the number of fishermen and traps were low and the per pot averages were very good at times and expenses were low. Today the ocean is polluted with traps, expenses are very high and per pot averages are poor much of the time. While the per pound prices paid to fishermen are at very low levels. Shell disease is spreading and the rules we have to comply with keep increasing. This all takes more time and effort to stay in compliance with all these rules and also increases our expenses even more. While all other operating costs are at an all time high and only seem to continue to increase.

Sincerely,

Bill

W. William Anderson

Box 959
Manomet MA 02345

Mary Colligan and All Concerned Memebers
NMFS
55 Great Republic Drive
Gloucester, MA 01930

Dear Sir or Madam:

I am currently fishing for lobsters in the waters south of Plymouth, MA. This is my 59 th. Season. I am now fishing, and have always fished single traps...each with a single buoy line. At my peak, I fished 400 traps, now I am fishing 120. When I started fishing for lobsters in the 50's, every one of the dozens of lobstermen in the Plymouth area fished singles. The first trawls appeared in our area during the early 70's. Generally, the earliest one could find traps appearing in the water was during the mid to late Spring, and virtually all of the gear was removed from the water by Jan 1. No one in our area fished for lobsters in the hard winter months. Many fishermen waited until after the shed, and did not place gear into the water until mid-June or even later...I adopted that procedure and still follow that schedule to this day.

Due to attrition and larger boats which are conducive to trawl fishing, the number of commercial fishermen using single trap buoy lines has dwindled to 5 fishermen in the area from Plymouth to Ellisville (about 7 Miles). I currently fish the most singles of the 5 active single trap fishermen in our waters. We all have our gear removed from the water by Nov. 1. In 2012, after a final sweep of the waters in our area, all singles with the exception of several rocked-down traps were out of the water...only trawls remained. Usually, any gear that is rocked or abandoned for whatever reason is brought ashore by storms. On the Western side of Cape Cod Bay, all gear moved by storms moves closer to shore, if not, completely onto the shore. No gear moves out into the Bay to become an entanglement threat.

During my 59 years as a lobsterman, involving an estimated 6000-7000 trips, I have never seen a Right Whale. I have seen 2 pods of Humpbacks, and 1 pod of Meinke. The reason, I believe, for such limited exposure to whales over such a great number of years is that single trap fishermen and whales are simply not in the area at the same time.

For the reasons stated above, I am urging the NMFS not to adopt a **" one size fits all "** approach toward amending the Large Whale Take Reduction Plan, but to incorporate into any plan, a clause which will allow single trap fishermen to exist.

Please review the following possibilities:

1. A **near shore exemption** for single trap buoy lines.
2. A **seasonal exemption** for single trap buoy lines (example: allowed only June 1 to Nov. 1)
3. A combination of # 1 and # 2.
4. A *grandfather* exemption...but with seasonal restrictions.

I do not see a need for further implementation of restrictions, and favor a ***status quo*** approach.

The whale population is on the rebound. Measures already in place are working. Humpbacks are proliferating, and the Right Whale numbers are ever gaining strength. What is working, **is working.** Give the measures already in place a chance.

Please do not eliminate my existence as a single trap fisherman. I do not have the boat or the physical ability to fish trawls.

Thank you for your attention.

Yours truly,

Paul H. Francis 005584

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

MARJORY STONEMAN DOUGLAS BUILDING
3900 COMMONWEALTH BOULEVARD
TALLAHASSEE, FLORIDA 32399-3000

RICK SCOTT
GOVERNOR

HERSCHEL T. VINYARD JR.
SECRETARY

September 3, 2013

Ms. Kate Swails, ALWTRP Coordinator
Protected Resources Division
NOAA/National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930-2276

RE: National Marine Fisheries Service – Draft Environmental Impact Statement for Amending the Atlantic Large Whale Take Reduction Plan (ALWTRP): Vertical Line Rule.
SAI # FL201307156655C

Dear Ms. Swails:

The Florida State Clearinghouse has coordinated a review of the referenced Draft Environmental Impact Statement (EIS) and proposed rule to amend the ALWTRP under the following authorities: Presidential Executive Order 12372; § 403.061(42), *Florida Statutes*; the Coastal Zone Management Act, 16 U.S.C. §§ 1451-1464, as amended; and the National Environmental Policy Act, 42 U.S.C. §§ 4321-4347, as amended.

The Florida Fish and Wildlife Conservation Commission (FWC) submitted comments, concerns and recommendations regarding the draft EIS and rule in the attached letter, which is incorporated herein by this reference and made an integral part of this letter.

Based on the information contained in the submittal and comments provided by the FWC, the state has determined that the proposed federal action is consistent with the Florida Coastal Management Program (FCMP). We recommend further coordination with the FWC prior to implementation to ensure the proposal's continued consistency with the FCMP.

Thank you for the opportunity to review the draft EIS and rule. If you have any questions regarding this letter, please contact me at (850) 245-2170 or Lauren.Milligan@dep.state.fl.us.

Yours sincerely,

Lauren P. Milligan

Lauren P. Milligan, Coordinator
Florida State Clearinghouse
Office of Intergovernmental Programs

Enclosure

cc: Jessica McCawley, FWC
Scott Sanders, FWC

Florida State Clearinghouse

August 23, 2013

Ms. Lauren Milligan
Office of Intergovernmental Programs
Department of Environmental Protection
3900 Commonwealth Boulevard, Mail Station 47
Tallahassee, FL 32399-3000
Lauren.Milligan@dep.state.fl.us

RE: SAI # FL201307156655C – National Marine Fisheries Service (NMFS) – Draft Environmental Impact Statement for Amending the Atlantic Large Whale Take Reduction Plan (ALWTRP): Vertical Line Rule.

Dear Ms. Milligan:

The Florida Fish and Wildlife Conservation Commission (FWC) has completed agency review of the Draft Environmental Impact Statement (DEIS) and Proposed Rule for Amending the Atlantic Large Whale Take Reduction Plan (ALWTRP). The FWC provides the following comments and recommendations pursuant to the National Environmental Policy Act and the Coastal Zone Management Act/Florida Coastal Management Program.

Comments and Recommendations

Amendments to the ALWTRP are being proposed to implement conservation measures designed to reduce the risk of serious injury and mortality of right, humpback, and fin whales from entanglement in vertical lines from commercial trap/pot and gillnet fishing gear. Florida has prohibited the use of gillnets in state waters since 1995, but gillnet fisheries continue to operate in federal waters adjacent to Florida and trap/pot gear is used in both state and federal waters of Florida.

With regards to the North Atlantic right whale, the conservation measures in the proposed rule are expected to reduce right whale injuries and deaths attributed to entanglement in vertical lines. The FWC agrees with the need for additional conservation measures due to the presence of adult and neonate right whales co-occurring with the use of vertical line fishing gear in the Northern portion of Florida's Atlantic coast. The presence of neonate right whales is specific to this area of Florida, and of concern is that neonate whales do not have the strength that adult whales have and potentially run a higher risk of entanglement in vertical line fishing gear.

The FWC acknowledges there will be burdens placed on commercial and recreational fishers with the proposed regulatory measures identified in DEIS Preferred Alternative 5. Such burdens include but are not limited to:

- loss of income to commercial fishermen during the time needed to have traps/pots out of the water to convert existing gear to comply with proposed new gear requirements;
- cost of gear conversion for both recreational and commercial trap/pot gear fishers;
- significant reduction of fishing time for existing federal waters commercial trap/pot fisheries due to the proposed requirement to bring traps back to shore at the conclusion of each trip; and
- limit expansion of certain trap/pot fisheries into federal waters also due to the proposed requirement to bring traps back to shore at the conclusion of each trip.

In order to address these regulatory burdens on trap/pot fishery participants, the FWC strongly recommends that NMFS provide for an adequate period of time prior to implementation of the proposed amendments to allow for public education, and to allow for fishers to convert their trap/pot gear to comply with the new regulations. Additionally, the FWC and other affected states may also need time to make changes to trap/pot gear regulations that may be necessary to address inconsistencies between state regulations and NMFS' proposed amendments.

The FWC appreciates the opportunity to provide input on amendments to the ALWTRP. Should you require additional assistance regarding our comments, please contact Lisa Gregg at (850) 617-9621, or lisa.gregg@myfwc.com.

Sincerely,

Jessica McCawley
Director

jm/mr/lg

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Large whale proposed rule

devholan@hotmail.com <devholan@hotmail.com> Thu, Aug 22, 2013 at 8:17 PM
To: nmfs.ner.whale@noaa.gov

Mary Colligan
NMFS Northeast Region
55 Great Republic Dr
Gloucester MA
01930

Dear Mary Colligan,

As a long-time supporter of the International Fund for Animal Welfare (IFAW), and a concerned member of the public, I am writing to comment on the proposed rule to amend the Atlantic Large Whale Take Reduction Plan to reduce the risk of entanglement in vertical lines.

I know you're receiving a ton of these robo-copied emails and this is just one more. So let me point out that IFAW does great work, always with the perfect blend of animal-friendly solution and respect for local commerce.

Please do the right thing and support Proposal 5.

Sincerely,

Dev Holan
8345 NW 66 St
Miami FL 33166
US
devholan@hotmail.com

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Large whale proposed rule

jleclerc3087@yahoo.com <jleclerc3087@yahoo.com> Thu, Aug 22, 2013 at 5:04 PM
To: nmfs.ner.whale@noaa.gov

Mary Colligan
NMFS Northeast Region
55 Great Republic Dr
Gloucester MA
01930

Dear Mary Colligan,

As a supporter of the International Fund for Animal Welfare (IFAW), and a concerned member of the public, I am writing to comment on the proposed rule to amend the Atlantic Large Whale Take Reduction Plan to reduce the risk of entanglement in vertical lines.While this proposed rule is intended to only address the threat of vertical lines associated with trap and pot fisheries, the cumulative impact from gillnet fisheries an.

I commend NOAA on their efforts to develop this new rule and encourage continued support of Alternative 5 with the additional points for strengthening this proposal I support Alternative 5, which promotes a positive, practical solution that is expected to achieve the greatest reduction in risk to whales while limiting impacts on local fishermen.

Sincerely,

Jane Leclerc
3087 South Woodrow Street
Arlington VA 22206
US
jleclerc3087@yahoo.com

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

whale

konkman62@comcast.net <konkman62@comcast.net> Sun, Sep 8, 2013 at 3:21 PM
To: NMFS.NER.whale@noaa.gov

My name is David Demski Ma. permit holder 007023.I have pot fished in Buzzards bay and Vineyard Sound with single traps for 32 seasons.I fish alone and with a stern man when fishing is good and find single traps are much more profitable than fishing with trawls and are much safer.In 32 seasons I have NEVER SEEN a whale in state waters which is 3 miles from shore.It is VERY unfair to propose these new laws in areas where there are no whales.The low prices we are getting for our catch its not feasible to have to buy all new rope to fish trawls and what are we going to do with are single trap set ups I have over 800 bouys and single ropes?Any whale entanglement I have seen photos of are off shore poly balls with 7/16 rope or larger.All fisherman who use single traps in my area use 5/16 rope with brake away swivels.Many opinions are if a whale ever got tangled it would more likely survive a single pot tangle than a trawl with many traps and large diameter line.I think it is really unfair to have one rule fits all with these new rules.How can you say no more single traps cause of entanglement if there are no whales here?Narragansett Bay in R.I. is excempt and Buzzards Bay and Vineyard should be as well.These areas I fish are called Gosnold County in Ma. and there has been a state law prohibiting the use of trawls there,only single traps are alllowed to help the small fisherman survive.Laws for the Outer Cape and Cape Cod Bay are justified that's where these whales come to migrate and eat but that same law is not fair for the people in my area because there are no whales.There is not any data proving that there are whales in these waters so how can make a law that's defistating to the fisherman here when it is not needed?Most people fishing in my area are 50 years or older and fish alone and fish single traps because the are much safer and easier to move to different areas with out all the groundline around there feet.These new proposal are creating a safety hazard especially when there are no whales here.Its great that you are concerned about the whales and some changes are needed in the Cape cod Bay area but inshore areas like Buzzards Bay and Vineyard sound should be excempt like inshore Rhode Island ,New Hampshire and parts of Maine who have thousands of single traps.I hope you listen and think about comments like this because you are making new laws that hurt a lot of people and serve no purpose in these whale free environments.

NMFS
55 Republic Drive
Gloucester, MA 01930
Attn: Mary Colligan, Assistant Regional Administrator for Protected Species

RECEIVED
SEP - 2013
BY:

Written comment to the Atlantic Large Whale Take Reduction Plan (ALWTRP)

Dear Ms. Colligan,

The following comments of support or opposition to components of the ALWTRP are as follows.

a) I support the exemption of New Hampshire state waters and any alternative that has that as a component of the final plan.

b) I support the minimum number of 10 traps per trawl for waters between 3-12 miles and any alternative that has that as a component of the final rule.

c) I support the minimum number of 20 traps for waters beyond 12 miles and any alternative that has that as a component of the final rule.

d) Buoy line marking requirements for exempted waters in NH & ME should have separate colors.

e) Buoy line marking requirements for lobster gear that travels from state waters to federal waters needs to be improved so as to be not confusing.

f) Marking the buoy lines 3 times in the length of the line and with each mark needing to be 12 inches in length seems excessive. Maintaining the mark at the top end of the buoy line is supported.

g) I strongly OPPOSE any alternative that includes the Jeffries Closure Area. Making this a requirement would not serve its intended purpose by any means and potentially increase any chance of an interaction with whales.

I hope these comments will be incorporated in the final rule of the ALWTRP.

Sincerely

James E Reid 9-2-13

NMFS
55 Republic Drive
Gloucester, MA 01930
Attn: Mary Colligan, Assistant Regional Administrator for Protected Species

RECEIVED
SEP - 5 2013
BY:_____

Written comment to the Atlantic Large Whale Take Reduction Plan (ALWTRP)

Dear Ms. Colligan,

The following comments of support or opposition to components of the ALWTRP are as follows.

a) I support the exemption of New Hampshire state waters and any alternative that has that as a component of the final plan.

b) I support the minimum number of 10 traps per trawl for waters between 3-12 miles and any alternative that has that as a component of the final rule.

c) I support the minimum number of 20 traps for waters beyond 12 miles and any alternative that has that as a component of the final rule.

d) Buoy line marking requirements for exempted waters in NH & ME should have separate colors.

e) Buoy line marking requirements for lobster gear that travels from state waters to federal waters needs to be improved so as to be not confusing.

f) Marking the buoy lines 3 times in the length of the line and with each mark needing to be 12 inches in length seems excessive. Maintaining the mark at the top end of the buoy line is supported.

g) I strongly OPPOSE any alternative that includes the Jeffries Closure Area. Making this a requirement would not serve its intended purpose by any means and potentially increase any chance of an interaction with whales.

I hope these comments will be incorporated in the final rule of the ALWTRP.

Sincerely,

431 Dover Point Rd.
Dover, NH 03820

New Hampshire Commercial Fishermen's Association
P.O. Box 601
Rye, NH 03870

RECEIVED
SEP - 5 2013
BY:_____

NMFS
55 Great Republic Drive
Gloucester, MA 01930
Attn: Mary Colligan, Assistant Reg. Adm. for Protected Species

Re: Written Public Comment to Atlantic Large Whale Take Reduction Plan

This organization is submitting written comment to the Federal Register / Vol. 78 / No.136 dated Tuesday, July 16, 2013 on proposed rules for the Atlantic Large Whale Take Reduction Plan. We did attend the Portsmouth, NH public hearing on Aug. 20, 2013 to listen to the presentation of the plan and also make verbal comments at that meeting.
Our comments as are follows and are relative for the area of concern within the domain of NH lobster fishermen.

1) **We do endorse the exemption provisions for New Hampshire state waters and support any alternative that includes that as a component of the plan.**
2) **We do support the minimum number of traps required per trawl (10 traps) for waters between 3-12 miles and any alternative that includes that as a component of the plan.**
3) **We do support the minimum number of traps per trawl (20 traps) for waters beyond 12 miles and any alternative that includes that as a component of the plan.**
4) **We do have concerns with the buoy line marking requirements as written in the proposed rule.**
    a) **The buoy line marking requirement for the two exempted areas (NH & ME) have the same color for both areas. It would be in the best interest of the rational and purpose of buoy line marking to have separate colors for these two exempted areas as there is a geographic difference between them that would not serve the best interest of each area in identifying buoy lines.**
    b) **Since lobster gear can and does travel between exempted state waters and federal waters the buoy line marking requirements in the proposed rule make it confusing and onerous. We recommend that these concerns be addressed in any final rule so that they eliminate this confusion of lobster gear traveling between state and federal waters.**
    c) **We feel that marking the buoy line at 3 locations and with the minimum length of 12' for each mark are excessive for the purpose of gear identification. Buoy line lengths change as fishermen fish different depths and it would be contrary to the purpose of the gear**

marking requirement if fishermen complied with the 3 marks per buoy line only to fish an excessive length of buoy line when it might not be needed thus increasing the length of buoy line in the water.

5) **We are opposed to any alternative that includes the Jeffries Closure Area. Rational:**
    a) **Closure areas produce the result of concentrated fishing activity on the borders of the closure. For the purpose of this closure in the ALWTRP it would concentrate fishing gear and buoy lines on the perimeter of the closure, which in essence is not productive to the purpose of the plan to reduce potential interaction. The closure would create an unnatural fence around its perimeter thus increasing the possibility of interaction.**
    b) **If the closure boundaries are incorrect by reason of changing environmental conditions their purpose is compromised with little possibility of regulatory change due to the process required for any alterations to the plan. They become closures with little value to the purpose of the plan and also cause great negative economic consequences to the fishery.**
    c) **Area closures were not fully vented through the TRT process and meetings and adding them as an after fact in the configurations described in the ALWTRP is felt to not be transparent to the TRT process.**

These conclude our comments to the proposed rule for the ALWTRP and we hope these concerns are addressed in the final rule for the purpose of constructing a sensible and constructive plan, which best serves this issue.

Sincerely,

Erik Anderson, Pres.
New Hampshire Commercial Fishermen's Association

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Large whale proposed rule

vickilsmith2005@yahoo.com <vickilsmith2005@yahoo.com> Thu, Aug 22, 2013 at 8:40 AM
To: nmfs.ner.whale@noaa.gov

Mary Colligan
NMFS Northeast Region
55 Great Republic Dr
Gloucester MA
01930

Dear Mary Colligan,

As a supporter of the International Fund for Animal Welfare (IFAW), and a concerned member of the public, I am writing to comment on the proposed rule to amend the Atlantic Large Whale Take Reduction Plan to reduce the risk of entanglement in vertical lines.

I, and other environmentally concerned people, are kept informed by various organizations. I am going to skip the resending of technical jargon that I'd have to assume you are already aware of. Instead I'd like to say:

We all stand on the shoulders of those that have gone before. We 'inherit' their improvements but also their mistakes. People have pillaged the lands and seas - fished like there is no tomorrow, logged forests like they will go on forever; hunted like game will never decrease, etc.

The world today is a lot 'smaller' than it used to be in that it is explored, profited from and thoroughly exploited.

It is now TIME to pull back, slow down and do the right thing. We can NOT continue to take and take and take without dire consequences.

It can no longer be acceptable to use the excuse of needing today's profit at the expense of the long-term risk of diminishing the environment. We not have to use our big brains to protect and prevent and not just pillage and profit. We are only just now really starting to learn of how intelligent whales and dolphins are; how incredible the journeys of sea turtles and so on. But they need a break - a 'brake' from our negative activities that endanger them.

I commend NOAA on their efforts to develop this new rule and encourage continued support of Alternative 5 with the additional points for strengthening this proposal. It is the right thing to do now that we know more. We need to stand for the future also.

Sincerely,

Vicki Smith
222 Lower Falls Dr
Black River Falls WI 54615
US
vickilsmith2005@yahoo.com

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Large whale proposed rule

shurt@live.com <shurt@live.com> Fri, Aug 23, 2013 at 6:52 PM
To: nmfs.ner.whale@noaa.gov

Mary Colligan
NMFS Northeast Region
55 Great Republic Dr
Gloucester MA
01930

Dear Mary Colligan,

As a supporter of the International Fund for Animal Welfare (IFAW), a person who lives full-time on the water and a concerned member of the public, I am writing to comment on the proposed rule to amend the Atlantic Large Whale Take Reduction Plan to reduce the risk of entanglement in vertical lines.

I understand that human-induced serious injuries and deaths due to incidental entanglement in fishing gear has exceeded the recommended Potential Biological Removal (PBR) level defined for these whale species.It is imperative that more is done to reduce this threat. Therefore, I support the measures laid out in NOAA's preferred alternative, Alternative 5, and ask that the agency include these measures in the final rule making process.

It is especially important to close fishing areas seasonally that have high concentrations of right whales present concurrently with the fishing season. It is also important to make the regulations consistent throughout the areas of concern to insure that fisherman understand and implement the regulations.

However, all of these efforts will go to waste without continued and improved enforcement and monitoring. NOAA needs to increase their effort and funding for enforcement to improve compliance with existing regulations, while also establishing plans for enforcement of these new regulations. As part of this effort, ensuring continued funding for large whale research and disentanglement is imperative. Boat and aerial surveys funded by private and federal research grants allow scientists to track changes in the whale populations, monitor their status and inform our understanding of the impact and effectiveness of these regulations. Without these surveys, and support of large whale disentanglement teams, many more injured whales will go unaided. With the North Atlantic right whale just beginning to show signs of slow recovery, now is not the time to back down on these efforts.

While this proposed rule is intended to only address the threat of vertical lines associated with trap and pot fisheries, the cumulative impact of all offshore human activities needs to be taken into account.

I commend NOAA on their efforts to develop this new rule and encourage continued support of Alternative 5 with the additional points for strengthening this proposal as described above.

Sincerely,

Sonia Hurt
9540 Semiahmoo Pky
Blaine WA 98230
US
shurt@live.com

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Large whale proposed rule

barb@nightowlcreations.com <barb@nightowlcreations.com> Wed, Aug 21, 2013 at 11:22 PM
To: nmfs.ner.whale@noaa.gov

Mary Colligan
NMFS Northeast Region
55 Great Republic Dr
Gloucester MA
01930

Dear Mary Colligan,

We have very few whales left in the world now, so Please do what you can to protect the whales that remain.

At the very least, Limit fishing in their seasonal areas and restrict fishing lines that entangle them there.

As a supporter of the International Fund for Animal Welfare (IFAW), and a concerned member of the public, I am writing to comment on the proposed rule to amend the Atlantic Large Whale Take Reduction Plan to reduce the risk of entanglement in vertical lines.

I commend NOAA on their efforts to develop this new rule and encourage continued support of Alternative 5.

THANK YOU for your time and attention to this critical issue, Please Act Fast ~

Sincerely,

Barbara Holladay-Vernon
2413 Kayewood Drive
Denton TX 76209
US
barb@nightowlcreations.com

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Large whale proposed rule

cyclenuts@cox.net <cyclenuts@cox.net> Wed, Aug 21, 2013 at 11:18 PM
To: nmfs.ner.whale@noaa.gov

Mary Colligan
NMFS Northeast Region
55 Great Republic Dr
Gloucester MA
01930

Dear Mary Colligan,

A concerned member of the public, I am writing to comment on the proposed rule to amend the Atlantic Large Whale Take Reduction Plan to reduce the risk of entanglement in vertical lines.

I support the measures laid out in NOAA's preferred alternative, Alternative 5, and ask that the agency include these measures as well as those described below in the final rule making process.

1.) For inclusion are the seasonal closures for Jordan Basin, Jeffrey's Ledge and Cape Cod Bay/Outer Cape, aimed at reducing fishing effort in key areas known to have high concentrations of right whales co-occurring with high fishing activity.

2.) The exemptions included for Maine and New Hampshire state waters are of major concern, particularly as Maine state waters include approximately 50% of all recorded vertical lines in the Northeast region.

3.) The proposed gear-marking scheme that only adds new fishing line markings for these state exempted waters is likely to fall short of the needs of the scientists, fishermen and NOAA alike. Therefore, I encourage NOAA to include additional gear marking for trap/pot and gillnet fisheries, particularly in the Northeast to allow scientists to better make these determinations.

4.) The patchwork of regulations set up for the Southeast region. The proposed rule will make it more challenging for fishermen to adjust their gear accordingly, while also making enforcement more difficult.

5.) Continued and improved enforcement and monitoring. NOAA needs to increase their effort and funding for enforcement to improve compliance with existing regulations, while also establishing plans for enforcement of these new regulations.

6.) Continued funding for large whale research and disentanglement is imperative. Boat and aerial surveys funded by private and federal research grants allow scientists to track changes in the whale populations, monitor their status and inform our understanding of the impact and effectiveness of these regulations.

7.) The cumulative impact from gillnet fisheries and other human activities, such as offshore wind farms, needs to be more fully accounted for before final rule making is completed.

I commend NOAA on their efforts to develop this new rule and encourage continued support of Alternative 5 with the additional points for strengthening this proposal as described above.

Sincerely,

Steven Miller
10057 Rancho Capitan
Lakeside CA 92040
US
cyclenuts@cox.net

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Large whale proposed rule

kundaleewicce@grandecom.net <kundaleewicce@grandecom.net> Wed, Aug 21, 2013 at 10:15 PM
To: nmfs.ner.whale@noaa.gov

Mary Colligan
NMFS Northeast Region
55 Great Republic Dr
Gloucester MA
01930

Dear Mary Colligan,

I thank the NOAA for developing this new rule to amend the Atlantic Large Whale Take Reduction Plan so there is less risk of entanglement in vertical lines. I enthusiastically support the proposed rule.

More specifically I support Alternative 5.

Please also include seasonal closures for Jordan Basin, Jeffrey's Ledge and Cape Cod Bay/Outer Cape. I do not support establishing different regulations in critical habitats, state waters and federal waters.

To allow for better data collection please include additional gear marking for trap/pot and gillnet fisheries, particularly in the Northeast.

And finally, please do all you can to increase funding for enforcement and research.

Thank you.

Sincerely,

Kunda Wicce
6607 Willamette Dr.
Austin 78723
US
kundaleewicce@grandecom.net

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Propose d rule on ALWTR

april.hayden@hotmail.com <april.hayden@hotmail.com> Wed, Aug 21, 2013 at 10:00 PM
To: nmfs.ner.whale@noaa.gov

Mary Colligan
NMFS Northeast Region
55 Great Republic Dr
Gloucester MA
01930

Dear Mrs. Colligan,

I am writing to comment on the proposed rule to amend the Atlantic Large Whale Take Reduction Plan to reduce the risk of entanglement in vertical lines. This is a great endeavor! I commend NOAA on their efforts to develop this new rule and encourage continued support of Alternative 5 with the additional points for strengthening this proposal as described below.

Of particular importance for inclusion are the seasonal closures for Jordan Basin, Jeffrey's Ledge and Cape Cod Bay/Outer Cape, aimed at reducing fishing effort in key areas known to have high concentrations of right whales co-occurring with high fishing activity. Without these closures, I understand that the recommended measures are unlikely to achieve the necessary reduction in risk required to reduce take below PBR. So I politely request NOAA to include these closures as described in Alternative 5 in the final rule.

As a resident of Florida, I am concerned by the regulations set up for the Southeast region. By establishing different regulations across critical habitat, state waters and federal waters, the proposed rule will make it more challenging for fishermen to adjust their gear accordingly, while also making enforcement more difficult. And with many of the proposed "restrictions" in the Southeast and Mid-Atlantic calling for retaining the status quo, the risk in these areas, particularly for right whale mother and calf pairs and humpback whales, respectively, does not seem to be adequately addressed.

However, it seems like the most important task is continued and improved enforcement and monitoring. NOAA should consider establishing plans for enforcement of these new regulations. As part of this effort, ensuring continued funding for large whale research and disentanglement is imperative. Boat and aerial surveys funded by private and federal research grants allow scientists to track changes in the whale populations, monitor their status and inform our understanding of the impact and effectiveness of these regulations. Without these surveys, and support of large whale disentanglement teams, many more injured whales will go unaided. With the North Atlantic right whale just beginning to show signs of slow recovery, we should not back down on these efforts.

THANK you for your time and energy!!

Thanks!

April Montgomery
2926 Stanfield Ave
Orlando FL 32814
US
april.hayden@hotmail.com

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Large whale proposed rule

hbgreen@frontier.com <hbgreen@frontier.com> Wed, Aug 21, 2013 at 7:52 PM
To: nmfs.ner.whale@noaa.gov

Mary Colligan
NMFS Northeast Region
55 Great Republic Dr
Gloucester MA
01930

Dear Mary Colligan,

As a supporter of the International Fund for Animal Welfare (IFAW), and a concerned member of the public, I am writing to comment on the proposed rule to amend the Atlantic Large Whale Take Reduction Plan to reduce the risk of entanglement in vertical lines.

With human-induced serious injury and mortality due to incidental entanglement in fishing gear exceeding the recommended Potential Biological Removal (PBR) level defined for these species it is imperative that more is done to reduce this threat. Therefore, I support the measures laid out in NOAA's preferred alternative, Alternative 5, and ask that the agency include these measures as well as those described below in the final rule making process.

While this proposed rule is intended to only address the threat of vertical lines associated with trap and pot fisheries, the cumulative impact from gillnet fisheries and other human activities, such as offshore wind farms, needs to be more fully accounted for before final rule making is completed.

I commend NOAA on their efforts to develop this new rule and encourage continued support of Alternative 5 with the additional points for strengthening this proposal as described above.

Sincerely,

Holly Green
2009 I Ave.
Anacortes 98221
US
hbgreen@frontier.com

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Save Our Friends, the Whales

lichen@sprynet.com <lichen@sprynet.com> Wed, Aug 21, 2013 at 7:39 PM
To: nmfs.ner.whale@noaa.gov

Mary Colligan
NMFS Northeast Region
55 Great Republic Dr
Gloucester MA
01930

Dear Mary Colligan,
I have had a lot of contact with both humpback and gray whales. I have found them to be intelligent compassionate creatures and want to help protect all whales, including right whales, from unnecessary suffering, injury and death. I have long opposed fishing nets, vertical lines, gillnets and other gear injury to sealife. I have seen whales and sea turtles seriously injured by strangulation of their fins due to fishing lines and by ingestion of fishing hooks. I find a lot of this washing up on the beaches. For these reasons, I want to express my support of NOAA's Alternative 5 and seasonal closures for Jordan Basin, Jeffrey's Ledge and Cape Cod Bay/Outer Cape. Please include these measures.
Vertical lines and gillnets should be completely out-lawed. Many of them exist in the waters of Maine and New Hampshire. Gear-marking increases the possible tangles of whales with fishing line. Having spent a lot of time in Florida and witnessing the disregard and lack of compassion for sea life by fishermen there, I feel the entire east coast needs stronger regulations to protect whales and sea life from the littering of fishing line in our precious oceans.
In an effort to help the dwindling population of some of the world's most precious creatures, I hope consideration of all things affecting sea life is considered, including boat speed and potential wind farm development.
I thank NOAA to strengthen protection for our friends, the whales. I hope there will be increasing support of Alternative 5 and the other protections listed above. Thank you for considering my heart-felt wishes to protect those who desperately need our help and count on us to help them.

Sincerely,

Tracy Hendershott
1314 4th Place
Kirkland WA 98033
US
lichen@sprynet.com

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Illegalize the Entangling of Whales

lawrencerosin@yahoo.com <lawrencerosin@yahoo.com> Wed, Aug 21, 2013 at 7:30 PM
To: nmfs.ner.whale@noaa.gov

Mary Colligan
NMFS Northeast Region
55 Great Republic Dr
Gloucester MA
01930

Dear Mary Colligan,
Don't allow people to entangle whales. According to IFAW entangling whales could actually kill them. Whales are living things, and aren't people's property. Also those whales could have kids. If that whale is killed, then his/her kids will have one fewer parent to take care of them. If those kids already had one parent to take care of them, then they'll have no parents to take care of them. Like let's say a person riding a row boat killed one of the kids' parents for money. Then those kids will probably die with no parents to take care of them. Those who kill them will be responsible for the whale's kids' deaths in that way. They can't get away with this.

Sincerely,

Lawrence Rosin
S.A.
N.Y. NY 11224
US
lawrencerosin@yahoo.com

RECEIVED
SEP - 9 2013
BY:_____

NMFS
55 Republic Drive
Gloucester, MA 01930
Attn: Mary Colligan, Assistant Regional Administrator for Protected Species

Written comment to the Atlantic Large Whale Take Reduction Plan (ALWTRP)

Dear Ms. Colligan,

The following comments of support or opposition to components of the ALWTRP are as follows.

a) I support the exemption of New Hampshire state waters and any alternative that has that as a component of the final plan.

b) I support the minimum number of 10 traps per trawl for waters between 3-12 miles and any alternative that has that as a component of the final rule.

c) I support the minimum number of 20 traps for waters beyond 12 miles and any alternative that has that as a component of the final rule.

d) Buoy line marking requirements for exempted waters in NH & ME should have separate colors.

e) Buoy line marking requirements for lobster gear that travels from state waters to federal waters needs to be improved so as to be not confusing.

f) Marking the buoy lines 3 times in the length of the line and with each mark needing to be 12 inches in length seems excessive. Maintaining the mark at the top end of the buoy line is supported.

g) I strongly OPPOSE any alternative that includes the Jeffries Closure Area. Making this a requirement would not serve its intended purpose by any means and potentially increase any chance of an interaction with whales.

I hope these comments will be incorporated in the final rule of the ALWTRP.

Sincerely Vincent J. Marani

Fisherman for 40 yrs.

Massachusetts Lobstermen's Association, Inc.
8 Otis Place
Scituate, MA 02066-1323
Bus. (781) 545-6984 Fax. (781) 545-7837

RECEIVED
SEP - 9 2013
BY:_____

September 5, 2013

Mary A. Colligan
Assistant Regional Administrator for Protected Resources
Northeast Regional Office
NOAA Fisheries Services
National Oceanivc and Atmospheric Administration
55 Great Republic Drive
Gloucester MA 01930

Dear Ms Colligan

The 1300 members of the Massachusetts Lobstermen's Association would like to submit the following comments with regards to the National Marine Fisheries Services (NMFS) Draft Environmental Impact Statement proposed rule for its **Atlantic Large Whale Take Reduction Plan.**

We can only support **Alternative 1, Status Quo.** Even though the Service has rejected this alternative, we don't believe there has been sufficient evidence to prove that what we have already done to reduce interactions with whales has not worked. The numbers of whales have been increasing so something is working. We actually believe that in the case of the Humpback Whale, there are now so many that they should be delisted from the MMPA and the ESA. We understand the Potential Biological Removal (PBR) argument but we question who sets those numbers. With whale populations growing even for Right Whales, the PBR's should be much higher. Both the fishermen and the NMFS are being forced to deal with an unreasonable situation – a No-Win scenario. Also, with more whales frolicking in the great Atlantic pond, there is the possibility of more interactions. We don't believe that any of these alternatives will really reduce the rare occurrences when there is an interaction between a fisherman's lobster buoys and a whale.

The Service's projections of how much risk reductions would take place by reducing buoy lines is not accurate, is computer generated and done by extrapolations. It may work in the computer but in the real world where fishermen and whales live, it just isn't real, not to mention the compliance factor which we'll discuss further in our comments.

As you know the fishermen have eliminated the risk factor on ground lines which comprises most of the rope in the ocean. We have placed break-aways (weaklinks) on our buoys. Most fishermen have converted to trawls, not due to the whale issue but to cut down on gear loss. This alone has reduced the number of buoy lines from when we all fished singles. There has been large reductions in traps fished, again, not because of the whale issue, but because of the lobster resource management and a general reduction in fishermen.

We contend that through all these years, the whales have done very well making their yearly pilgrimages from the south to the north and back and through what has been millions of buoy lines over the years. Now as we've stated, the buoy lines are greatly reduced and the whale numbers have increased. It's true that interactions can occur and will but these proposals are like playing a "shell game" in the big Atlantic Ocean. We don't close an expressway down if there is a fender bender and we contend that people, the fishermen in this case, are just as important as whales.

We therefore can only support a status quo position which is
Alternative 1 and suggest that we wait and see if all we've done continues to increase the whale population which is the ultimate goal of the Federal Whale Plan.

As regards to the other alternatives

<u>Singles Vs Trawls</u> Alternative 2,3,4,5,6
Many fishermen in the Outer Cape and Cape Cod Bay use singles. It is their preference for various reasons. Most of these singles are fished close to shore and extend only to about 2 miles out from the shore. It is many times in and around rocky bottom. Could whales come in that close, yes, but chances are slim of having an interaction. It should be noted that if there is an interaction, experts have already stated that a single trap/buoy line is less likely to cause a problem for the whale than having an interaction with a trawl buoy line. The whale can move rather then be anchored and in many cases shed the line. Do we have "confirmed" interactions between whales and singles fished <u>in these areas</u>? If we don't have positive confirmation, why penalize these fishermen. May we suggest an exemption line here since the recreational lobster fishermen fish singles too and they are not included in the plan. How can you separate the two groups? Another factor here is that singles are already not allowed in the Cap Cod Bay Critical Habitat during the winter which is when the whales visit that area. The Outer Cape already has a closed season for lobster management reasons and with the support of those fishermen. This also happens to be during most of "*whaletime* in that area. As an additional note, the fishing area in Gosnold Mass at the southern tip of the Elizabeth Islands, singles are mandated by State law with the fishermen there in support of that provision. Why stir up a hornets nest over that small area and those fishermen?

<u>Moving onto Trawls</u>
Mandating that trawls be fished becomes a safety issue.

a) Mandating that a trawl of some number must be fished may be more than that size boat can handle safely. As an example, a 5 to 10 pot trawl may not safely work on an 18' to 25' vessel. This could turn into a USCG safety issue.

b) Mandating that1 buoy line be used on some trap number trawl is a safety issue. Fishermen need to haul their trawl from one end or the other depending on the tide or wind conditions. To force them to always haul from one end could put the safety of that operation in jeopardy.

c) Mandating 1 buoy line on some trawl may cause the loss of that gear. If the one buoy line is lost, which can happen, the whole trawl is down and can only be retrieved by grappling since the fishermen can not just go to the other end buoy and get the trawl back! The grappling part is not easy since you've eliminated floating ground lines which could be used to better retrieve lost gear.

d) Mandating! 1 buoy line on a trawl invites gear conflict. If a trawl is set with one buoy line another fishermen may not see it and won't know which way the trawl is set. He might then set his trawl on top of the existing trawl and now we have a gear conflict between fishermen.

This whole idea and its possible consequences again, raises the issue of who or what is more important, the whale or the safety of our fishermen and does the Services (NMFS) really care? *This is a loaded question,* be careful of how the Service responds to this!!

Closed Areas (Alternatives 4,5,6)

These proposals are just not necessary. As we indicated at the public hearings, the Massachusetts Lobstermen's Association will oppose any closures to lobster fishing as it always has **unless** the fishermen in an area supports such a closure. There has been a closure in the winter in the Outer Cape area but these fishermen agreed to it for management reasons. Fishermen in the Upper Cape Cod Area agreed to a small closure for traps during a short fall time period to accommodate ground fishermen to access that area. These selective closures we did support, once again, because our fishermen supported them. Other than that we will not support and will oppose the closures proposed in the Services proposed rule.

a) Cape Cod Bay We already have a closure during whale time (winter) to singles and restrictions on trawl gear in that area. (No one can document that there has been any interaction with whales by the few fishermen that do continue to fish in Cape Cod Bay in the winter. No proof, means no reason to change anything there.

b) The proposal to close an area north of Cape Cod Bay in the winter is not warranted. There are not a lot of fishermen fishing at this time in that area so there are not a lot of buoys there. To these fishermen however, it is important for them to be able to fish there at that time. We are referring to the area cited on page 20-21 of the public hearing attachments 7-8. Where would these lobstermen still fishing be able to fish during this time of the proposed closure? This encompasses almost all of our fishermen's winter fishing area.

c) Jeffreys Ledge This proposal is unnecessary. The same rationale described above is still valid. The few fishermen that do fish there in the fall and winter do not amount to a serious buoy line conflict. For this area, the fall (Oct – Jan) and early winter is important to them as lobsters move out from inshore areas; the same scenario for the north of Cape Cod Bay. This proposed closure hits right

when fishing is good in that area for those still fishing. Once again, we must note that buoylines are at a minimum, trawls are fished and there's been no proof that the fishing activity on Jeffreys Ledge has caused any problem. Why crucify these fishermen in the name of buoy line reduction over a non-issue?

In looking at these proposed closures in general, mandating that gear be removed from these areas only means that the fishing gear will be placed outside and around the closed area. This creates a corral effect where whales "playing": in a closed area would still have to go through buoylines outside and around the closed area to continue their annual movements. *Who will tell the whales that they must stay in their corral ??!!* While the computer model risk would be diminished in a closed area, it would increase as they try to exit that "sacred" area. This is another shell-game exercise! Keeping these areas open to fishing and whales spreads out any risk. The wider area with a few buoy lines opens more buoy free portions of the ocean for the whales to swim.

Still another factor is fishermen can't remove all their gear quickly. This is an important factor. Poor weather in the fall and winter frequently keeps boats in port sometimes for days. Fishermen would have to start removing traps from an area weeks ahead and in the case of the proposed closure areas, fishing is good at these times in those areas at least into the early winter when they can get out given weather conditions. The price for lobster is also high since it's approaching one of the highest demand periods of the year for lobster, which are the Christmas-New Year holidays.

Mandating closures at these times would also be a safety factor. If a fisherman tries to load too many traps on his boat to get them out of an area to be closed, he risks having his boat overloaded which would make his boat unsafe and if it is rough, could even capsize.

Social and Economic Impact

The proposal includes some statistics on the Social and economic impacts. This is yet again another exercise in computer modeling and extrapolations developed in some office somewhere. This does not show the real impact in the real world. These are only "estimates". What happens if the impacts are greater ? Is the Services prepared to compensate fishermen if the impact is more severe? Is the Service prepared for this?

Buoy Marking

This proposal won't save one whale. All it will do is to cause more hardship for fishermen and try to assess "blame" to some fishermen. We are all trying at least up until now, to help save whales. Fishermen already have marked their gear mid-way on their buoylines and there has been no definitive result. Making fishermen do more marking is not likely to improve this. If the top end of a buoy line is somehow on a whale, there is the likelihood there will be a buoy too. The identification is possible. If the bottom of the line is somehow there, there will be a trap, identification is also possible. The one mid-way color marking is adequate. Making that mark larger to a foot is not a problem but that should be it and even here we question what difference it would really make !? No additional marks on that one buoy line should be necessary. Once again, as has been the

case in all of this, there is no proof that this idea has or could accomplish anything positive. Leave it alone!

Compliance This is an important factor!
If the rules are reasonable, fishermen will comply. If they are not, they won't. These proposals are not. A rule in federal rulebook will not save any whales. Only if that rule is complied with in the "real world" will it potentially do something in the quest to reduce the risk to whales. Enforcement opportunities are lean and almost non-existent. It's a big ocean. Will fishermen be faced with playing catch me if you can"? We encourage the Service to make the rules reasonable and doable if you want to succeed.

In Summation
Our fishermen have been willing to join the cause to help save all whales from any interactions with their gear. They've done a lot and it's been mostly at their expense. Unfortunately now, they are increasingly becoming unwilling to help anymore. This is due to the seemingly unending assault on them to do more. Nothing will ever be perfect but we have all been trying. The fishermen's attitude is now, enough is enough. This now is causing a movement to attack the laws that are causing all this controversy and the voices will become louder. Why not ease this epic adventure by leaving the current rules where they are and further monitor what we have in place? It has been mentioned that the fishermen themselves should petition to be listed as an *Endangered Species*! Some may chuckle over this remark **BUT**, once again, who or what is more important here, the human fishermen or the whales? Hopefully we can coexist and that choice won't have to be made.

We appreciate the opportunity to comment and want to reiterate that we all want to save whales but we also must save our fishermen as well.

We would be very willing to discuss these issues further if you think it will be productive.

Respectfully yours

William A Adler

William A Adler
Executive Director

Cc Senator Edward Markey
Senator Elizabeth Warren
Congressman Steven Lynch
Congressman John Tierney
Congressman William Keating

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Large whale propose d rule

fireangel@comcast.net <fireangel@comcast.net> Sat, Aug 24, 2013 at 2:02 PM
To: nmfs.ner.whale@noaa.gov

Mary Colligan
NMFS Northeast Region
55 Great Republic Dr
Gloucester MA
01930

Dear Mary Colligan,

As a supporter of the International Fund for Animal Welfare (IFAW), and a concerned member of the public, I am writing to comment on the proposed rule to amend the Atlantic Large Whale Take Reduction Plan to reduce the risk of entanglement in vertical lines.

I support the measures laid out in NOAA's preferred alternative, Alternative 5, and ask that the agency include these measures as well as those described below in the final rule making process. I also support continued and improved enforcement and monitoring. Ensuring continued funding for large whale research and disentanglement is imperative.

While this proposed rule is intended to only address the threat of vertical lines associated with trap and pot fisheries, the cumulative impact from gillnet fisheries and other human activities, such as offshore wind farms, needs to be more fully accounted for before final rule making is completed.

I commend NOAA on their efforts to develop this new rule and encourage continued support of Alternative 5 with the additional points for strengthening this proposal as described above.

Sincerely,

Leslie Cirigliano
1084 N 300 W
Sunset UT 84015
US
fireangel@comcast.net

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Large whale propose d rule

dih_flousa@live.com <dih_flousa@live.com> Wed, Aug 21, 2013 at 6:23 PM
To: nmfs.ner.whale@noaa.gov

Mary Colligan
NMFS Northeast Region
55 Great Republic Dr
Gloucester MA
01930

Dear Mary Colligan,

As a supporter of the International Fund for Animal Welfare (IFAW), and a concerned member of the public, I am writing to comment on the proposed rule to amend the Atlantic Large Whale Take Reduction Plan to reduce the risk of entanglement in vertical lines.

With human-induced serious injury and mortality due to incidental entanglement in fishing gear exceeding the recommended Potential Biological Removal (PBR) level defined for these species it is imperative that more is done to reduce this threat. Therefore, I support the measures laid out in NOAA's preferred alternative, Alternative 5, and ask that the agency include these measures as well as those described below in the final rule making process.

Please include seasonal closures for Jordan Basin, Jeffrey's Ledge and Cape Cod Bay/Outer Cape, aimed at reducing fishing effort in key areas known to have high concentrations of right whales co-occurring with high fishing activity. I strongly urge NOAA to include these closures as described in Alternative 5 in the final rule.

We can make a difference for the safety of other creatures on this planet. The whales live in the ocean and need us to keep their world safe for them to swim in, eat in and live in - just as God intended when he created the whales. We share this world and we need to do all that we can to keep it safe for those who can not speak for themselves. Please do all that you can to insure the whales are protected from life threatening entanglements.

Other letters include details and data so I just want to share that I am deeply concerned for the plight of the whales and look to you and others to do what is best for their survival and safety. Please be the difference between life and death for the whales - insure them safety and life.

I commend NOAA on their efforts to develop this new rule and encourage continued support of Alternative 5.

Sincerely,

Debbie Haynes
14510 Old Halls Ferry
Florissant 63034
US
dih_flousa@live.com

NMFS.NER Whale - NOAA Service Account <nmfs.ner.whale@noaa.gov>

Large whale proposed rule

jj@jennyjonesphoto.com <jj@jennyjonesphoto.com> Wed, Aug 21, 2013 at 1:48 PM
To: nmfs.ner.whale@noaa.gov

Mary Colligan
NMFS Northeast Region
55 Great Republic Dr
Gloucester MA
01930

Dear Mary Colligan,

I am writing to comment on the proposed rule to amend the Atlantic Large Whale Take Reduction Plan to reduce the risk of entanglement in vertical lines.

I support the measures laid out in NOAA's preferred alternative, Alternative 5, and ask that the agency include these measures as well as those described below in the final rule making process.

An important inclusion is the seasonal closures for Jordan Basin, Jeffrey's Ledge and Cape Cod Bay/Outer Cape, aimed at reducing fishing effort in key areas known to have high concentrations of right whales co-occurring with high fishing activity. Without these closures, the recommended measures are unlikely to achieve the necessary reduction in risk required to reduce take below PBR. So I strongly urge NOAA to include these closures as described in Alternative 5 in the final rule.

I commend NOAA on their efforts to develop this new rule and encourage continued support of Alternative 5 with the additional points for strengthening this proposal as described above.

Sincerely,

Jenny Jones
2317 Mtn. Creek Church Rd.
Starr SC 29684
US
jj@jennyjonesphoto.com

F/V HULL'S SEA LOVER

Ms. Mary Colligan, Assistant Regional Administrator for Protected Resources
National Marine Fisheries Service (NMFS)
Northeast Region (NERO)
55 Great Republic Drive
Gloucester, Massachusetts 01930

Attention: Atlantic Large Whale Take Reduction Plan Proposed Rule and Draft Environmental Impact Statement http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0095

Date: Saturday September 07, 2013

Ms. Colligan,

My name is Jimmy Hull and as a Commercial Black Sea Bass (BSB) pot fisherman out of Ponce Inlet, Florida, I wish to submit my written comment about the NMFS proposed rule for the Atlantic Large Whale Take Reduction Plan (ALWTRP) and the draft environmental impact statement (DEIS).
Recently Protected Resources division of the National marine Fisheries service has implemented a ban on the use of (BSB) pots in the Snapper/Grouper Fishery during the Months of November ,December, January, February, March, and April every year. The (BSB) pot fishery has traditionally been fished during the winter months for 50 years because of the availability of high quality (BSB) during the winter migration. This ban has harmed our Ability to produce high quality, healthy, Seafood to the American Consumers who are provided access to this Marine Food resource thru Commercial Fisherman using (BSB) pots. This ban has harmed individuals, Communities, Businesses and the economy of the country. This broad ban on vertical lines to reduce the risk of entanglement of Mammals should not include (BSB) pot gear. The South Atlantic Fishery Management Council has already done that job for you in the most recent regulations that have changed the way we use vertical lines in the (BSB) pot fishery.

As a professional commercial BSB pot fisherman, I wish to share the following thoughts. My question to you is this: Does the Protected Resources Division, the decision makers, understand BSB pot gear? What it looks like, how it's constructed, how we fish it, where we fish it, **and especially the regulatory changes that have been made to the fishery in the past 2 years**?

BSB pots are light weight fishing gear and can easily be pulled by hand. We fish our pots by constantly moving them from one live bottom spot to another, for one or two hour soak times. We fish small pots much like hook and line gear right on top of the bottom where the fish are. Each permitted vessel can have a maximum of 35 pots to work. We must tend our gear and return the pots back to port at the end of the fishing trip. Most of us from Florida fish 15 to 30 miles offshore in 60 to 150 feet of water. Most of us are day boats as we have a 1000-pound gutted weight trip limit for BSB. Trips are usually less than 24 hours long so BSB pot vertical lines are in the water for a very short time while in use, then we bring the pots back to shore until the next trip.

I use 29 pots and they are never out of my sight while moving and soaking the gear. I am fishing far offshore the North Atlantic right whale migration route, which is normally along the beach around state waters. I have never seen a right whale offshore where I pot fish. I was born and raised here in Ormond Beach, Florida. I am 58 years old and in my 40 years of commercial fishing the right whales I have seen are just outside the surf line always within 3 miles of the beach.

There are approximately 30 BSB pot fishermen from Cape Hatteras, North Carolina to Cape Canaveral, Florida, an area of thousands of square miles. If we all used the maximum 35 pots permitted there would only be 1050 vertical lines in that vast expanse of water. And that would be if everyone was fishing at the same time with the maximum number of pots. That is 30 vessels constantly moving and tending 1050 lines collectively, and then returning them back to shore at the end of the fishing trip.

All of these recent changes to the BSB pot fishery will reduce the number of pots in the water and most important will require pots be returned to shore at the end of the fishing trip, thus totally eliminating any risk of entanglement to protected species.

111 West Granada Blvd.
Ormond Beach, Florida 32174-6303

We have never caught a right whale in BSB pot gear and now with the newest regulations and the down-sized fishery because of endorsements, we never will. I would welcome a further discussion about BSB pot gear with you as I hope to be able to accomplish being allowed to fish during the winter months.

Below are bullet points taken from the ALWTRP documents that affect our commercial BSB business.

Southeast Region: The most recent amendment, 18A, includes management actions to limit participation and effort in the black sea bass fishery. Measures include establishment of an endorsement program, commercial trip limit, increasing minimum size limits for commercial black sea bass to 11 inches, and other modifications to the commercial pot fishery. Vessels are now limited to 35 pots per trip and all pots must be brought back to shore at the conclusion of each trip.

• Regardless, fishermen are now required to bring all black sea pots back to shore at the end of each trip and this will likely decrease the entanglement risk to right whales because it is expected to reduce ghost fishing and the amount of time vertical pot lines are in the water.

• In state waters traps must be set with one buoy line and not multiple-trap trawls. The breaking strength of the weak link between the buoy and vertical line does not exceed 600 lbs (Georgia/South Carolina) and 200 lbs (Florida). The breaking strength of the vertical line would not exceed 1,500 lbs. The whole buoy/vertical line (from trap/pot to buoy) should be the same diameter and free of objects (i.e. ALWTRP-DEIS 3-7 knot-free, splice-free, etc.) and the buoy/vertical line must be made of sinking line.
• In Federal waters must be set with one buoy line with one trap and not multiple-trap trawls. Trap/pot gear must be brought back to shore at the conclusion of each trip. The whole buoy/vertical line (from trap/pot to buoy) should be the same diameter and free of objects (i.e. knot-free, splice-free, etc.) and is made of sinking line.

Coastwide:

• Robust gear marking. See Section 3.1.7 for description of the proposed gear marking scheme.
• Regulatory language changes to better define and clarify previously implemented requirements. See Exhibit 3-6 for description of language changes. The proposed gear marking scheme would maintain the current color combinations but increase the size and frequency of the mark. The new mark must equal 12" in length and buoy lines must be marked three times (top, middle, bottom). A mark for the Maine exempted waters would be also required. A mark for the new Southeast US Restricted Area North would be required for both state and Federal water. This proposal would continue to allow multiple methods for marking line (paint, tape, rope, etc).

Entanglements in Commercial Fishing Gear
Regulations to Reduce Incidental Takes of Protected Species

The southern Atlantic black sea bass trap/pot fishery is listed as a Category II fishery (Atlantic mixed species trap/pot) due to potential interactions with marine mammals, particularly the endangered North Atlantic right whale.

Amendment 18A introduced a number of regulations to the black sea bass fishery which will have an unknown effect on protected species, including right whales. Because the number of trap pots and participants was reduced, the potential entanglement risk from this gear type may be reduced provided remaining fishermen do not increase their effort. However, if the reduction in participants and pots, increases effort among the remaining participants or extends the fishing season so that it overlaps with right whale calving season, the entanglement risk could remain the same or increase. Regardless, fishermen are now required to bring all black sea pots back to shore at the end of each

trip and this will likely decrease the entanglement risk to right whales because it is expected to reduce ghost fishing and the amount of time vertical pot lines are in the water.

Thank you,

Captain Jimmy Hull
F/V Sea Lover # 697155
386-547-1254

Kate Swails - NOAA Federal <kate.swails@noaa.gov>

Fwd: EPA's Comment Letter for Draft EIS for Amending the Atlantic Large Whale Take Reduction Plan: Vertical Line Rule (CEQ No. 20130202).

Mary Colligan - NOAA Federal <mary.a.colligan@noaa.gov> Fri, Sep 13, 2013 at 2:44 PM
To: David Gouveia <David.Gouveia@noaa.gov>, Kate Swails - NOAA Federal <Kate.Swails@noaa.gov>, Michael Asaro - NOAA Federal <Michael.Asaro@noaa.gov>

---------- Forwarded message ----------
From: Aresta-DaSilva, Jessica <Aresta-DaSilva.Jessica@epa.gov>
Date: Fri, Sep 13, 2013 at 2:44 PM
Subject: EPA's Comment Letter for Draft EIS for Amending the Atlantic Large Whale Take Reduction Plan: Vertical Line Rule (CEQ No. 20130202).
To: "Mary.A.Colligan@noaa.gov" <Mary.A.Colligan@noaa.gov>
Cc: "Hessert, Aimee" <Hessert.Aimee@epa.gov>, "Rader, Cliff" <Rader.Cliff@epa.gov>

Ms. Colligan,

You will find attached to this e-mail EPA's comment letter on the Draft Environmental Impact Statement (DEIS) for Amending the Atlantic Large Whale Take Reduction Plan: Vertical Line Rule (CEQ No. 20130202).

EPA appreciates the opportunity to review this project. If you have any questions regarding the EPA's comment letter please contact me at: aresta-dasilva.jessica@epa.gov or (202) 564-1567.

Thank you,

Jessica Aresta-DaSilva

(202) 564-1567

aresta-dasilva.jessica@epa.gov

--

Mary Colligan
Assistant Regional Administrator for Protected Resources
Northeast Regional Office
NOAA Fisheries
Mary.A.Colligan@noaa.gov
ph: 978-281-9116
www.nmfs.noaa.gov

NOAA FISHERIES

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12K

Ms. Mary Colligan
Assistant Regional Administrator for Protected Resources
National Marine Fisheries Service, Northeast Region
National Oceanic and Atmospheric Administration
55 Great Republic Drive
Gloucester, MA 01930-2298

Dear Ms. Colligan:

In accordance with the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the Environmental Protection Agency (EPA) has reviewed the National Oceanic and Atmospheric Administration's Draft Environmental Impact Statement (DEIS) for Amending the Atlantic Large Whale Take Reduction Plan: Vertical Line Rule (CEQ No. 20130202).

The purpose of the amendment to the Atlantic Large Whale Take Reduction Plan (ALWTRP) regulations is to propose gear set modifications designed to reduce the risk of serious injury and mortality to Atlantic large whales due to incidental interactions with commercial fishing gear along the east coast.

EPA believes that the DEIS provides an adequate discussion of the potential environmental impacts and we have not identified any potential environmental impacts requiring substantive changes. EPA has rated the DEIS as LO – "Lack of Objections." A summary of EPS's rating system is attached.

We appreciate the opportunity to review this DEIS. If you have any questions please contact Jessica Aresta-DaSilva at aresta-dasilva.jessica@epa.gov or 202-564-1567.

Sincerely,

Susan E. Bromm
Director
Office of Federal Activities

September 5, 2013

National Marine Fisheries Service
NOAA Fisheries Service
1315 East West Highway
Silver Spring, MD 20910

RE: Please Protect Right Whales from Slow Death

Thank you for proposing to restrict fishing gear to protect endangered right whales. I support the restrictions you propose, but I oppose exempting large areas in New Hampshire and Maine from having to protect the whales. I also support marking fishing ropes so we know where whales become entangled.

Fewer than 500 endangered North Atlantic right whales remain in a population that numbered in the thousands before commercial whaling. Even though we are not hunting these whales, the heavy ropes in commercial lobster and gillnet fishing still drown or seriously injure them and are a serious threat to their recovery.

Every year right whales, humpback whales, and other endangered whales get tangled in heavy lines used in lobster and other commercial fisheries. Once entangled, they can drown or die slowly from wounds and infection.

Females and young right whales tend to die more frequently. These deaths threaten the species as right whales struggle to grow from a current population of only around 500 whales.

It is important to limit commercial fishing gear in the seasons and areas where right whales gather to feed and to give birth. All coastal states in the northeast and southeast should have the same protections.

It is also important to require that ropes be marked in many different areas so that, if whales still become entangled, we can learn more about where they are at greatest risk.

Thank you for the opportunity to provide input and your help on behalf of whales. It is urgent to require changes in commercial fisheries to reduce deaths of critically endangered North Atlantic right whales.

Yours truly,

J. Capozzelli
315 West 90th Street
New York, NY 10024

CAPE COD COMMERCIAL
FISHERMEN'S ALLIANCE
Small Boats. Big Ideas.

September 16, 2013

Mary Colligan
Assistant Regional Administrator for Protected Resources
NMFS/NERO
55 Great Republic Drive
Gloucester, MA 01930

RE: Proposed Rule for Atlantic Large Whale Take Reduction Plan

Dear Mary,

Thank you for the opportunity to comment on the Proposed Rule for the Atlantic Large Whale Take Reduction Plan (Plan).

The Cape Cod Commercial Fishermen's Alliance (Fishermen's Alliance) represents commercial fishermen of Cape Cod that work towards creative solutions to the issues that affect their fishing businesses. In recent years, the scope of our work has expanded to include fishermen that use not just hooks but gillnets, otter trawls, dredges, harpoons, lobster and conch pots, and other means of harvesting commercially important seafood from the waters off Cape Cod. Some of these fishermen and fisheries are directly impacted by this Proposed Rule, and it is in that capacity we provide this comment.

The Fishermen's Alliance strives to find opportunities where viable fishing businesses can coexist with healthy marine mammal populations. As such, we do not support broad and static fishing closures as the primary means to protect large whales. This tool has traditionally demonstrated an inability to effectively and efficiently evolve and adapt to changing ecological and fishery conditions. De facto permanent fishing closures do not support coexistence and collaboration, and we suggest that they be used only as a last resort. If fishing closures must be implemented, we strongly advocate for the smallest effective option. Furthermore, any proposed fishing closures must be accompanied by a detailed plan for transparent and timely review and revision to maximize their effectiveness at protecting large whales while minimizing negative impacts to commercial fisheries.

While we continue to have concerns regarding the implementation of several proposed options, Alternatives 4 and 5 are particularly troubling. The Fishermen's Alliance opposes the proposed Massachusetts Restricted Area #1 as identified in Alternatives 4 and 5. This broad and sweeping closure encompases large areas of important commercial fishing grounds that demonstrate minimal co-occurrence with large whales. To that end, the proposed closure area in Nantucket Sound is *not* justified by the co-occurrence model and therefore should not be included in these

BOARD OF DIRECTORS Nick Muto, *Chairman* • Phil Marshall, *Vice Chairman* • Elliott Carr, *Treasurer* • Andy Baler, *Clerk*
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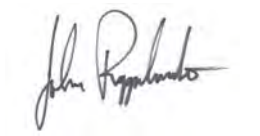
alternatives. Given the lack of co-occurrence and the significant proposed impacts on commercial fisheries, this option simply cannot be justified and should not be chosen.

The Fishermen's Alliance supports better enforcement of and compliance with *existing* regulations before recommending the implementation of additional management measures. Simply put, we should work tighter to identify how to improve enforcement of the current regulations before adding more. To do this effectively, there should be annual comprehensive stock assessments for all large whales and a more timely decision-making process that relies on real-time information.

We favor solutions that promote profitable fishing businesses and healthy marine mammal populations. These include but are not limited to a strong focus on improved education, avoidance techniques, and disentanglement training for commercial fishermen. In attempt to build investment in an outcome-oriented system, the Fishermen's Alliance has worked with the Provincetown Center for Coastal Studies and NOAA to train over 60 Cape Cod fishermen as Level 1 and Level 2 first responders. These fishermen spend hundreds of days on the water every year, and are often the first ones to come across an entangled whale. Through this and additional training programs, they will serve as an effective first line of defense for the protection of large whales.

The Marine Mammal Protection Act has demonstrated success as it continues to rebuild and protect large whale populations. Long term, the Fishermen's Alliance believes that we should all be working towards higher level accountability and to foster industry innovation in this field. To do so, we must all consider changing our approach to these issues and focus on avoidance, individual accountability, disentanglement, and other measures that ultimately improve outcomes for marine mammals and commercial fishermen.

Sincerely,



John Pappalardo, CEO
CCCFA

GEORGIA
DEPARTMENT OF NATURAL RESOURCES
WILDLIFE RESOURCES DIVISION

MARK WILLIAMS
COMMISSIONER

DAN FORSTER
DIRECTOR

September 13, 2013

Mary Colligan
Assistant Regional Administrator for Protected Resources
NMFS Northeast Region
55 Great Republic Dr.
Gloucester, MA 01930

Attn: Large Whale Proposed Rule

Dear Ms. Colligan:

The Georgia Department of Natural Resources' Wildlife Resources Division (GDNR WRD) appreciates the opportunity to comment on the National Marine Fisheries Service's (NMFS) Draft Environmental Impact Statement (EIS) for Amending the Atlantic Large Whale Take Reduction Plan (ALWTRP). By amending the ALWTRP, NMFS seeks to implement a "Vertical Line Rule," thereby reducing entanglements of North Atlantic right, humpback and fin whales in vertical lines (or buoy lines) of commercial trap/pot and gillnet fishing gear. GDNR WRD staff serves on the Atlantic Large Whale Take Reduction Team (ALWTRT) and participated in development of the Vertical Line Rule. As active members of the Atlantic Large Whale Disentanglement Network (ALWDN), our staff has also witnessed firsthand the impacts of chronic fishery entanglements, particularly on endangered right whales. Significant reductions in entanglement-related mortality and injury are needed for the North Atlantic right whale population to recover. As such, we support NMFS's goal of reducing whale entanglements by addressing trap/pot and gillnet vertical lines. With that goal in mind, we respectfully request that NMFS consider the following comments and recommendations while developing the final rule.

Southeast U.S. Waters

We agree with NMFS that Southeast U.S. waters should be managed conservatively to reduce risk of right whale entanglements in trap/pot gear. A higher proportion of right whale cows and calves are present in Southeast U.S. waters than other right whale habitats (Knowlton et al. 1994; North Atlantic Right Whale Consortium, *unpublished data*). Survival of breeding females is the most important factor for right whale population recovery (Fujiwara and Caswell

2070 U.S. HIGHWAY 278 S.E. | SOCIAL CIRCLE, GEORGIA 30025-4711
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2001). Right whale calves weigh as little as one ton (Moore et al. 2004), which may reduce their ability to survive fishing gear entanglements.

We support NMFS's proposal to keep Georgia state ocean waters open to blue crab pot fishing during the right whale calving season (November 15 to April 15). While most blue crab effort occurs in inshore estuarine waters, and is thereby exempted from the ALWTRP, some blue crab fishing effort does occur in ocean waters along the Georgia coast during the calving season. This effort appears to be low and is concentrated in state waters within 3 miles of the shoreline (George 2007). Conversely, numerous modeling studies (Garrison 2007, Good 2008, Keller et al. 2012, Florida Fish and Wildlife Conservation Commission (FWC) *in prep.*) and twenty years of aerial survey data (North Atlantic Right Whale Consortium, *unpublished data*) have shown that right whales are most frequently found in federal waters >3 miles from the Georgia shoreline. Consequently, there is little overlap between right whales and blue crab pots in Georgia state waters—entanglement risk should be low in Georgia state waters accordingly. The same applies to South Carolina state waters.

As it relates to northeast Florida state waters open to blue crab pot fishing during the right whale calving season, we support the NMFS recommendation. Waters along the northeast Florida shoreline are deeper than in Georgia and South Carolina, and are therefore more suitable for right whales (Keller et al. 2012). Aerial surveys and modeling studies (cited above) show that right whales frequently inhabit state waters in northeast Florida. As such, there is greater potential for overlap of whales and fishing gear in Florida state waters than in Georgia or South Carolina state waters. It is unclear whether this overlap translates into an increased risk of whale entanglement. On the one hand, no whale has ever been found entangled in blue crab or other similar pot gear in the Southeast U.S. before (ALWDN, *unpublished data*). On the other hand, increased blue crab fishing effort has been noted in Florida ocean waters recently (FWC, *unpublished data*). To address this potential risk, NMFS has proposed that vertical lines and weak links in Florida state ocean waters would be required to have lower breaking strengths than those required in Georgia and South Carolina waters. This approach seems appropriate given the greater potential for whale/gear co-occurrence in Florida waters

NMFS has proposed that all trap/pot gear fished in federal waters (>3 miles) offshore of Georgia, South Carolina and northeast Florida during the right whale calving season must be brought back to shore at the conclusion of each fishing trip. In so doing, NMFS is proposing a de facto seasonal closure for all trap/pot fisheries in federal waters that require long soak times (e.g., blue crab, stone crab, whelk). Our limited data indicate that blue crab and other trap/pot effort is currently low in federal waters offshore of Georgia (George 2007), so few fishermen would likely be affected by such a de facto closure. We support this proposal because it would

prevent trap/pot effort from emerging in federal waters where whale density is high, thereby ensuring that entanglement risk in the calving habitat remains low into the future.

Mid-Atlantic U.S. Waters

We agree with NMFS that insufficient data currently exist to assess the distribution of right whales in the Mid-Atlantic states (North Carolina to New York). While it is clear that right whales must pass through Mid-Atlantic waters during their migration to and from the Southeast U.S. calving grounds, there is considerable uncertainty about the route they take, or the amount of time they reside in Mid-Atlantic waters (Schick et al. 2009). There is some evidence that right whales may reside and forage in Mid-Atlantic waters throughout the year (Whitt et al. 2013). We recommend that NMFS support efforts to assess right whale distribution in the Mid-Atlantic U.S. using tagging studies, passive acoustic studies, aerial surveys or other appropriate methods. If areas of right whale and fishery co-occurrence are identified, those fisheries should be managed to reduce entanglement risk. Data on right whale distribution would also be valuable for mitigating vessel collisions with right whales in Mid-Atlantic waters (van der Hoop et al. 2012).

Northeast U.S. Waters

The Vertical Line Rule focuses heavily on Northeast U.S. trap/pot fisheries, and in particular, the Gulf of Maine lobster fishery. This focus is appropriate. Johnson et al. (2005) found that lobster gear accounted for 57% of right whale entanglements in cases where gear type could be identified. Moreover, 55% of right whales entangled in trap/pot gear were found to be entangled in trap/pot vertical lines. Other studies have concluded that high whale entanglement rates (83% of right whales have been entangled at least once) have likely been due to a rapid expansion in lobster pot effort in U.S. Gulf of Maine waters since the 1990s (Myers et. al 2007, Knowlton et al. 2012). The U.S. Gulf of Maine lobster pot fishery is severely overcapitalized and fishing effort may have exceeded capacity (Clark 2011). As such, fishing effort could be reduced without significantly impacting lobster catch. Reducing fishing effort would lower fishermen's operating costs and would also reduce right whale entanglement risk (Myers et al. 2007). Unfortunately, the proposed Vertical Line Rule largely sidesteps the issue of effort reduction in the lobster fishery and other Northeast U.S. trap/pot fisheries. It is therefore unclear how effective the proposed rule would actually be at reducing whale entanglements.

We have particular concerns regarding NMFS's strategy to decrease the number of vertical lines by setting minimum numbers of traps fished per lobster trawl (i.e., "trawling-up").

- Many lobster fishermen, especially those fishing in federal waters, are already fishing trawls with the minimum number of traps proposed in this proposed rule (Massachusetts Division of Marine Fisheries 2009). There would be no decrease in vertical lines in such cases. This is especially troubling given that higher densities of whales occur in federal waters.
- There is likely substantial latent effort in the Gulf of Maine lobster fishery. For example, anecdotal evidence suggests that many fishermen purchase their maximum allotment of trap tags per year as a hedge against future effort reduction programs, but fish only a fraction of their total trap tags in practice (Clark 2011). These fishermen would be able to add additional traps to their trawls, without decreasing their total number trawls or vertical lines. The result would be an increase in fishermen's operating cost, more gear in the water, and no reciprocal conservation benefit for whales.
- Increasing the number of traps per trawl would increase the weight and complexity of lobster trawls, which may inadvertently increase the severity of whale entanglements. Given that many lethal whale entanglements likely go undetected (Kraus et al. 2005), our ability to detect increases in lethality from larger trawls would probably be limited.
- Rather than relying on minimum trawl sizes, NMFS should set meaningful vertical line reduction targets and work through the Atlantic States Marine Fisheries Commission and the Lobster Conservation Management Teams to reach those targets. NMFS should also include gillnet and other trap/pot fisheries (e.g., Jonah Crab, whelk) in this process.

The proposed rule does not address data reporting gaps for lobster fishermen fishing in federal waters. NMFS should require federal lobster permit holders to report their landings, gear configuration, area fished and other relevant information. It will be impossible for NMFS to assess the effectiveness of seasonal closures and trawling requirements without these data.

We commend NMFS for its proposal to designate seasonal closures for trap/pot and gillnet gear in Cape Cod Bay, Outer Cape, Great South Channel, Jordan Basin and Jeffreys Ledge. Seasonal closures would reduce co-occurrence of whales and fixed fishing gear, which should reduce risk of whale entanglements. However, as stated above, proper reporting requirements are needed to assess effectiveness of seasonal closures. We are concerned that seasonal closures may trigger a significant relocation of fishing effort, resulting in dense areas of fishing effort immediately adjacent to closed areas. This outcome would negate much of the conservation benefit of seasonal closures. NMFS should expand seasonal closure boundaries if relocation leads to new areas of high whale/fishing gear co-occurrence. Conversely, areas of known low whale/gear co-occurrence should be excluded from seasonal closures. For example, the boundary of "Massachusetts Restricted Area #1" proposed under Alternatives 4 and 5

includes a portion of Nantucket Sound west of Monomoy Island. However, there is no evidence that right, humpback or fin whales inhabit these waters. There is no basis for closing such areas.

Given the concerns regarding trawling-up discussed above, the ALWTRP Draft EIS should include an additional Alternative that assesses the biological and economic impacts of seasonal closures without minimal trawl sizes. This information should be made available for public comment prior to publishing of the Final EIS and Rule.

Coast-wide Gear Marking

We support NMFS's proposal to enhance trap/pot and gillnet gear marking requirements along the Atlantic Coast. We also support NMFS's proposal that trap/pot gear fished in Maine exempted waters should also be marked. Comprehensive, area-specific gear marking requirements are needed to better identify fisheries and locations where whales are becoming entangled. With that goal in mind, we recommend that NMFS require additional two-color marking combinations for trap/pot and gillnet gear in the Gulf of Maine, as is being proposed for Southeast U.S. waters. Doing so would provide more precise information regarding the source of whale entanglements. Given the high levels of whale/gear co-occurrence in the Gulf of Maine, finer-scale gear marking is justifiable and necessary.

We appreciate the opportunity to comment on this proposal, and look forward to continued cooperation with NMFS on this and other matters. If you have questions about the technical content of this letter, please contact Clay George at clay.george@dnr.state.ga.us or at (912) 262-3336.

Sincerely,

Dan Forster

cc: A.G. "Spud" Woodward, CRD

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

PAUL R. LEPAGE
GOVERNOR

PATRICK C. KELIHER
COMMISSIONER

September 16, 2013

Mary Colligan
Assistant Regional Administrator for Protected Resources
NOAA Fisheries Northeast Region
55 Great Republic Drive
Gloucester, MA 01930

RECEIVED
SEP 19 2013
BY:_____

Attn: Large Whale Proposed Rule

Dear Ms. ~~Colligan~~: Mary,

This letter constitutes the Maine Department of Marine Resources' (DMR, Department) comments on the Proposed Rule *Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan Regulations*.

Overall, DMR appreciates that the proposed rule addresses the fundamental concerns expressed by both Maine's fishing industry and Maine's Take Reduction Team (TRT) delegation and recognizes that a one-size-fits-all approach is ineffective. The Department's position is that any new rule must recognize the diversity of the fleet across the region and within the State of Maine, and is operationally feasible, efficient and safe as applied to the various vessel sizes and operations. The Department's positions on the primary points of the proposed rule that would affect Maine's fishing industry are discussed in additional detail below.

Trawling Up

DMR strongly supports the proposed Maine area-specific trawl minimums laid out in the preferred alternative and proposed rule. This proposal was the consensus recommendation of the Maine TRT delegation, is generally supported by industry and is an operationally realistic alternative that achieves over a 37% reduction in co-occurrence. Importantly, this alternative considered local fishing knowledge and resulted in a risk reduction strategy tailored for specific areas/zones and regional fishing practices.

However, industry has expressed great concern regarding trawling up minimums around Maine's many islands, including both those that are populated and those that are not. Historically, the fishing industry typically fishes singles in and around islands due to vessel size, bottom type, rocky edges, depth and for safety reasons. Increasing trawls to a minimum of 2 to 5 traps around islands would not be feasible for most students, seniors or all small boats, for both operational and safety reasons. DMR is proposing a ¼ mile exemption around islands that are partially or fully outside the current exemption line. This proposed exemption would have a positive impact on safety and would be enforceable, while limiting the exempt areas to waters generally less than 30 fathoms and unlikely to impact endangered whales or increase the risk of co-occurrence locally.

Additionally, DMR proposes to limit the increased trawl minimums around islands that constitute state waters, but occur entirely outside of the continuous three mile line, including Mount Desert Rock and Machias Seal Island. Due to the changes in depth and much more extreme bottom type, coupled with the mandatory use of sink-rope, trawling up in these areas is a major safety concern. DMR proposes to keep the current proposed minimum five trap trawl lengths from a time period such as mid-summer through early fall, but to reduce the minimum trawl lengths from a time period such as late fall through early summer annually. This puts the trawl fishing requirements in these offshore state waters in line with the

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rest of state waters, while keeping elevated protection measures during the time of year that co-occurrence scores increase in these areas.

Although the proposed rule references the new 6-mile line, it does not define the coordinates for the 6-mile line that is an integral component of the proposed Maine gear modification alternative. DMR suggests that NMFS adopt the 6-mile line coordinates proposed in the State of Maine proposal submitted to NMFS and the TRT in February of 2012. A map and list of coordinates is enclosed for reference.

Area Closures

DMR strongly opposes the proposed Jeffreys Ledge closure and the proposed Jordan Basin closure. While the Department acknowledges the need to implement risk reduction measures in high co-occurrence areas, closures should be used only as a management tool of last resort. DMR has particular concern with the Jeffreys closure, as the collective gear from three states will not be removed from the water, and will only be shifted to dense concentrations closely surrounding the proposed closed area. This would almost certainly result in significant gear conflicts in these and other areas, could potentially increase the co-occurrence scores in alternative areas depending on how gear shifts, and creates an enforcement burden for Maine Marine Patrol.

The closures proposed in both the preferred alternative of the DEIS, and the proposed rule use only sightings or sightings per unit effort of right whales, without taking co-occurrence scores in these areas into account. This is contrary to the agreed upon methodology for targeting regulations. DMR notes that all three proposed closures would only result in a combined additional 2.8-4.8% co-occurrence reduction across the entire Atlantic coast, 1.3-2.5% of which is attributable to Jeffreys closure and 0.2-0.5% attributable to Jordan Basin. The lower ends of these estimate ranges are more likely to be accurate given that fishermen are more likely to relocate their gear than to suspend fishing altogether. Therefore, the endline risk reduction of any closure is likely minimal at best, yet it would impose significant economic penalties on many fishermen from the states of Maine, New Hampshire and Massachusetts. Given that there is no specific target for reduction goals, it remains unclear if an additional 3-5% in co-occurrence reduction would have any impact to the recovery of endangered species, yet would yield a significant burden on the fisheries on which the closures are imposed. NMFS states that "closures are less cost-effective (than minimum trawl length requirements), as evidence by their greater cost per unit reduction in co-occurrence". By point of comparison, the trawl minimum actions result in a cost of $27,351-$88,243 per unit co-occurrence reduction (or a combined 37% reduction at a total cost of $0.5-$3 million), while the closures result in $478,367 -$571,538 per unit co-occurrence reduction (or a 3-5% reduction at a total cost of $1.5-$5.5 million). Additionally, this cost per unit reduction in co-occurrence is spread across a fewer number of boats that are impacted by the closures versus the trawl minimum scenario. NMFS states that approximately 1,406 vessels will be affected by the minimum trawl scenarios. The burden of the closures, however, is spread to just 69 boats in the Jeffreys Ledge closure and only 5 vessels in Jordan Basin. Given the drastic differences in impact with these comparisons, DMR does not support the impact on fisheries provided by closures for such little gain in the reduction of co-occurrence.

Furthermore, DMR objects to the proposed Jordan Basin area's northern boundary crossing into the Area 1/Area 3 lobster management boundary line. There is very low fishing effort in this area and consequently, low risk for entanglements, but the extension of the closure boundary into Area 1 would make enforcement confusing and problematic.

Gear Marking Requirements

DMR opposes any proposed increased gear marking in Area 1 (frequency, level or size). At this point, vertical line marking only informs whale researchers where the endlines were originally deployed, not where the entanglement occurred. Expanding the current single red color scenario for the entire Gulf of Maine will not increase the degree of accuracy needed for analysis to further reduce the risk of entanglements. DMR proposes that consideration of any increased gear marking requirements be suspended until NOAA Fisheries is able to develop more definitive regional scenarios.

DMR strongly opposes the proposed increased gear marking in the Area 1 exemption area. In addition to the above rationale, this measure is operationally unrealistic and cost prohibitive in an area where documented sightings are rare at best. Many of these endlines are solely deployed as limited seasonal effort by students and seniors in very shoal water

above the headlands where whale presence is virtually non-existent. Operationally, Maine's endlines are seasonally fished in a combination of the exempted area, sliver area and federal waters, and imposing a requirement with completely different marking patterns will require industry to swap endlines as they routinely shift their gear in-between all the different fishing areas. Furthermore, the coupling of Maine and the proposed New Hampshire exemptions will provide no definitive data. In sum, this is a cost prohibitive and operationally unrealistic measure with no benefit to the Take Reduction Plan goals.

Implementation Date

DMR proposes that the Take Reduction Plan implementation date be no earlier than June 1, 2015. An effective date of Fall 2014, as the proposed rule lays out would be in the middle of the fishing season, and would be disruptive financially and impractical operationally. Gear reconfigurations can be costly and are time consuming; every effort should be made to align the implementation of new requirements with the existing operations of the industry. An implementation date of June 1, 2015 would be consistent with the annual trap tag requirement date and an operationally realistic timeline for industry to comply with future rules associated with the ALWTRP.

Application of Proposed Rule to Pocket Waters

Finally, DMR proposes that industry maintain existing fishing practices inside the four "Pocket Waters" described in federal law (though DMR notes that the coordinates are inaccurate in both 16 USC 5701 and 50 CFR 697.24 and furthermore do not match). Allowing industry to maintain fishing pairs, rather than triples will be operationally practical for both industry and enforcement. Furthermore, in only one place does the co-occurrence score near any of the pocket waters exceed a value of 1. This occurs only in the month of July at the head of the Penobscot Bay pocket water, with the majority of the affected area located outside of the boundary. The coordinates for the four areas (as provided by NOAA Fisheries Office of Law Enforcement staff to DMR) are as follows:

(1) west of Monhegan Island in the area north of the line 43 degrees 42' 10.0"N, 69 degrees 34' 16.0"W and 43 degrees 42' 15.0"N, 69 degrees 19' 18.0"W;
(2) east of Monhegan Island in the area located north of the line 43 degrees 44' 0.0"N, 69 degrees 15' 05.0"W and 43 degrees 48' 10.0"N, 69 degrees 08' 01.0"W;
(3) south of Vinalhaven Island in the area located west of the line 43 degrees 52' 18.5"N, 68 degrees 40' 0.0"W, and 43 degrees 58' 10.5"N, 68 degrees 32' 57.0"W;
(4) south of Bois Bubert Island in the area located northwest of the line 44 degrees 19' 16.5"N, 67 degrees 49' 30.0" W, and 44 degrees 23' 40.0"N and 67 degrees 40' 30.0"W.

Enclosed are the charts of the current proposal with the four pocket water areas identified.

In conclusion, the State of Maine appreciates NOAA Fisheries' consideration of the comments and concerns submitted by DMR, as well as Maine fishermen and industry associations, in the development of the final Atlantic Large Whale Take Reduction Plan rule. DMR remains committed to working with NOAA Fisheries and within the Take Reduction Team process to reduce the risk of entanglements that may result in serious injury and/or mortality to endangered large whales.

Please feel free to contact me with any questions.

Sincerely,

Patrick C. Keliher
Commissioner

Enclosures

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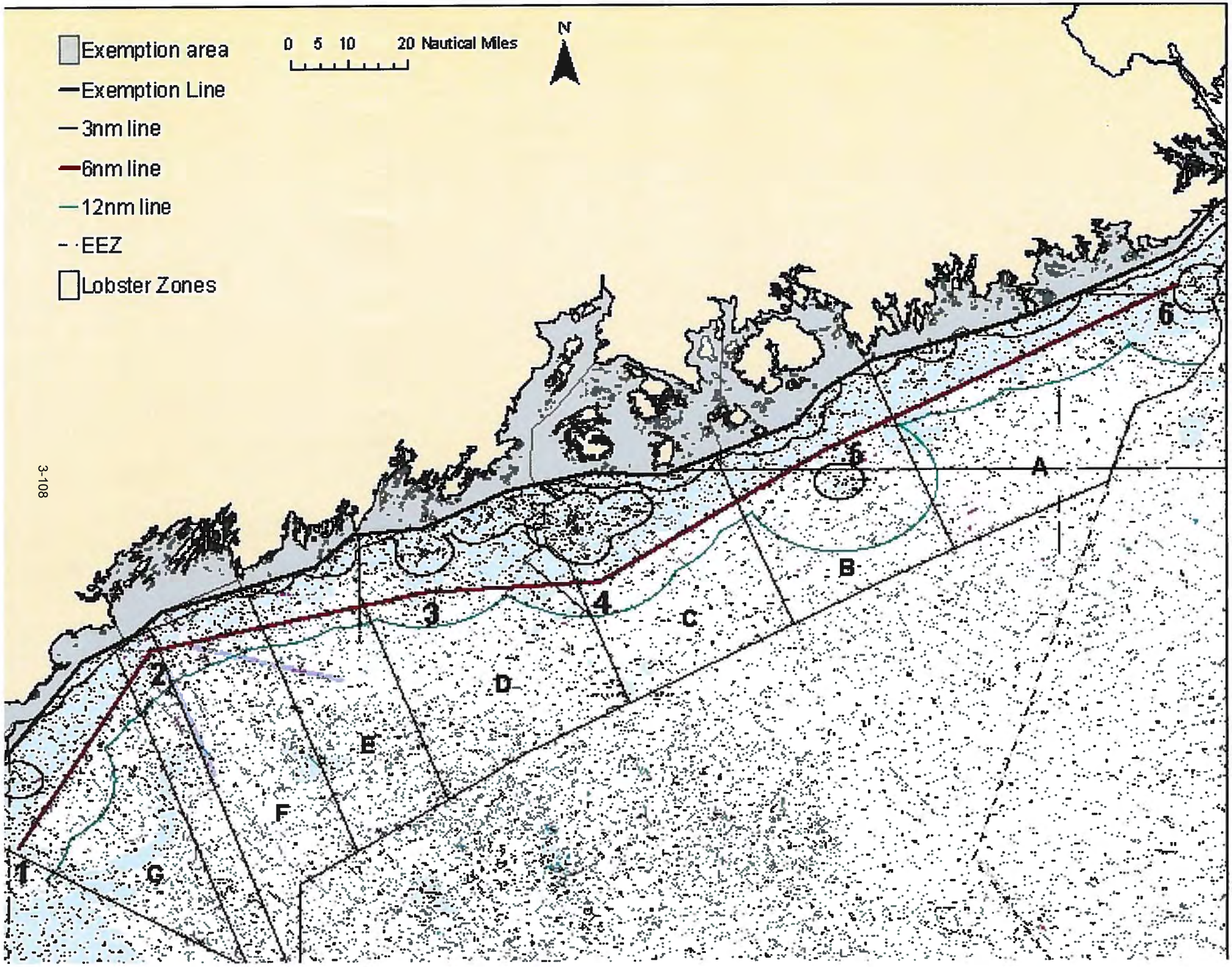
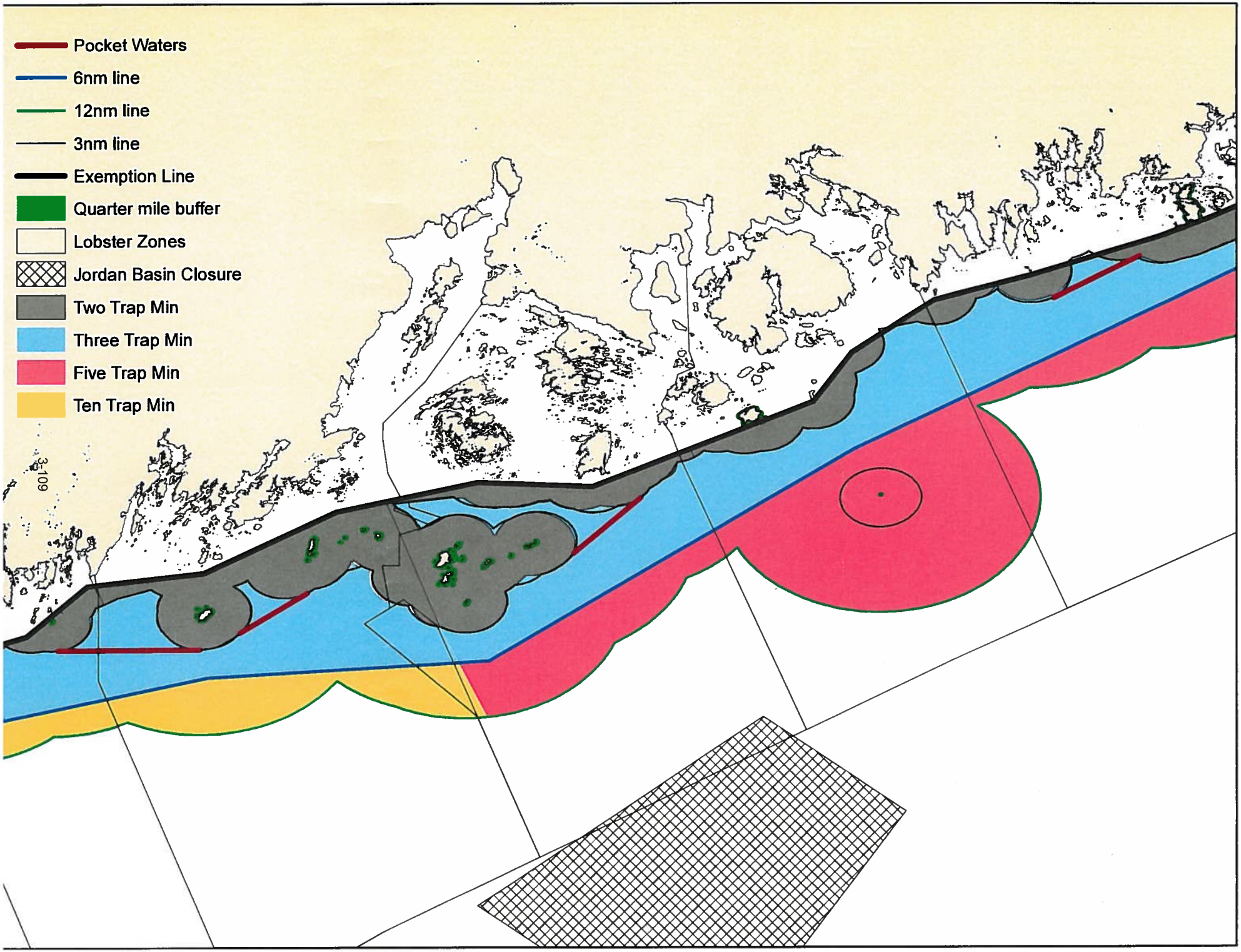
Enclosure: Maine Department of Marine Resources , Proposed 6 mile line coordinates.

	Point	Decimal Lat	Decimal Long	DMS Lat	DMS Long
1	Isle of Shoals	42.923	-70.478	42 55' 22.8"	-70 28' 40.8"
2	Casco Bay	43.519	-70.126	43 29' 24"	-70 5' 52.8"
3	Monhegan	43.654	-69.309	43 39' 14.4"	-69 18' 32.4"
4	Matinicus	43.683	-68.814	43 40' 58.8"	-68 48' 50.4"
5	Mount Desert Island	44.057	-68.171	44 3' 25.2"	-68 10' 15.6"
6	Machias Seal	44.533	-67.162	44 31' 58.8"	-67 9' 43.2"


Exemption area
Exemption Line
3nm line
6nm line
12nm line
EEZ
Lobster Zones
0 5 10 20 Nautical Miles
N
A
B
C
D
E
F
G
1
2
3
4
5
6


Pocket Waters
6nm line
12nm line
3nm line
Exemption Line
Quarter mile buffer
Lobster Zones
Jordan Basin Closure
Two Trap Min
Three Trap Min
Five Trap Min
Ten Trap Min
3109

Sea View Lobster Corporation
252 Washington Rd.
Rye, N.H. 03870
603-431-8174

RECEIVED
SEP 16 2013
BY:_____

9-12-13

MICHAEL FLANIGAN - AGE 71 YEARS OLD
252 WASHINGTON ROAD
RYE, N.H 03870

SELF EMPLOYED OWNER - CAPTAIN FOR 58 YEARS
HAVE OWNED BOTH INSHORE + OFFSHORE BOATS
FISHED INSHORE + OFFSHORE SINCE I WAS 13 YEARS OLD.

TO WHOM IT MAY CONCERN,

I ATTENDED THE WHALE TAKE REDUCTION PLAN MEETING IN PORTSMOUTH, N.H ON AUG 20TH, 2013 AND SPOKE TWICE.

THESE ARE MY COMMENTS ON THE PROPOSED PLANS,

1. I SUPPORT MAKING N.H STATE WATERS EXEMPT FROM THESE PLANS.

2. I SUPPORT MAKING ALL LOBSTER POT TRAWLS OUTSIDE OF 3 MILES 20 POT TRAWLS.

3. I DO NOT SUPPORT MAKING SPLICES ON END LINES ILLEGAL. IT IS IMPOSSIBLE TO MAKE BUOY LINES WITH OUT SPLICES

4. I DO SUPPORT THE USE OF WEAK LINKS AND END LINE MARKING IN N.H STATE WATERS

5. I DO SUPPORT POTTING 3 MARKS ON THE END LINES BUT I THINK 12" EACH IS TOO LONG. I USE RED TAPE + IT WORKS VERY WELL WITH 4" MARKS.

Sea View Lobster Corporation
252 Washington Rd.
Rye, N.H. 03870
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6. I AM VERY MUCH OPPOSED TO THE "JEFFRIES LEDGE CLOSURE"
I FISH THERE YEAR ROUND AND HAVE NEVER SEEN OR
ENTANGLED A WHALE OF ANY TYPE.
I FEEL THAT THE WAY WE HAVE RIGGED THE GEARS
PROPER AND IT IS WORKING VERY WELL.
CLOSING THIS AREA WOULD DISPLACE ALOT OF BOATS AND
FORCE PEOPLE OUT OF BUSINESS

THANK YOU VERY MUCH,

Michael Flanigan

MICHAEL FLANIGAN

IF YOU HAVE ANY QUESTIONS PLEASE CALL

South Carolina Department of
Natural Resources

Alvin A. Taylor
Director
Robert H. Boyles
Deputy Director for
Marine Resources

September 13, 2013

Ms. Mary Colligan
Assistant Regional Administrator for Protected Resources
NMFS Northeast Region
55 Great Republic Drive
Gloucester, MA 01930

Re: Comments on NOAA-NMFS-2013-0095; Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan (ALWTRP) Regulations

Dear Ms. Colligan,

The South Carolina Department of Natural Resources (DNR) is very supportive of NOAA-NMFS efforts to reduce fisheries related incidental mortality or injury to Atlantic large whale and other marine mammal populations along the Atlantic Coast and appreciates the opportunity to comment on this proposed rule.

Based on the findings of the Atlantic Large Whale Take Reduction Team (ALWTRT) over the past several years, it has been determined that the primary vertical line dependent commercial fisheries of interest for possible interaction with whales in state and federal waters of the Atlantic Ocean off South Carolina are the trap/pot fisheries for blue crab and black sea bass. While it can be argued that both of these fisheries present some level of risk to whales simply because they employ vertical lines in waters where whales might occur, given the current practices and magnitude of both fisheries, as well as the specific geographic and hydrographic features of our coastline and shelf, it is hard to imagine that either fishery presents any actual measurable risk to the safety of large whales, especially when compared to fisheries in other Atlantic coastal states, particularly those in the Northeast. It is important to note that while the relative co-occurrence of vertical lines and whales is being used as a proxy for risk, the gear currently utilized in both of these fisheries is extremely simple and light-weight and should therefore have almost no chance at all of injuring either adult or juvenile whales should they come into contact with a crab or sea bass trap/pot line.

The black sea bass commercial pot fishery operating from South Carolina is currently limited to nine federally permitted/endorsed individuals, only a few of whom are actually active given the management restrictions placed on the fishery during the recently completed stock rebuilding period. Reported landings from this fishery are almost entirely from offshore federal waters where fishermen are restricted to no more than 35 single traps each, which are regularly tended and brought ashore at the end of each fishing trip. Current management measures being developed would restrict this fishery from operating in federal waters from 15 November through 15 April each year, but if the fishery were allowed to expand back into this time period it is very hard to imagine how this limited amount of light

weight gear configured in accordance with the recommendations of the ALWTRT would have any measurable risk to the safety of whales transiting our coastal waters.

South Carolina's blue crab trap fishery occurs predominately in state waters, well inside our estuaries. Based on commercial landings reports, the vast majority of our commercial crab fishermen do not venture into the ocean at all. However, in years when coastal water temperatures may be cooler than normal and crabs move farther out of the estuaries and into near shore waters in larger numbers, a relatively small number of crab fishermen with larger boats may set traps in the ocean in both state and federal waters. When this happens it is typically during the months of January through March, and the gear is usually soaked for multiple days in the vicinity of the 50 degree F isotherm, whether it is in state of federal waters. While this seasonal fishing activity may not represent the bulk of the landings from the state's commercial blue crab fishery it is never-the-less a significant financial boost and extremely important to the relatively few fishermen who can participate in this aspect of the fishery.

From comments received from commercial fishermen at the 12 September NOAA-NMFS public hearing in Charleston, SC it was made clear that at least two of the proposed changes to the ALWTRP would cause significant operational and economic hardship to the few crabbers who do occasionally work during winter months in the Atlantic Ocean off South Carolina. Of particular concern is the requirement to remove all traps at the end of the fishing day. Crab traps are not fished in the same manner as black sea bass traps, with the soak time typically being a matter of days rather than hours. Given the relatively small size of the boats used by commercial crabbers a limited number of traps may be safely shuttled out and back each day. Overnight trips are not attempted. The requirement to return all traps to shore at the end of the day would greatly hamper the efficiency and cost effectiveness of any fishermen attempting to harvest crabs in the ocean and could result in additional safety-related issues. Their assessment is that "this requirement would shut them down."

The adoption of specific color coding for fishing trap/pot lines deployed in state or federal waters is very problematic for commercial crab fishermen who might need to fish in both areas, as blue crabs could easily be located on both sides of the state/federal waters interface on the same day. Having to maintain duplicate gear and change out lines to comply with the requirement for state or federal color coding would add significant expense and become a nightmare to try to manage on a daily basis. Perhaps a simple solution for tracking the lines of the blue crab trap fishery would be to slightly modify the proposed line marking color scheme in such a way that fishermen who fish predominately in state waters, but occasionally or simultaneously fish in federal waters could be tracked regardless of where they are. This could be accomplished by adding a white band to the recommended color pattern of blue and orange for traps deployed in state waters and allowing crab fishermen to use this color scheme regardless of the location of their traps. This approach would have the advantage of reducing financial and operational burdens on the fishermen, and in the event of an actual entanglement with a whale, more readily identify the specific fishery as the source of the incident.

Again, we are extremely supportive of any meaningful effort to reduce the incidental mortality or injury to Atlantic large whales and other marine mammal populations along the Atlantic Coast in our commercial trap/pot fisheries and greatly appreciate the dedication and hard work of the ALWTRT and all others involved in this effort. We certainly understand the magnitude and importance of this endeavor and are willing to do our part to help. Given the very limited scope of these fisheries in the waters of the Atlantic Ocean off South Carolina, especially compared to other regions along the coast where problems from much larger fisheries and more significant gear are well documented, the potential consequences of all of the proposed changes to the ALWTRP seem to have a disproportionate level of impact on South Carolina commercial fishermen, especially given the less likely possibility of any meaningful gain in protection of these important animals in our waters. If fully implemented these changes would minimize or completely exclude these South Carolina commercial fishermen from previously important, time-specific markets within their fisheries.

Thank for the opportunity to comment. If you have any questions or need any additional information please feel free to contact me any time.

Sincerely,

Melvin Bell

Melvin Bell
Director,
Office of Fisheries Management

cc: Robert Boyles, SCDNR
David Whitaker, SCDNR

MARINE MAMMAL COMMISSION

13 September 2013

RECEIVED
SEP 2013
BY:

Ms. Mary Colligan
Assistant Regional Administrator for Protected Resources
National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 09130
Attn: Large Whale Proposed rule

Dear Ms. Colligan:

The Marine Mammal Commission (the MMC), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the proposed rule published by the National Marine Fisheries Service (NMFS) to amend the Atlantic Large Whale Take Reduction Plan (78 Fed. Reg. 42654) and the associated draft environmental impact statement (the DEIS). The purpose of the proposed rule is to reduce the entanglement of North Atlantic right whales and other large whales in commercial trap/pot and gillnet fishing gear.

The Commission's support for the proposed regulatory measures is tempered by major concerns over the basis of NMFS's evaluation of alternative actions in the DEIS, particularly the use of the co-occurrence model recommended by the Atlantic Large Whale Take Reduction Team (the ALWTRT). The model's purpose is to assess the probability of whales encountering vertical fishing lines; however, given structural limitations of the model, deficiencies in the data used, and the omission of data for some areas where entanglement could occur, the model does not provide reliable estimates of entanglement risk and therefore overestimates the effectiveness of proposed measures in achieving potential biological removal (PBR) levels. The Commission also has concerns over the portrayal of the ALWTRT process and decisions in the DEIS.

RECOMMENDATIONS

The Marine Mammal Commission recommends that the National Marine Fisheries Service—

- adopt the proposed per trawl trap minimums in the 25 management areas identified in the proposed rule;
- expand the discussion of weak links in the final environmental impact statement (FEIS) to include the evidence that exists, if any, to indicate that weak links (1) have prevented entanglements; (2) have shortened the amount of time a whale is entangled or otherwise reduced the likelihood that an entangled whale will be seriously injured or die; (3) have failed to prevented entanglements; and (4) may be counterproductive in helping whales shed gear;
- identify in the FEIS the steps that will be taken to ensure adequate inspection and enforcement of the new minimum trap number provision;
- include in the final rule a requirement that all trap/pot fishermen permitted to fish in federal waters record and submit data on the location, number, and length of time that endlines are

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deployed as part of required vessel trip reports and describe in the FEIS precisely what data on endlines (e.g., number, location, and length) NMFS expects state fishery agencies to provide to it on fishing activities that occur under state permits to evaluate compliance and rule effectiveness;

- include in the final rule a prohibition on gillnet use during all times and in all areas proposed for trap and pot closures (i.e., the Jordan Basin, Jeffreys Ledge, Great South Channel (GSC), and Massachusetts Restricted Areas) as well as the "sliver" management area within the GSC Restricted Gillnet Area right whale critical habitat that is currently excluded in the proposed rule;
- revise the analyses in the DEIS to identify the criteria being used to determine when economic costs of the seasonal fishing closures outweigh conservation benefits to large whales;
- expand the DEIS to provide data on recent levels of fishing effort and economic impacts for proposed and alternative closures—those data should include the number of affected trap/pot and gillnet fishermen, the amount of gear set, and the volume and gross or net revenues of ex-vessel landings;
- adopt the proposed gear marking measures after amending them to (1) increase the number of marks required on buoy lines for traps and pots set deeper than a certain depth (e.g., 600 ft); (2) clarify that all trap, pot, and gillnet fisheries subject to the rule are required to mark their vertical buoy lines regardless of where they fish along the east coast; (3) expand the marking scheme to include additional fishing areas where a unique mark is required (i.e., gillnets set in New England waters south and east of Cape Cod and for all traps and pots set in Lobster Management Area 1 off New Hampshire and Massachusetts); and (4) require all groundlines to be marked by a distinct color or other distinctive mark in areas where sinking groundlines are now required.
- take immediate steps after the final rule has been adopted either to revise the current co-occurrence model or develop a new, more suitable model capable of estimating the extent to which the co-occurrence between whales and fishing gear would be reduced, together with the uncertainty of the estimate;
- include in the FEIS a discussion of the full range of ALWTRT and peer reviewer comments regarding the limitations of the model;
- before preparing the FEIS, conduct a study to validate the co-occurrence model relied on in the DEIS against the results of the alternative co-occurrence model at least for Lobster Management Area 1 and, based on those results, modify the model and recalculate co-occurrence estimates; and
- include in the preamble to the final rule and in the FEIS a discussion that more accurately reflects decisions reached by the ALWTRT, particularly with respect to the original deferral of rulemaking to prevent vertical line entanglement risks, and that makes clear that such a deferral was not recommended by the Take Reduction Team.

RATIONALE

In the proposed rule, NMFS seeks to reduce entanglement risks to large whales from vertical lines by (1) reducing the number of vertical lines deployed in the water column by grouping more traps and pots on fewer lines and (2) prohibiting traps and gillnets in seasons and areas where whales, primarily right whales, aggregate in the greatest numbers. The MMC agrees that such

measures are appropriate and important to reducing large whale entanglements, and generally supports the proposed measures to limit the number of lines in the water column. The proposed rule also continues the requirement for weak links between the buoy line and the buoy and specifies required breaking strengths for the links. Unfortunately, despite considerable research on how to make fishing gear less likely to entangle large whales, no effective measures have been developed and there is no evidence that regulatory requirements for such gear modifications, including the use of weak links, have reduced serious injuries or deaths of whales from entanglements in fishing gear.

The best means presently available to reduce fishery-related deaths of large whales is to prevent entanglements from occurring in the first place. The most efficient means to accomplish this, which affects the fewest fishermen and has the least impact on overall fishing effort, is through seasonal closures that prohibit the use of traps, pots, and gillnets with lines that might entangle whales in designated critical habitats and in other areas and times when whale numbers are predictably high. These seasonal area closures are discussed below. The MMC recognizes, however, that such closures alone will not be adequate to reduce entanglement-related serious injuries and deaths to required levels and additional measures such as reducing the overall number of endlines in all areas of co-occurrence will be needed.

Area-specific gear requirements

The proposed rule includes a series of area-specific gear modifications for both trap/pot and gillnet fisheries. The traps and pots portion of the rule (section (c)(2)) identifies 25 different management areas and specifies the minimum number of traps required per trawl (from 1 to 20) in each. The 25 management areas include all open-ocean waters within the U.S. exclusive economic zone other than waters in exempted areas off Maine and New Hampshire. The purpose of minimum trap numbers is to require fishermen to group traps together into fewer strings, thus reducing the overall number of vertical endlines in the water in areas not closed to the use of trap, pot and gillnet gear and the probability of large whale entanglements. The MMC considers this approach to entanglement reduction to be sound and therefore, the MMC recommends that NMFS adopt the proposed per trawl trap minimums in the 25 management areas identified in the proposed rule.

Technological modifications–Weak links

All alternatives in the DEIS propose the use of weak links with breaking strengths ranging from 200 to 2,000 pounds. Weak links have been the primary measure used to prevent or mitigate whale entanglements in buoy lines since 1999, yet the DEIS (page 5-12) provides no data regarding their effectiveness in the years since they have been required. On the contrary, numerous instances have been documented of both broken and unbroken weak links being removed from entangled whales that have been seriously injured or killed by the entanglement, calling into question the benefit of weak links, and these data should be presented. It is possible that weak links are counterproductive for helping whales rid themselves of lines. Disentanglement teams routinely tie buoys and telemetry tags to lines trailing from entangled whales and often have observed that the increased drag has served to pull those lines free from the whales. Thus, one of the intended secondary purposes of weak links, to reduce the weight of gear on entangled whales, might also make it less likely that gear will be shed, at least in some cases. In light of the need to evaluate the effectiveness of weak links, the MMC recommends that NMFS expand the discussion of weak links in the FEIS to include the evidence that exists, if any, to indicate that weak links (1) have prevented

entanglements; (2) have shortened the amount of time a whale is entangled or otherwise reduced the likelihood that an entangled whale will be seriously injured or die; (3) have failed to prevent entanglements; and (4) may be counterproductive in helping whales shed gear.

Enforcement and monitoring

While the MMC supports the proposed per trawl trap minimums, it is concerned that, with some 250,000 endlines in the water in the regulated areas and no way to determine from the surface how many traps are on a trawl, it is likely to be very difficult to enforce this provision. Neither the proposed rule nor the DEIS provides information on monitoring or enforcement difficulties or on how these will be overcome. Therefore, the MMC recommends that NMFS identify in the FEIS the steps that will be taken to ensure adequate inspection and enforcement of the new minimum trap number provision.

The lack of historical and current data on the number of endlines deployed by trap/pot fisheries has hindered robust modeling of the co-occurrence of fishing gear and large whales and the estimation of the effectiveness of any proposed management actions. Except in the case of the Massachusetts lobster fishery, fishermen have not been required to record or report the number of endlines they actually use. To assess the effectiveness of the rule in reducing vertical line numbers, assist with compliance, and inform future co-occurrence modeling, it is essential that accurate data be collected on the number of endlines in the water. The DEIS offers no indication as to whether such data will be gathered. At a minimum, NMFS should ensure that such data are collected by all fishermen who are required to obtain permits to fish in federal waters where NMFS has jurisdiction. To assure necessary data are collected, the MMC recommends that NMFS (1) include in the final rule a requirement that all trap/pot fishermen permitted to fish in federal waters record and submit data on the location, number, and length of time that endlines are deployed as part of required vessel trip reports, and (2) describe in the FEIS precisely what data on endlines (e.g., number, location, and length) NMFS expects state fishery agencies to provide to them on fishing activities that occur under state permits to evaluate compliance and rule effectiveness.

Seasonal area closures

As part of proposed area-specific gear requirements, the proposed rule includes provisions for six seasonal closures to protect whales in high-use right whale habitat. Those include: (1) a new area in the Jordan Basin in the central Gulf of Maine from November through January to exclude traps and pots but not gillnets, (2) a new area around Jeffreys Ledge off New Hampshire and southern Maine from October through January to exclude traps and pots but not gillnets, (3) expansion of an existing January-April closure in the Cape Cod Bay critical habitat for right whales to include adjacent waters and to exclude traps and pots but not gillnets (i.e., the Massachusetts Restricted Trap/Pot Area), (4) an existing closure in the Cape Cod Bay critical habitat from January through April to exclude gillnets only, (5) an existing April-June closure in the Great South Channel (GSC) critical habitat for right whales to exclude traps and pots (i.e., the GSC Restricted Trap/Pot Area), and (6) an existing closure in those parts of the GSC critical habitat that do not include the "sliver" area along the southwestern edge of the GSC critical habitat from April through June to exclude gillnets (i.e., the GSC Restricted Gillnet Area). As discussed below, the MMC questions the analysis in the DEIS for rejecting the option of excluding gillnets from the "sliver" area in spring and believes that area should be closed over the same period as the rest of the GSC critical habitat.

The Commission supports the proposed rule's provisions for new and existing seasonal closures but is concerned that they contain no restrictions on gillnet gear beyond those already in place. Therefore, the proposed rule's provisions are insufficient to achieve the take reduction goals of the Marine Mammal Protection Act (MMPA). Although vertical buoy lines on gillnets pose entanglement risks similar to those on trap/pot gear, the gillnets themselves pose an even greater entanglement risk for large whales. As discussed below, the use of weak links is the primary measure for preventing and mitigating gillnet entanglements, but they have not proven to be adequate; further measures are needed. As with trap/pot fisheries, the most effective way to prevent gillnet entanglements is to prohibit the use of gillnets in right whale critical habitat and in other areas frequently inhabited or visited by right whales during periods of their peak occurrence. Therefore, the MMC recommends that NMFS include in the final rule a prohibition on gillnet use during all times and in all areas proposed for trap and pot closures (i.e., the Jordan Basin, Jeffreys Ledge, GSC, and Massachusetts Restricted Areas), as well as the "sliver" management area within the GSC right whale critical habitat that is currently excluded in the proposed rule.

In general, the boundaries and timeframes for proposed and alternative closures discussed in the DEIS are supported by available information on right whale distribution and seasonal occurrence. On the other hand, the DEIS provides no data on either fishing effort (e.g., numbers of affected trap/pot and gillnet fishermen or numbers of traps/pots and gillnets) or the economic value (e.g., ex-vessel landings, gross or net revenues) of fishing in any of the alternative closure zones during the seasons of peak whale occurrence. Thus the NMFS analysis of economic impacts against conservation benefits of proposed closures is not transparent. In some instances, the proposed prohibitions are inconsistent with the information provided. In others, NMFS seems to have come to opposite conclusions under what appear to be very similar circumstances, but supporting data, whether biological or socio-economic, is not presented.

For example, the DEIS provides no data to justify NMFS's decision to reject the option of prohibiting gillnets from the "sliver" area in the GSC right whale critical habitat. The Service rejects this option on the grounds that there is little fishing effort there and the economic burdens would outweigh the whale protection benefits. However, if there is little fishing effort in that area during spring, it does not follow that there would be substantial economic cost to the industry from a closure. In contrast, NMFS proposes to establish a trap and pot closure in right whale critical habitat in Cape Cod Bay and surrounding waters where low levels of lobster fishing occur. Although not stated explicitly, NMFS appears to have concluded that economic burdens on lobster fishing in that area do not outweigh protection benefits to whales, but again data are not provided on affected fishing effort or economic value. These two areas have similar levels of co-occurrence of whales and gear. Therefore, by proposing to close one area where fishing effort is low while leaving another area with similarly low fishing effort open, and in the absence of supporting data, NMFS's decisions on these closures appear arbitrary and contradictory.

With regard to the rejected alternative of closing the "sliver" area to gillnets, the co-occurrence model used by NMFS indicates that co-occurrence and entanglement risks are high and comparable to those in other areas proposed for seasonal closures. In the timeframe over which vertical line data used in the co-occurrence model were collected (i.e., since 2008), lobster gear has been prohibited in the "sliver" area during the spring right whale season. As a result, the model should assess only gillnet gear for that area and time. Results of the model as presented in Appendix

5-B indicate that the "sliver" area has a relatively high co-occurrence score, which must be due to gillnets. Nevertheless, NMFS rejected a spring ban ostensibly because, even though there is little gillnet fishing effort in that area at that time, the economic burden somehow outweighs protection needs. These apparent inconsistencies need to be reconciled or explained.

The analyses in the DEIS and the decision to exclude certain areas or gear types from proposed closures give the impression that NMFS is placing the economic interests of a relatively small number of fishermen above right whale protection needs even though there are apparently minimal economic impacts. The MMC recommends that NMFS revise the analyses in the DEIS to identify the criteria being used to determine when economic costs of the seasonal fishing closures outweigh conservation benefits to large whales. The MMC also recommends that NMFS expand the DEIS to provide data on recent levels of fishing effort and economic impacts for proposed and alternative closures—those data should include the number of affected trap/pot and gillnet fishermen, the amount of gear set, and the volume and gross or net revenues of ex-vessel landings.

Gear marking

NMFS proposes to include requirements for marking buoy lines to help identify the source of lines found on entangled whales and to monitor the take reduction plan's effectiveness. To help gather such information, the rule would require placing three 12-inch marks at the top, middle, and bottom of each buoy line with different colors or color combinations to distinguish buoy lines from trap/pot and gillnet fisheries and to identify broad geographic areas where the gear was set. Such a system is important and the proposed marking system, particularly the increased size of marks (which will make them easier to detect on entangled whales that cannot be disentangled) and the expanded coverage of areas and fisheries, is a significant improvement over the previous gear marking system. However, as discussed further in the Addendum to this letter, the proposed gear marking system should be clarified and strengthened in four ways and, therefore the MMC recommends that NMFS adopt the proposed gear marking measures after amending them to (1) increase the number of marks required on buoy lines for traps and pots set deeper than a certain depth (e.g., 600 ft); (2) clarify that all trap, pot, and gillnet fisheries subject to the rule are required to mark their vertical buoy lines regardless of where they fish along the east coast; (3) expand the marking scheme to include additional fishing areas where a unique mark is required (i.e., gillnets set in New England waters south and east of Cape Cod and for all traps and pots set in Lobster Management Area 1 off New Hampshire and Massachusetts); and (4) require all groundlines to be marked by a distinct color or other distinctive mark in areas where sinking groundlines are now required.

Co-occurrence model

NMFS's evaluation of alternative approaches to reducing vertical lines in large whale habitat is based on a co-occurrence model recommended by the ALWTRT and developed by a NMFS contractor. The model's purpose is to assess the probability of whales encountering fishing lines. It is based on monthly estimates of the numbers of lines in the water and data on the density of whales in all areas of the U.S. exclusive economic zone from Maine to Florida. The MMC supported the development of such a model and continues to believe such modeling is needed to help monitor implementation of line reduction measures and evaluate their effectiveness. Despite the model's importance, however, the process of developing it, the nature of the resultant model, and

uncertainties surrounding the data used as input have raised serious doubts about the model's usefulness.

As reflected in the ALWTRT summary reports, the following concerns described below have been discussed extensively by the ALWTRT, and they also are described in peer reviews and a report prepared by scientists on the ALWTRT.[1] Among the important concerns raised by ALWTRT members and peer reviewers were the following:

- Managers need the means to evaluate whether management approaches are effective in achieving reductions in vertical line numbers and whale co-occurrence with gear, but the co-occurrence model that was developed is not sufficient to estimate absolute entanglement risk. Instead, it is useful only for determining the relative effectiveness of one mitigation measure against another (although it does not provide any way to assess the significance of such differences). Since the model does not consider exempted waters, it does not determine the overall co-occurrence risk. Finally, there is no standard or goal identified for determining the extent to which vertical lines must be reduced to achieve the goals of the MMPA—i.e., reducing entanglement-related serious injury and death of large whales to below PBR levels within six months of plan implementation and to insignificant levels approaching a zero mortality rate within five years.

- The model fails to account for uncertainty in the underlying data. The data on numbers of whale sightings are treated as known values, rather than as observations resulting from stochastic processes. The data on vertical line numbers are treated as known values, when in fact they are estimates with some amount of uncertainty. With the exception of nearshore waters off Massachusetts where fishermen were asked to record data on the number of trawls and traps per trawl set, the estimates of vertical line numbers for all other areas are based on either surveys in which fishermen provided their recollection of how many traps and trawls they set in different areas during the previous month or year or on the "expert opinion" of state fishery managers as to the number of traps per trawl set by fishermen in different areas. Given those methods, there is great uncertainty regarding the actual number of vertical lines deployed in different areas. The lack of effort to validate the accuracy of the estimates of vertical line numbers undermines the reliability of the baseline data and greatly reduces confidence in the model-generated projections of the effectiveness of proposed measures to reduce vertical line numbers and co-occurrence risks.

- Further, the model underestimates entanglement risk by failing to account for several important factors related to the distribution of whales and vertical lines. It assumes that whales do not occur in areas where surveys have not been conducted, even though telemetry, opportunistic sightings, and some entanglement data document at least occasional occurrence of right whales and other large whales during seasons and in areas that have not been surveyed. In addition, it provides no estimate of co-occurrence in areas exempted from vertical line restrictions, such as the coast of Maine. The risk of entanglement could be very high for any whales entering exempted areas in Maine and New Hampshire, given the high gear density therein, but NMFS

[1] Estimating Minimum SPUE Values for Right and Humpback Whales in Northeast Areas with Low Survey Effort: An Analysis Completed for the Atlantic Large Whale Take Reduction Team. 31 January 2012. Robert D. Kenney, Ph.D.

has done little to assess whale occurrence in those exempted areas or to factor this into overall assessment of co-occurrence and entanglement risk.

These limitations and deficiencies have been noted by peer reviewers, ALWTRT members, and the modeling contractors themselves. Failure to address them significantly reduces confidence in the use of the model as a tool for evaluating management options. The description of the model in the DEIS acknowledges that fundamental limitations remain, yet both the proposed rule and the DEIS incorrectly imply that the ALWTRT and peer reviewers largely endorsed the model. For example, NMFS states in the DEIS that although peer reviewers "noted the need to clarify some aspects of the model's documentation, the findings of the review overall were favorable." In fact, reviewers noted that the data on vertical lines are inadequate, the results have no confidence limits associated with those estimates, and no steps have been taken to validate the performance of the model through comparison with other modeling efforts. Indeed, one reviewer stated that "other model approaches might have been preferable and [that] this version of [the] model is not ready to be used in a management application until its performance has been validated or compared with other model approaches." The MMC agrees with that conclusion.

Given the fundamental limitations of the model as it now exists, which are discussed further in the Addendum to this letter, as well as the ongoing need for a model to help monitor and evaluate the effectiveness of the final rule, the MMC concludes that the model must be substantially revised or replaced with a model more capable of assessing uncertainty in the underlying data and evaluating overall co-occurrence risks (including risks in exempted areas). Therefore, the MMC recommends that NMFS take immediate steps after the final rule has been adopted either to revise the current co-occurrence model or develop a new, more suitable model capable of estimating the extent to which the co-occurrence between whales and fishing gear would be reduced, together with the uncertainty of the estimate. In addition, the MMC recommends that NMFS include in the FEIS a discussion of the full range of ALWTRT and peer-reviewer comments regarding limitations of the model.

Among other things, the Committee of Independent Experts peer reviews recommended validation of the co-occurrence model, and the MMC supports that recommendation. There are at least three approaches that could be used to validate the model: (1) examination of the assumptions and predictions of the model in smaller areas where data are best; (2) comparison of the model with another model based on different assumptions and structure; and (3) evaluation of the accuracy of predictions of the model using simulated data with known values. With regard to the specific concern that the model excludes co-occurrence risks for exempted inshore waters, the DEIS (page 5-7) noted that another model had been prepared by a group of scientists from Keene State College, Woods Hole Oceanographic Institution, the New England Aquarium, and the Maine Lobstermen's Association. That model has been developed at a finer scale to estimate the co-occurrence of gear and whales on the east coast, including the exempted areas in Lobster Management Area 1 off the Maine coast that may include half or more of all vertical lines in east coast waters and a significant proportion of the co-occurrence risks to right whales. While the model has not yet been completed for the entire east coast, the MMC understands that the Maine portion is operational. Therefore, much can be learned about the extent of uncertainty in the NMFS co-occurrence model by comparing results of the two models within the areas of overlap. Given the significant limitations

identified with the NMFS co-occurrence model and the importance of ensuring that its results are reliable for evaluating the effectiveness of the final rule, the MMC recommends that NMFS, before preparing the FEIS, conduct a study to validate the co-occurrence model relied on in the DEIS against the results of the alternative co-occurrence model at least for Lobster Management Area 1 and, based on those results, modify the model and recalculate co-occurrence estimates. The MMC believes a delay of six months or more would be warranted to conduct the validation exercise, adjust the model, and reevaluate the effectiveness of alternative measures.

Clarification of the ALWTRT's decisions

Finally, we note that the description of ALWTRT activities and the proposed approach in the DEIS do not accurately reflect discussions and decisions of the Team. The Addendum to this letter provides additional details. The MMC recommends that NMFS include in the preamble to the final rule and in the FEIS a discussion that more accurately reflects decisions reached by the ARWTRT, particularly with respect to the original deferral of rulemaking to prevent vertical line entanglement risks, and that makes clear that such a deferral was not recommended by the Take Reduction Team. Those documents also should reflect that, although subgroups of the Team offered various management proposals considered in the current rulemaking, the Team did not reach consensus on any of them.

Thank you for considering the MMC's comments and recommendations. If you have any questions regarding these comments, please don't hesitate to contact me.

Sincerely,

Rebecca J. Lent

Rebecca Lent, Ph.D.
Executive Director

One Attachment

Addendum: Marine Mammal Commission additional comments on the proposed rule published by the National Marine Fisheries Service (NMFS) to amend the Atlantic Large Whale Take Reduction Plan (78 Fed. Reg. 42654) and the associated draft environmental impact statement (DEIS).

Further comments on gear marking

The Commission has four specific recommendations to strengthen the gear marking provisions of the proposed rule.

1) The proposed rule would require only three marks on buoy lines (i.e., the top, middle, and bottom) regardless of their length. An analysis of the average length of lines removed from whales is not provided, but information on entanglements provided to the ALWTRT suggests that lines removed from many whales are often 200 ft in length or less. Because trap fisheries subject to the rule may set gear in waters more than 1,000 ft in depth that require lines much longer than 200 ft, marks may not be present on the fragments of line recovered. The distance between marks on a given line may exceed 500 ft. To better assure that marks on buoy lines from gear set in deep water will be visible on entangled whales or present on gear removed from whales, buoy lines greater than a certain length (e.g., 600 ft) should be required to have marks at regular intervals (e.g., every 200 ft), rather than just at the top, middle, and bottom.

2) Although apparently intended, it is not clear whether the proposed rule would require buoy line marking on all traps, pots, and gillnets in all areas subject to regulation in the proposed rule. For example, section 229.32 (a)(3) of the rule, which identifies where marking is required for traps and pots, mentions a "North Offshore" area, but not offshore areas off the mid- and south Atlantic coasts. Similarly, Exhibit 2-3 in the DEIS (page 2-12) does not identify a "North Offshore" area, but rather shows only one continuous offshore area extending from Maine to Florida. The map also does not identify the "Massachusetts Restricted Area" mentioned in the rule for trap/pot gear, leaving the boundaries of this area unclear. In addition, the list of gear marking areas for traps and pots does not include the "Southeast U.S. Restricted Area North", although it is shown in Exhibit 2-3, suggesting that no gear marking would be required in that area.

3) As proposed, the marking scheme would enable the identification of only six broad trap/pot fishing areas and five gillnet areas. To better define the major fishing areas of gear entanglement, the scheme should establish some additional areas where a unique mark is required and notes that this can be accomplished using the same colors already selected for the proposed scheme. Specifically, the MMC suggests that the scheme include two additional color combinations to distinguish 1) gillnets set in waters off southern New England (i.e., east of Long Island and south of Cape Cod including waters along the Outer Cape) and 2) trap/pot gear set south of the Maine-New Hampshire border in Lobster Management Area 1 (which could include most or all the Stellwagen Bank/Jeffreys Ledge and Cape Cod Bay Restricted areas and the waters inshore of those areas that are not otherwise exempted).

4) The gear marking requirements apply only to buoy lines and not groundlines. ALWTRT members have asked NMFS repeatedly for information on the effectiveness of the sinking groundline requirements already in place, but, because there has been no way to distinguish sinking

groundlines from sinking buoy lines on gear removed from entangled whales, NMFS has been unable to make that assessment. The requirement for more marks on buoy lines will assist in making that distinction for whales entangled in gear used by U.S. fishermen. However, the situation is complicated because Canada has no gear marking requirements. It will be impossible to distinguish unmarked sinking groundlines on the gear of U.S. fishermen from any similarly unmarked sinking lines originating in Canada. Therefore, to monitor the effectiveness of the existing groundline requirements, a distinctive mark should be required at specified intervals along all groundlines wherever sinking lines are required. The major need is to verify the overall effectiveness of the sinking groundline requirements, and that can be accomplished by requiring a single distinctive mark for all groundlines in all areas and all fisheries. We suggest that mark either be a distinctive color for all groundlines placed midway between each trap or pot in a trawl or a colored thread woven throughout the line.

Further comments on the co-occurrence model

Although the DEIS includes a section discussing model limitations, those limitations are not adequately reflected in the modeling results. The model results are useful only for comparing the possible effectiveness (i.e., estimated reductions of the co-occurrence of whales and fishing gear) of one alternative relative to another. Despite that caution, the DEIS presents model results as if they were based on reliable quantitative data that yielded a statistically meaningful measure of overall reduction in co-occurrence risks. For example, the title of Exhibit 5-5 in the DEIS (page 5-10) implies that the table is based on empirically derived numbers rather than estimates of vertical line numbers generated by fishermen and state managers. Similarly, the title of Exhibit 5-6 implies, based on model results, that it is reasonable to conclude that the alternatives will reduce co-occurrence risks by 35.8 to 41.2 percent compared to the No Action alternative. This is not a conclusion that is supported by the model. Because of the model's limitations, the results are useful only to show that there might be a 5 or 6 percent difference between all alternatives assuming risks in exempt areas are negligible. A more accurate title of Exhibit 5-6 would be "Relative Reductions in Co-Occurrence Scores of Alternatives in Non-Exempt Areas." Therefore, the MMC encourages NMFS to revise the text of the DEIS to make it more explicit in the FEIS that the model results, particularly those related to percentages of reduction in co-occurrence between whales and gear (e.g., Exhibits 5-5 and 5-6), are not predictions of overall risk reduction, but are merely comparisons of the alternatives.

The estimated co-occurrence percentages do not reflect entanglement risks in the exempted areas off Maine and New Hampshire. Although that area is relatively small, the model indicates it has the greatest concentration of vertical lines anywhere along the east coast. Indeed, it may account for half of all vertical lines in the region. Although the frequency of occurrence of North Atlantic right and other whales in those waters is believed to be very low, almost no effort has been made to confirm the density, seasonality, or turnover of whales in exempted areas. Therefore, the MMC believes the risk of entanglement is underestimated. For example, Exhibit 5-4 in the DEIS (page 5-9) shows that some 225,000 vertical lines may be deployed in any given month in regulated areas, but no information is provided on the number of vertical lines in the exempted area. Given the uncertainty about the frequency of large whale occurrence in the exempted area and especially since gear removed from entangled right whales has been traced to that area, the DEIS should provide information on the numbers of vertical lines in the exempted area, which will allow better understanding of the factors NMFS considered when it chose to exempt those areas. Therefore, the

MMC suggests that NMFS includes information in the DEIS on the estimated numbers of vertical lines from trap/pot fisheries and gillnets deployed in waters exempted from the proposed rule.

Further comments on the characterization of the ALWTRT process and decisions

In some portions of the *Federal Register* notice and DEIS, the descriptions of ALWTRT activities and decisions are not accurate. On page 42655 of the notice and 2-7 of the DEIS, it states that "at the 2003 meeting (of the Atlantic Large Whale Take Reduction Team), the Team agreed to manage entanglement risk by first reducing the risk associated with groundlines and then reducing the risk associated with vertical lines in commercial trap/pot and sink gillnet gear." That statement is not true. An accurate characterization of the 2003 meeting, as reflected in the meeting summary, would note that the Team agreed by consensus that the revisions of the Large Whale Take Reduction Plan needed to address two overriding principles: (1) reducing risk associated with vertical lines *and* (2) reducing profiles of all groundlines. There was neither discussion, nor agreement by the Team prior to the 2005 rulemaking on whether those two principles should be addressed in separate consecutive rulemaking actions. The decision to do so was made solely by NMFS. The ALWTRT did not agree on or express support for that approach. Those and other comments were set out in the Commission's 12 May 2005 comments on the 2005 DEIS for the sinking groundline rule.

The notice and DEIS go on to state that "at the 2009 ALWTRT meeting the Team agreed on a schedule to develop a management approach to reduce the risk…due to vertical lines" (notice page 42655, DEIS p 2-8 and 3-2), which is misleading. NMFS staff developed the schedule and presented it to the Team as a point of information to guide the Team's work. Although the Team acknowledged the rationale presented by the Service for its schedule, the Team neither developed the schedule provisions nor agreed to the agency's schedule. Indeed, as noted in the summary of the 2009 meeting, several Team members expressed concern that the five-year rulemaking schedule was too slow. Given the importance of ALWTRT agreements, which are based on consensus, it is unfortunate that NMFS has mischaracterized Team decisions and positions. Thus, the MMC recommends that NMFS include in the preamble to the final rule and FEIS a discussion that more accurately reflects the deliberations and decisions of the ALWTRT, particularly with respect to the original deferral of rulemaking to prevent vertical line entanglement risks, and making it clear that such a deferral was not recommended by the Take Reduction Team. Those documents also should reflect that although subgroups of the Team offered various management proposals considered in the current rulemaking, the Team did not reach consensus on any of them.

RECEIVED
SEP 18 2013
BY:_____

9-15-13
Kevin L. Beal
P.O. Box 64
Beals, ME 04611-0064

Mary Colligan, Assistant Regional Administrator for Protected Resources

Dear Mary Colligan:

I am in favor of Alternative I of the Atlantic Large Whale Take Reduction Plan proposed rule because the right whale population has increased by more than 50% since any gear changes have been required.

I am not in favor of any closures or any new gear marking proposed under all alternatives. The occurance of whales in exempted waters is so small, that gear marking would be an un-necessary financial and time-consuming burden for fishermen.

Sincerely,
Kevin L. Beal
Kevin L Beal

16 Newport Rd
Hull MA. 02045
Sept 11 2013

Mary A. Colligan
Assistant Reg. Adm. for Protected Resources
Northeast Reg off.
NOAA Fisheries Serv.
NOAA
55 Great Republic Drive

RECEIVED
SEP 18 2013
BY: KB

Dear Ms. Colligan,

I am almost 70 years old and have fished since I was 12, except when I served in the Navy spending time in the ~~the~~ Mekong Delta of V.N. I came home and found a job lobster fishing. This occupation would expose me to risks with mother nature and lessen my exposure to risks caused by humans. I would feel less threatened.

The 200+ pages of the whale plan was difficult to read thru in so short a period of time. I have attempted to read this document & it scares me.

The fisheries I have participated in have been numerous; tub trawling, clam digging, Scottish seining, Gill netting & lobster fishing. We have also taken part in many research projects in hopes of finding ways to help our resources & allow fishermen to continue to fish.

All of these fisheries once having been threatened by overfishing, I voluntarily removed myself from.

My hopes were to see stocks rebound; thus allowing fisherman to go back or continue to fish. This of coorse would be benificial to economic stability of the community as well.

Lobster fishing was and is the only self sustaining fishery left. I feel threatened that this will not prevail with what is being suggested by these suggested plans.

I have spent over 300 days a year on the water for 35-40 years. The amount of marine mammals in general that have come back to this region I fish have increased in remarkable numbers.

Data in various documents give figures of over 300 wright whales back in 1999; additional data says 385 wright whales. I don't understand why there's such a difference. In 2009 425 wright whales were reported.

A growth pattern is evident with this population whales are increasing; fisherman are decreasing so I guess the logic is the whales are winning; so lets increase more regulations to create more hardships + threaten more fishermen. This will make it easier for the whale populations to survive.

Hearings given by the NMFS years back gave numbers of some 250 wright whales known to exist back in the 1980's. We were told

They were endangered. So our break aways on our endlines, and the elimination of poly groundlines were needed. What we didn't know was that in 1935 it was believed that only 100 wright whales were estimated to be swimming around. These whales had been on the increase even with poly ground lines + no breakaways.

It appears since our whaling days were over in 1935, or there abouts, the whales have been on a steady increase.

It does not make sense, if these figures are true, and most appear to be, that further regulations are needed.

All whale numbers are increasing at substantial rates. Entagalments are minimal + haven't effected the increase in whale numbers. Lobster fisherman have diminished in numbers in Mass. and so have the number of lobster traps. All these are positive points. Why can't we leave things as they are?

My recomendations are to leave things alone. The endangered species in the near future could very well be the lobster fisherman.

Efforts should be put forth to garantee A future for the younger men + woman who wish to continue fishing for lobsters

Respectfully
Peter M. Mahoney
F/V Windemere

F/V VOYAGER

Todd M. Jesse
27 Olmstead Terrace, Plymouth, MA 02360
(508) 747-4938

RECEIVED
SEP 1 8 2013
BY:_____

September 15, 2013

NOAA Fisheries Service

Dear Mary Colligan,

I am submitting these comments on the DEIS for Atlantic Large Whale Take Reduction Plan. The only alternative I can support is Status Quo. I have commercially fished for over 35 years and fish mainly in the Critical Habitat Area of Cape Cod Bay and Stellwagen area. For the past 17 years we have worked with NMFS and MA DMF. We have eliminated floating rope, installed weak links and marked our buoy lines. When this process started there was 295 whales now there are over 500. The counting of the whales is wrong or something is working. I am strongly opposed to closures from January to May. I fish all my gear in this area if a closure was to go into effect in January I would have to start bringing gear home in November. So that means I have reduced income in November and December, with no income January to May. In today's economic times does this make sense? I do understand that NMFS is under pressure from ESA and MMPA. These laws need to be reworked. That's where this whole process must start! NMFS at the public hearing stated that the whales and gear are in the same place at the same time making a "potential" entanglement. This I understand BUT there are cars and pedestrians on the road at the same time. Unfortunately accidents do happen but we do not close the roads. The network that is set up today for disentanglement is far greater than it was 17 years ago. We have plans now to save the whales. As a commercial fisherman that last thing I want to see is a whale die, it is part of the ocean cycle that supports me. So please leave things at Status Quo.

Respectfully,

Todd M. Jesse

F/V Voyager

F/V Sheila Anne
Robert L. Nudd Jr
531 Exeter Road
Hampton, New Hampshire 03842-1014

RECEIVED
SEP 13 2013
BY:_____

Mary Colligan, Assistant Regional Administrator for Protected Resources
National Marine Fisheries Service
55 Great Republic Drive
Gloucester, Ma 01930
Attn: ALWTRP Large Whale Rule

Dear Ms. Colligan,

I wish to comment on the proposed end line rule in the large whale take reduction plan.

First I want to express my strong support for the exemption of New Hampshire state waters. My reasoning for this is based on the rational presented before the TRT by the New Hampshire Fish and Game Department and the safety of the small boat fishery within state waters. Although I can not speak for the New Hampshire Fish and Game Department, I have been assured by The Director of Marine Fisheries that if the exemption is granted all current regulations related to the LWTRP will remain in effect. This includes all of the ground line regulations and I would oppose any effort within the state to change this. I would hope that this exemption will be incorporated into the final rule.

I support the traps per trawl requirement for federal waters as outlined in the preferred alternative. That is: 3-12 miles 10 traps, and 20 traps beyond 12 miles. I would however like to see some flexibility incorporated into this provision where by a fisherman would be allowed to fish shorter trawls by giving up traps fished in these areas resulting in the same reduction in end lines. I believe this was outlined in a comment by the New Hampshire Fish and Game Department. This flexibility is a safety issue for smaller boats.

In regard to the increased gear marking requirements I have little objection to marking buoy lines 3 times nor do I object to the length of the mark. However I would like to see a different mark between Maine exempt waters and New Hampshire exempt waters (assuming the NH exemption is part of the final rule). In addition I find the movement of lines between federal and state waters (with different marking requirements) to be very problematic. I do not know what the answer to this is. It may be that those with federal permits continue to use the non exempt markings even though they may sometimes fish in exempt waters. My rational for this is that they spend the vast majority of the year in non exempt waters and this is the area where they most likely may have interaction with whales.

Finally I want to express my very strong opposition to the Jeffery's Ledge closure. Although suggested by some members of the TRT I don't feel there was wide support within the group and I don't feel it was examined enough to warrant inclusion in the final rule. I do believe that the displacement of effort within the proposed closure and the concentration of effort around the closure would pose far more risk to whales than currently exists. I believe this closure would create enormous gear conflicts not only within the lobster fishery but with the mobile gear fishery as well. This proposal would be devastating to an already economically stressed fishery.

Thank you for considering my comments and I hope you see fit to include them in the final rule.

Sincerely,

Bobby Nudd
TRT Industry Representative
New Hampshire

www.littlebaylobster.com

RECEIVED
SEP 13 2013
BY:_____

158 Shattuck Way
Newington, NH 03801
Phone: (603) 431-3170
Facsimile: (603) 431-3496

September 12, 2013

Mary Colligan
Asst. Reg. Admin. For Protected Species
National Marine Fisheries Service, NERO
55 Great Republic Drive
Gloucester, MA 01930

Dear Ms. Colligan,

I am writing in response to NOAA Fisheries / NMFS request for comments on the Large Whale DEIS and Proposed Rule. I support the section of Alternative 2 that incorporates NMFS requirements for numbers of traps per trawl in order to fish with two endlines and a minimum of twenty traps per trawl to be used in Area 3.

I cannot support, however, the Alternative 2 gear marking provision for Area 3. The new proposal relative to gear marking would be a far greater cost to fisherman than any benefit for whales. There is no guarantee, nor data to suggest, this marking requirement would increase the ability to identify gear. Also, creating and maintaining three 12" marks on offshore endlines is more challenging than one may realize. Offshore gear is seldom brought back to the dock since it is hauled and immediately replaced into the ocean, hence the lines are always wet and adding marks or replacing marks is extremely difficult if not impossible on wet line. Further, an offshore lobster vessel's "territorial fishing grounds" move and change over the course of a fishing year and any change in fishing grounds often means changes in fishing depths from between 100 to 1200 feet with the concurrent change in endline lengthening. To abide by the proposed regulations, offshore vessels would need to replace endlines frequently in order to keep marks at the top, middle, and bottom of the line; otherwise there would be black marks in varied locations on endlines or in areas other than top, middle and bottom. Obviously this situation could create enforcement issues. In short the gear marking provision is impractical and costly for the following reasons:

1. Carrying thousands of pounds of extra line onboard a fishing vessel is impractical.
2. Carrying thousands of pounds of extra line may preclude the ability to haul gear replacements out to fishing areas as needed.
3. Splicing new endlines would impact fishing time and the "bottom line" or profit.

5. High likelihood of non-compliance due to marking issues (see above).
6. Enforcement problems would ensue if the endlines were not marked exactly as regulated or due to non-compliance (also problematic for cost vs. benefit).

Finally, offshore lobster gear has always been rather easily identifiable even without gear markings due to its size. Gear markings in other lobster areas may provide some idea of the origin of an entanglement; however, gear marking within Area 3, (situated from Maine through North Carolina) does not identify a locale other than outside of thirty miles offshore. Therefore, additional gear markings on offshore line is not only impractical, but serves little purpose and is unnecessary.

I further do not support NMFS preferred alternative which incorporates a closure within Jordan Basin. Closure is unjustified. It is my understanding the entire Large Whale Take Reduction Team, including those individuals who prepared the Jordan Basin proposal, voted to make determinations on future recommendations to NMFS for regulatory action based on "co-occurrence." This method would indicate the simultaneous presence of both whales and fishing gear. The DEIS and the proposal clearly state the recommendation for closure is based on a "hot-spot" analysis of whale location and behavior. It is unacceptable for members of the Take Reduction Team to vote one way and act another. Further, it is inappropriate for the regulating agency to accept a recommendation which ignores the team's approval of a different methodology to address the whale issue. It is surely unacceptable for the regulating agency, while in attendance and in full understanding of the manner in which the co-occurrence vote occurred, to consider a non-voted recommendation as their "*preferred alternative.*"

The Jordan Basin proposal does not meet any appropriate or acceptable representation of the co-occurrence model. The "hot-spot" analysis points out a high presence of whales and suggests that any amount of gear is a risk. In fact, however, Jordan Basin does not exhibit co-occurrence and the amount of gear in the area during the timeline proposed by the Closure (November 1-January 31) is minimal. Further, after perusing the socio-economic analysis quoted throughout the DEIS document, it is abundantly clear the data used for the offshore lobster fishery is extremely flawed. The crew size, length of fishing trips, estimated catch, and amounts of gear per vessel, as well as the gear fishing in Jordan Basin during the closure period, are all in error. The estimate of traps fishing is grossly over estimated and the economic impacts are grossly under estimated. Comments regarding alternatives to fishing within Jordan Basin, i.e., time and cost to move to other fishing grounds, are also inaccurate. Within the document it is stated that, "complete information on lobster vessels operations in offshore waters is not available making it difficult to predict how vessels that currently lobster in the Jordan Basin area would respond to closure" yet the document suggests no economic impact to the vessel and/or owner. Good decisions cannot be based on poor or non-existent data. The data is flawed and provides no justification for anything that is discussed within the DEIS.

Lastly, the other information within the document, with which I can agree, indicates any closure would merely create a web or fence of gear around the perimeter of the area and thus

make it more difficult for whales to navigate and, by definition, more prone to entanglement not less.

It is important to remember that when considering closing areas due to whales, the lobster industry was severely impacted by the cost of sinking line and, as a quid-pro-quo for sinking line, the closing of areas was taken off the table as a management strategy by NMFS. Further, both Dynamic Area Management (DAMs) and Seasonal Area Management (SAMs) areas which were known to be *important* areas in which large numbers of whales congregated, were opened up to fishing as long as sinking line was used. Once sinking line was enacted, the DAMs and SAMs ceased to exist. Surely if DAMs and SAMs could be deregulated with the greater number of both whales and large number of traps in those areas the very few numbers of traps fishing in Jordan Basin during the proposed time period would certainly not indicate closure be either necessary nor justified. Since SAMs and DAMs are no longer necessary nor being regulated, it would seem logical that no area closures should be considered for future regulatory action.

Considering the continued and consistent increase in not only right whale but other whale populations, it is abundantly clear the previously mandated and now implemented sinking line and weak link mechanisms have indeed brought about the desired result of healthier whale populations and, for the reasons already cited above, closures in Jordan Basin are both unnecessary and even counter-productive.

In summation, I support an Area 3 vessel needing at least twenty traps per trawl in order to fish with two end lines. I do not support a change to the current gear marking provision and I am strongly opposed to ANY closures of areas due to the presence of whales.

I appreciate the opportunity to comment on this important issue.

Sincerely,

Jonathan Shafmaster

JSS/vo
1A753

RECEIVED
SEP 12 2013
BY:_____

NMFS
55 Republic Drive
Gloucester, MA 01930
Attn: Mary Colligan, Assistant Regional Administrator for Protected Species

Written comment to the Atlantic Large Whale Take Reduction Plan (ALWTRP)

Dear Ms. Colligan,

The following comments of support or opposition to components of the ALWTRP are as follows.

a) I support the exemption of New Hampshire state waters and any alternative that has that as a component of the final plan.

b) I support the minimum number of 10 traps per trawl for waters between 3-12 miles and any alternative that has that as a component of the final rule.

c) I support the minimum number of 20 traps for waters beyond 12 miles and any alternative that has that as a component of the final rule.

d) Buoy line marking requirements for exempted waters in NH & ME should have separate colors.

e) Buoy line marking requirements for lobster gear that travels from state waters to federal waters needs to be improved so as to be not confusing.

f) Marking the buoy lines 3 times in the length of the line and with each mark needing to be 12 inches in length seems excessive. Maintaining the mark at the top end of the buoy line is supported.

g) I strongly OPPOSE any alternative that includes the Jeffries Closure Area. Making this a requirement would not serve its intended purpose by any means and potentially increase any chance of an interaction with whales.

I hope these comments will be incorporated in the final rule of the ALWTRP.

Sincerely

Downeast Lobstermen's Association
P. O. Box 88
Belfast, Maine
04915

September 15, 2013

Mary Colligan
Assistant Regional Administrator for Protected Resources
NOAA Fisheries Northeast Region
55 Great Republic Drive
Gloucester, MA 01930

Re: Large Whale Proposed Rule

Dear Ms. Colligan:

This letter is the reply to the Proposed Rule "Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan Regulations" as discussed by the Downeast Lobstermen's Association in association with the Department of Marine Resources and Maine's Take Reduction Team (TRT) delegation.

D.E.L.A. worked very closely with the D.M.R. and the Take Reduction Team, industry associations and Maine fishermen. We also agree that the proposal is not a "one size fits all" rule, as Maine has a very diverse coastline from one end of the state to the other. To the East, we have a very rocky bottom with individual islands, which some are inhabited and some are not. The majority of our islands are way too rocky and shallow to even realistically allow a whale to "fit" in with the environment around it. This leads to our major concern for the safety of the fishermen as well as the concern for the mortality of the whales.

As stated at the meeting with the D.M.R. and the TRT, to fish large trawls in these areas would create a big threat to the safety of our students and seniors.

Ultimately, we do support the proposed Maine area-specific trawl minimums that were put before us in the preferred alternative and proposed rule. We also propose a ¼ mile exemption around the islands that are partly or fully outside the current exemption line. This proposal would have a positive impact on the safety of those that fish in that area and unlikely to have any effect on the whale population there, if any.

D.E. L.A. also proposes to limit the increased trawl minimums around the islands that constitute state waters, but occur outside the three mile line, which includes Mount Desert Rock and Machias Seal Island. Considering the changes of depth and extreme bottom types, and the mandatory use of sinking rope, trawling up is a major safety concern for the lobstermen.

D.E. L.A. strongly opposes the proposed Jeffreys Ledge and Jordan Basin closure. By the fishermen having to move their gear to a more dense area that surrounds the closed area, it will have the possibility of gear conflicts. This will put additional pressure on our Marine Patrol as well as a financial and economic hardship for those that fish in those areas. We must also consider the well-being of our fishermen's survival, also safety and economic hardship if this occurs.

In lieu of this proposed closure, we also propose increasing trawls (from November 1 to the end of February) in Zones F and G to 15 traps per trawl between 6 and 12 miles and 20 traps per trawl beyond 12 miles offshore. This will further reduce endlines as a more realistic approach to the closure proposal.

D.E.L.A. opposes any increased gear marking in Area1. As stated at our previous meeting, this will only inform the researchers where the endlines were originally deployed, not where the entanglement occurred. D.E.L.A proposes that the increased gear markings be suspended until NOAA Fisheries is able to develop more definitive findings for the regions. D.E.L.A. has met with Glenn Chamberlain to discuss further co-operation with pilot programs concerning better science and working relationships.

To increase the gear markings, is very labor intensive, especially if the fisherman transfers from inshore to offshore fishing. This would involve further gear marking and perhaps even changing the ropes from add-ons to deeper and longer depths for the seasonal change-over.

D.E. L.A. proposes that the industry maintain existing fishing practices inside the four "Pocket Waters" described in the federal law which DMR states that the coordinates are inaccurate in both 16 USC 5701 and 50 CFR 697.24 which do not match. We would like to allow the industry to maintain pairs instead of triples which is more practical for both the industry and enforcement. We understand that the DMR has provided you with the proper coordinates for the location of these "Pocket Waters."

To conclude our statement, we appreciate your consideration to hear our concerns and the possible ability to work more closely with you in the future. We have always claimed that "Fishermen are the best stewards to the whales." We want to work to make sure that the whales are protected as well as our fishermen and their families.

Sincerely,

Sheila H. Dassatt
Executive Director
Downeast Lobstermen's Association

PUBLIC SUBMISSION

As of: September 05, 2013
Received: September 04, 2013
Status: Pending_Post
Tracking No. 1jx-87f5-rg7q
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0212
Comment from steve kent

Submitter Information

Name: steve kent
Address:
Hamilton, OH, 45011
Email: houseandcomfort@inbox.com

General Comment

It is time vigorously protect what little whales are left in the oceans or surely soon this planet will be whale free.

Especially large species need the most help.

Whale entanglements in a big problem. Please supporting 'Alternative #5' - the preferred proposed plan to reduce fatal entanglements. Ensure that the waters of Maine and New Hampshire are included in any regulations and policy
Including gillnets in entanglement reduction strategies and Increasing the management efforts in the mid-Atlantic region.

MAINE
Lobstermen's Association, Inc.
203 Lafayette Center
Kennebunk, ME 04043
P: 207-967-4555 * F: 866-407-3770
www.mainelobstermen.org

Mary Colligan
Assistant Regional Administrator for Protected Resources
NOAA Fisheries Northeast Division
55 Great Republic Drive
Gloucester, MA 01930

Attn: Large Whale Proposed Rule

September 16, 2013

Dear Ms. Colligan:

Please accept these comments from the Maine Lobstermen's Association (MLA) on the Proposed Rule, *Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan Regulations.* The MLA is Maine's oldest and largest fishing industry organization, established in 1954, whose mission is to advocate for a sustainable lobster resource and the fishermen and communities that depend on it.

MLA appreciates the outreach efforts of National Marine Fisheries Service (NMFS) Protected Resources staff to solicit ideas and hear concerns of Maine's lobstermen through the scoping meetings and the recent round of public hearings. Although Maine lobstermen have much in common with our peers along the Atlantic coast, we also have many unique issues which require careful attention as new whale rules are contemplated. Any new rules must recognize the diversity of Maine's lobster fleet, must not put any vessel or crew at risk, and must be operationally and economically feasible.

MLA also acknowledges the incredible amount of work carried out on behalf of lobstermen by Maine's Department of Marine Resources (DMR). DMR has worked closely with the industry to find an approach to meet the mandates of the whale plan in a manner that minimizes safety risk to our lobstermen and that is both operationally and economically feasible.

The MLA has been very encouraged by NMFS move away from its one-size fits all, broad-based rulemaking approach, in favor of an area-specific, risk based approach for the proposed vertical line rule. We commend the agency for soliciting feedback from stakeholders to guide the development of this rule, and agree with your approach to place the most onerous management measures in areas where the risk is greatest.

The MLA has worked closely with our industry to help them understand the entanglement issue and the legal mandate driving this round of vertical line regulations. However, Maine lobstermen remain frustrated over the need to implement additional whale rules given the lack of definitive data regarding how whales are entangled in fishing gear and the impact that the Maine lobster fishery has on whales relative to other fisheries and impacts. Lobstermen consistently state the rarity of seeing right whales off the Maine coast.

Lobstermen have also expressed worry about the unintended consequences of implementing new regulations without understanding the impacts of all regulations as a whole. For example, many lobstermen note that existing regulations requiring weak links and sinking rope have caused increased gear loss which could be contributing to entanglements as ghost gear. And Maine lobstermen continue to struggle with the existing sinking groundline requirement that poses significant ongoing safety, operational and economic challenges.

Trawling Up Measures

The MLA has received mostly positive feedback and support for the trawling up measures proposed in Alternatives 3 and 5. This proposal, submitted by the state of Maine, reflects much consideration and input from the industry. It removes a significant amount of vertical line from the water in a manner that allows our fleet to operate safely and without excessive cost. The change will be significant for some lobstermen and less so for others, but it is a good overall framework for the Maine lobster industry. However, lobstermen have expressed a few concerns which need to be addressed.

Lobstermen who fish around Maine islands located in non-exempt waters are extremely concerned about the safety of trawling up in these areas. The waters around these islands are shallow and the bottom is extremely rough and rocky. Despite the distance of some of these islands from shore, the fishing areas are considered state waters characterized by shallow, rugged, rocky bottom habitat. Many of the lobstermen who rely on these waters are our youngest and oldest lobstermen, fishing from smaller vessels, and deploying single traps. Trawling up to pairs or to five trap trawls, as proposed in this rule, would pose significant operational and safety concerns and severely compromise their ability to fish these productive areas. Lobstermen would be forced to risk the safety of the vessel and crew, or to give up fishing these waters which would be a significant economic hardship. MLA proposes that NMFS adopt a 1/3 mile exemption around Maine's islands. The DMR has stated that this approach to exempting islands would be enforceable.

In addition to the issue identified by islanders, a small group of lobstermen have stated that they cannot safely fish the required trawl minimums that begin at the 12-mile line. Maine's fleet is very diverse and there are some vessels that are unable to deal with the weight of the gear fished in these deep waters making trawling up to the proposed 15 trap standard a safety hazard. The issue is, in part, the number of traps, but more importantly, it is the amount and weight of the rope that must be handled when fishing these longer trawls in deep offshore waters. These boats may be limited due to length, width or the hauling system.

In order to avert this risk, these lobstermen have stated that they would need to purchase a larger boat, and to cover that cost, they would need to fish more traps and fish further offshore. The unintended consequence would be an increase in fishing effort and added expense for these vessels, and a displacement of fishing effort into offshore areas where whales are sighted more frequently.

While the MLA believes the proposed trawling up requirements will work for the vast majority of Maine's vessels, we remain concerned about this group of vessels that may be at risk. MLA proposes that NMFS adopt a process for these vessels to apply for a "safe trawl equivalency" which would allow them to fish the areas they've traditionally fished with a safe number of traps per trawl. The MLA proposes that any safety equivalency not be lower than 10 traps per trawl in areas 12 or more miles from shore. Application for such an equivalency should require a lobsterman to explain why he is not able to fish the standard trawl limit for his area and include a site visit by a NMFS gear expert to corroborate the concern.

Also critical to the success of the trawling up requirements is the placement of the 6-mile line. The line proposed by Maine DMR is located at a point where the bottom transitions from the rough rocky area which characterizes our inshore waters to a less rugged, gravel and mud substrate more typical of offshore areas. Locating the line where this substrate transitions will allow Maine lobstermen to add additional traps to their trawls and fish them safely. MLA strongly urges NMFS to adopt the coordinates for the 6-mile line proposed by Maine DMR.

The MLA requests that NMFS ensure that the pocket waters, as described by Maine DMR, continue to follow the state waters rules to ensure that the trawling up requirements can be safely implemented and ensure that these new rules remain consistent with Maine's enforcement of these waters.

Finally, MLA urges NMFS to include a recommendation in the new rules that lobstermen maximize the number of traps per trawl to the extent possible as a voluntary measure, similar to the recommendation that all ropes be as knotless as possible.

Seasonal Closures

The MLA views fishing closures as a management measure of last resort. Given the small amount of credit attributed to closures contained in the Proposed Rule by the co-occurrence model, the MLA finds that the conservation benefits do not outweigh the economic and operational hardships that lobstermen would face. NMFS estimates that the closures proposed in the preferred alternative will remove more than 32% of vertical lines from the Northeast region, and will reduce the co-occurrence of whales and fishing gear by 42%. However, management alternatives which did not include closures yielded similar results of 31% reduction in vertical lines and nearly 38% reduction in co-occurrence.

MLA is extremely concerned that the closures included in the proposed rule's preferred alternative were developed using different methodologies resulting in significant disparity in the spatial scale of each closure as well as the density of right whales sightings used in the analysis. Given the extreme economic and operational consequence of such a management

approach, the agency should work with the New England Aquarium to refine its methodologies and develop a standard method to be used in future analysis.

MLA is particularly concerned with the Jeffrey's Closure, given its direct impact in displacing Maine lobstermen. This closure is massive and its conservation benefit is minimal. This closure contains prime fishing grounds for affected lobstermen during the fall and winter months.

Not only does the closure itself not provide significant risk reduction in the co-occurrence model, but lobstermen have consistently stated that they would be forced to fish their gear around the edges of the closure, creating a wall of gear and would dramatically increase gear conflicts. This minimal improvement in conservation does not offset the loss of access to prime fishing bottom for a four month period. Lobstermen will fish gear in concentrated areas on less productive bottom around the closure, giving up much needed income and potentially increasing the risk to whales.

The MLA endorses the additional trawling up measures contained in DMR's original proposal for the Jeffrey's Ledge area; increasing trawl limits to 20 traps per trawl in Zones F and G for four months from November 1 to February 29. The MLA would support shifting the timeframe of this requirement from October through January.

The MLA believes that the proposed Jordan Basin closure is at least based on sound data and methods, however, we do not support the boundary of this closure extending into Area 1. Extending this closure into another fishing management area would cause unnecessary operational issues for Area 1 lobstermen and would be extremely difficult to enforce. Closures should not be considered in the absence of data linking gear fished in those areas to known entanglements.

Gear Marking

The MLA strongly opposes the gear marking scheme proposed in Maine's exempted state waters. Gear marking does not directly provide any conservation benefit to whales. This proposed rule attempts to provide a marking scheme that would differentiate gear fished in the exempted versus non-exempted waters, but it does not achieve this. The proposed gear marking scheme is operationally impossible because Maine lobstermen fish and shift the same gear from exempted into non-exempted waters. Lobstermen who shift gear in deeper waters either lengthen their lines or tie lengths of rope in, further complicating any gear marking scheme. To comply with this proposal, Maine lobstermen would need to purchase and rig a second set of endlines with a second color scheme. This would be cost prohibitive and extremely time consuming.

MLA is also concerned about the requirement to expand the size and frequency of gear marking outside the exemption line. Any requirement to mark ropes three times with 12 inch marks would be extremely labor intensive. As stated above, lobstermen's practice in lengthening and adding lines to fish in deeper waters makes this operationally problematic. Further, as marks wear off and foul over the season, it would be impossible to keep all ropes properly marked. Lobstermen have noted that the additional marks proposed at the top and bottom of the line

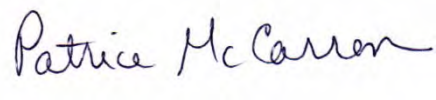
are redundant because all lobster buoys and traps are marked or tagged with a lobstermen's license information.

Implementation

Finally, we urge the agency to use June 1 as the implementation date for any new whale regulations. This is the date that lobstermen must have their trap tags in place for the season and allows lobstermen the time they need to make gear adjustments to comply with any new regulations.

Thank you for the opportunity to provide input.

Sincerely,



Patrice McCarron
Director

THE GENERAL COURT OF MASSACHUSETTS

STATE HOUSE, BOSTON 02133-1053

September 12, 2013

Ms. Mary Colligan
Assistant Regional Administrator for Protected Resources
NMFS Northeast Region
55 Great Republic Drive
Gloucester, MA 01930

Attention: Large Whale Proposed Rule

To Whom It May Concern:

We are writing to express our concern about the suggested changes to the northeast region outlined in the Atlantic Large Whale Take Reduction Plan Regulations proposed rule. In particular, we are requesting that the National Marine Fisheries Service (NMFS) conduct a study to determine the economic impact the northeast expansion would have on the fishing industry in and around Cape Cod Bay.

Under the proposed rule, NMFS will institute prohibitions to decrease the number of vertical buoy lines used by fishermen by banning single traps and requiring an increase in the number of traps per line. Increasing the number of traps per line will have a devastating impact on small vessels. Many small vessels in Massachusetts fish in state waters and may only have one to two fishermen onboard to collect their catch. An increase in the number of traps will result in a catch that is too heavy for a single person to haul in which may cause serious injury to the fishermen and to the vessel. As a consequence of this, small vessel fishermen may be forced to close up shop due to financial constraints. Single traps may cause harm to whales, but it is important to ask if buoys lines holding more than one trap will ultimately create a situation where a whale is more at risk of entanglement and injury than if there was only one trap on a line.

We agree that it is important that we find alternatives to reduce the risks imposed on whales and other marine life in our waters, but it is equally important to take into consideration what the economic impact will be of certain proactive precautions. The purpose behind the proposed changes is to decrease or eliminate fixed fishing gear (which includes vertical buoy lines) that may entangle large whales. The proposal indicates that while whales may get entangled in fixed fishing gear, it is unknown what part of the gear is getting caught on whales swimming through certain waters. At this time, we believe, there are too many unanswered questions that need to be further investigated before expanding and implementing new policies regarding single trap lines along the coast of Massachusetts.

As a result, we are respectfully urging you to reconsider the northeast region section of the proposed rule until there is better information regarding what part of a trap line is entangling large whales, and what the economic impact of such changes will have on the fishing industry. Thank you for your consideration on this important issue for Massachusetts lobstermen.

Sincerely,

Senator Bruce Tarr
Co-Chair, Massachusetts Coastal Caucus

Representative James Cantwell
Co-Chair, Massachusetts Coastal Caucus

Senator Daniel Wolf

Representative Sarah Peake

Representative Timothy Madden

Senator Michael Moore

Senator Michael Rodrigues

Representative Josh Cutler

Representative Geoff Diehl

Representative James Dwyer

Representative Shaunna O'Connell

Senator Robert Hedlund

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September 16, 2013

Mary Colligan
Assistant Regional Administrator for Protected Resources
NOAA Fisheries Northeast Region
55 Great Republic Drive
Gloucester, MA 01930

Attn: Large Whale Proposed Rule

Dear Ms. Colligan:

Thank you for the opportunity to comment on the proposed *Taking of Marine Mammals Incidental to Commercial Fishing Operations* rule, which is part of the *Atlantic Large Whale Take Reduction Plan Regulations*. The Island Institute supports the adoption of a rule that recognizes the operational diversity in the fisheries implicated by the rule, and appreciates the efforts made to date that ensure that the requirements in the Proposed Rule recognize the very real operational, safety, and economic concerns of the fishing industry.

The Island Institute is a community development organization that works to sustain Maine's year-round island and remote coastal communities. As an organization, we are concerned about many aspects of sustainability, including how changes in fishing regulations impact the communities we work with. As such, we have a number of concerns with the Proposed Rule, which are detailed below.

- Trawling Up

We are concerned that the trawling-up requirement will have unintended consequences for Maine's offshore island communities. We strongly believe that establishing an exemption line around the islands outside of the current exemption would ease the negative impacts of this requirement.

Combining traps into trawls or trawling up presents a significant safety risk to fishermen who fish near the shore. While trawling up may be appropriate for those fishing offshore in larger boats, the requirement to trawl up around offshore islands would significantly increase the risk associated with fishing out of skiffs and smaller boats. Many of those who traditionally fish around the islands outside of the exemption line – the aging fishermen, and those just starting out in the lobster fishery – have little margin for error along the rocky bottom in these areas. If they place a trap and it becomes hung up, the safety risk to them and their crew increases along with the chance of losing valuable gear and escalating their operational costs. .

In particular, we oppose the increase in trawling-up requirements for the waters around Mount Desert Rock. The area around the island is rocky and much of the fishing activity occurs in the small spaces between rocks. Attempting to fish larger trawls in this area would likely exacerbate the safety hazards and increase the operational expenses for local fishermen.

If these areas become more difficult and dangerous to fish due to the trawling-up requirement, aging fishermen who are in the process of downsizing their fishing operation, but who are still reliant on fishing-generated income, may have to exit the fishery prematurely, negatively affecting the already fragile economies of their island communities. .

- Area Closures

The Island Institute opposes the Jefferies Ledge seasonal closure. The year-round island communities of Chebeague, Cliff and Long islands fish in and around Jefferies Ledge during the proposed seasonal closure. Based on our work with fishermen in the siting of offshore wind energy and the Mapping Working Waters project, we believe that the closed area will merely shift effort to areas outside of the closed area. In particular, fishing activity will likely increase along the edge of the closed area, mitigating any benefit seen in the co-occurrence model. This phenomenon can be seen in the area around Monhegan Island, where the community has established a conservation zone with a limited season. Fishermen from mainland ports fish heavily around the edge of the conservation zone, increasing competition for Monhegan fishermen.

- Gear Marking

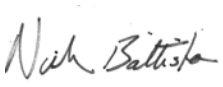
We oppose any increase to gear marking requirements, particularly, within the exemption line, because the requirements impose a high cost to fishermen with little to no direct conservation benefit. Many of the provisions in the proposed rule reduce the number of endlines in the water and provide a direct conservation benefit to whales by reducing the risk of entanglement. However, the gear marking requirements do not lead to an immediate reduction in risk of entanglements nor do they influence the co-occurrence model. The proposed gear marking requirements do not help to identify the location where an entanglement occurred; they would only establish where the gear was fished. Operationally, the proposed requirement makes shifting gear difficult, particularly for fishermen who fish in areas that require different marking.

- Implementation date

The rule proposes an implementation date in the fall of 2014. We believe that a midseason implementation date is not practical given the adjustments to gear that would be required. To effectively implement the requirements of the proposed rule, many fishermen would need to do additional work to their gear. This gear work typically happens in the winter when many are fishing fewer days or their gear is completely out of the water. If fishermen know the required changes for the following season in the late fall, they can make gear adjustments during the winter. A June implementation date would be significantly more appropriate and feasible.

Thank you again for the opportunity to comment.

Sincerely,



Nick Battista
Marine Programs Director

Animal Welfare Institute
900 Pennsylvania Avenue, SE, Washington, DC 20003
awionline.org phone: (202) 337-2332 fax: (202) 446-2131

September 16, 2013

BY ELECTRONIC MAIL
Submitted via http://www.regulations.gov

Attn: Large Whale Proposed Rule
NOAA-NMFS-2013-0095
Ms. Mary Colligan
Assistant Regional Administrator for Protected Resources
NMFS Northeast Region
66 Great Republic Dr.
Gloucester, MA 01930

RE: Comments on Proposed Rule Regarding Atlantic Large Whale Take Reduction Plan Regulations (NOAA Identifier "NOAA-NMFS-2013-0095")

Dear Ms. Colligan:

The Animal Welfare Institute ("AWI") submits these comments in response to National Marine Fisheries Service's ("NMFS") proposed revisions to the Atlantic Large Whale Take Reduction Plan ("ALWTRP"). While AWI supports NMFS' attempt to reduce the risk of death and serious injury to large Atlantic whales, the proposed revision fails to sufficiently achieve the plan's stated purpose: to reduce the incidental mortality and serious injury to the endangered humpback, fin, and North Atlantic right whales (hereafter collectively referred to as "baleen whale species") in commercial trap/pot and gillnet fisheries.

This letter provides reasons for AWI's support of parts of proposed Alternative Five and additional recommendations to address remaining inadequacies in the NMFS' final rule.

I. Background on Entanglement Issues with Large Atlantic Whales

Entanglement in fishing gear remains one of the leading causes of death for the endangered baleen whale species.[1] There are a number of entanglement scenarios that lead to death in Atlantic large whales, which include drowning, emaciation, increased drag, infection and severe tissue damage.[2] Death is commonly prolonged for up to two years as an entangled whale endures starvation, due to reduction in feeding capacity; exhaustion caused by increased drag; infection; and severe tissue damage caused by rope lacerations known to dissect sheets of

[1] Julie M. Van der Hoop et. al., *Assessment of Management to Mitigate Anthropogenic Effects on Large Whales*, 27 CONSERVATION BIOLOGY 121, 125 (2012), *available at* http://onlinelibrary.wiley.com/doi/10.1111/j.1523-1739.2012.01934.x/pdf.
[2] Id.

blubber 1.5m thick.[3] Such mortality and animal welfare issues are not adequately addressed in the ALWTRP revisions.

The Northern right whales, humpback whales, and fin whales that the ALWTRP seeks to protect are all listed as endangered under the Endangered Species Act (ESA) and are considered strategic stocks under the Marine Mammal Protection Act.[4] With a population size of approximately 444, the western North Atlantic right whale is among the rarest cetaceans in the world.[5] With the anthropogenic threats to humpback and fin whales, these species are also at risk with estimated populations around 823 and 2,817 in the Northeast Atlantic, respectively.[6]

Congress enacted the ESA with a clear intent to "halt and reverse the trend toward species extinction, *whatever the cost.*"[7] As such, section 7 of the ESA requires federal agencies to insure that any action, whether direct or indirect, is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of habitat of such species.[8] In making this determination, the agency must utilize the best scientific and commercial data available[9] to evaluate the current status of the species or habitat, the effects of the action, and the cumulative effects.[10]

There are definite benefits to the proposed rule. The closing of two areas to fishing in the Northeast is a positive step forward because there will be fewer opportunities for whales to be entangled. Additionally, reducing the length of vertical lines in the water helps lower the risk to the baleen whale species.

But ultimately, the proposed mitigation plan is unfortunately a temporary measure intended to cover up, but not resolve, problems cause by entanglement that affect three endangered Atlantic large whales, in addition to other endangered and threatened species. For example, the proposed rule permits a high number of whales (particularly North Atlantic right whales) to be taken beyond their potential biological removal levels. Additionally, the plan has varying requirements for different gear types and fails to consider the effects of the proposed action on sea turtles, and the cumulative effects of expanding fisheries, and offshore wind energy development.

Overall, the plan is a step in the right direction, but there is much to be improved upon to reduce the impact of entanglement on the baleen whale species.

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[3] Id.
[4] National Marine Fisheries Service *Draft Environmental Impact Statement for Amending the Atlantic Large Whale Take Reduction Pla*n: Vertical Line Rule § 1.1, July 2013.
[5] Id.
[6] Id.
[7] *Tennessee Valley Auth. V. Hill*, 437 U.S. 153, 184 (1978).
[8] 50 C.F.R. § 402.02
[9] 16 U.S.C. § 1536(a)(2)
[10] 50 C.F.R. § 402.14(g)(2)-(3)

II. Exempted Areas

The ALWTRP contains several flaws that could be of consequence to marine species.

First, it fails to account for the continued diminution of the baleen whale species by exempting waters that they frequent. Particularly concerning is the exemption of the area the most endangered of the whales,[11] the North Atlantic right whale, use. Exempted areas currently include the coast of Maine and the proposed revisions seek to expand the exemption to include the coast of New Hampshire.

Although the revisions propose to include two areas within the gulf of Maine (i.e., Jeffreys Ledge and Jordan Basin), exempting an entire coastline is not in the best interest of the whales covered by the ALWTRP. Exempting waters merely because whales have not been visually sighted in those waters will not reduce the risk of entanglement to whales, especially the North Atlantic right whales and humpback whales. As it is explained further below, the agency has not used the best available science in this instance to better understand the feeding and migration habits of the baleen whale species.[12] These habits may change in response to climate change and ecosystem alterations which also should have been taken into account.[13] Ideally, wildlife management should not merely react to problems, but should also anticipate future trends.[14]

In addition to failing to reduce the risk to the baleen whale species, NMFS has recognized that the proposed extension of exempted areas along the cost will increase risk to sea turtles, particularly endangered leatherback sea turtles. Leatherbacks prefer shallow waters and will swim inshore to feed thereby increasing their susceptibility to bycatch. Bycatch from fisheries is one of the leading causes of mortality for leatherbacks.[15] As the DEIS acknowledges, a large number of boats already fish in exempted waters. Exempting certain places these species at risk in addition to whales.

III. Addressing the Threat of Gillnet Gear & Reducing Risk

In 2003 and 2009, NMFS and the Atlantic Large Whale Take Reduction Team ("Team") agreed to prioritize risk management to address the threat of gillnets and associated gear to imperiled

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[11] National Oceanic and Atmospheric Administration, *North Atlantic Right Whales*, NOAA OFFICE OF PROTECTED RESOURCES, http://www.nmfs.noaa.gov/pr/species/mammals/cetaceans/rightwhale_northatlantic.htm#population (updated Aug. 7, 2013) (There are thought to only be around 400 individual right whales).
[12] Michael Moore, *Whither the North Atlantic Right Whale?,* 43 OCEANUS MAGAZINE, Dec. 2004, *available at* http://www.whoi.edu/oceanus/viewArticle.do?id=2482.
[13] Amy Nevala, *To Find Whales, Follow Their Food*, OCEANUS MAGAZINE (Jan. 20, 2006), http://www.whoi.edu/oceanus/viewArticle.do?id=9213.
[14] Stephen M. Dawson, *Modifying Gillnets to Reduce Entanglement of Cetaceans*, 7 MARINE MAMMAL SCIENCE 274, 279 (1991), *available at* http://www.cetaceanbycatch.org/Papers/dawso91b.pdf.
[15] National Oceanic and Atmospheric Administration, *Leatherback Turtles*, NOAA OFFICE OF PROTECTED RESOURCES, http://www.nmfs.noaa.gov/pr/species/turtles/leatherback.htm#population (updated Mar. 4, 2013).

species. Their first task was to tackle reducing risk associated with ground lines[16] and the "risk associated with vertical lines in commercial trap/pot and sink gillnet gear."[17]

In the Atlantic, gillnets are most commonly employed in the mid-Atlantic region. Unfortunately, this mostly impacts the endangered humpback whales, whose population numbers approximately 823 in the Northeast Atlantic.[18] Humpbacks more commonly get entangled in gillnet gear, since the mid-Atlantic is a seasonal high-use area for them.[19]

Although gillnet entrapment seems to occur in all regions of the globe where gillnets are employed,[20] the take reduction plan is entirely lacking in alterations to address risks associating with gillnets. In practice, little has been done to address this issue, other than slightly altering gear marking requirements.

Unfortunately, there are also no uniform requirements for gear in the ALTWTRP. This is of most concern for the Southeastern US waters where whales tend to calve. In particular, the preferred alternative has created a mix of requirements concerning breaking strengths and weak links for Southeastern waters. The three different requirements for weak links and breaking strengths of line in the state waters of Georgia, South Carolina, and Florida were made without regard to critical habitat boundaries or known right whale calving areas. In fact, some of the proposed restrictions simply mandate the status quo, which is unacceptable.

Having a multitude of different breaking strengths and weak links in waters that overlap is difficult to enforce. The ALWTRP is already considered largely ineffective,[21] and, consequently, keeping track of the varying breaking strengths and weak links will only exacerbate deficiencies inherent to the ALWTRP while doing little to ultimately reduce risks to large whales. In fact, it is a real possibility that a whale calf could enter a management area where had stronger line strength is required only to become entangled without the likelihood of escape. Whale calves are especially vulnerable to entanglement as they have a much harder time breaking free.

Ultimately, the best choice for the baleen whale species is to have uniform breaking strength and weak link requirements throughout the Southeast. Such requirements should be mandated until more certainty emerges about the temporal and spatial distribution of the baleen whale species and the number of entanglements is actually reduced. This is not only to simplify enforcement,

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[16] Atlantic Large Whale Take Reduction Plan Regulations, 78 Fed. Reg. 42,654, 42,655 (proposed Jul. 16, 2013) (to be codified at 50 C.F.R. pt. 229).
[17] *Id*.
[18] GORDON T. WARING ET. AL., U.S. ATLANTIC AND GULF OF MEXICO MARINE MAMMAL STOCK ASSESSMENTS-2012 19 (2013), *available at* http://www.nmfs.noaa.gov/pr/sars/pdf/ao2012.pdf.
[19]
[20] Michael J. Moore et. al., *Criteria and Case Definitions for Serious Injury and Death of Pinnipeds and Cetaceans Caused By Anthropogenic Trauma*, 103 DISEASES OF AQUATIC ORGANISMS 229, 235 (2013), *available at* http://www.int-res.com/articles/dao_oa/d103p229.pdf.
[21] Michael J. Moore, *supra* note 2 at 3.

but also to ensure the whales are receiving the utmost protection that they should be as endangered species. NOAA should require that the lowest breaking strengths and weak links are to be utilized throughout the Southeast. Since, as noted above, whales are still getting entangled throughout the Atlantic, establishing variable requirements for gear requirements in management areas will do nothing to reduce those entanglements.

In addition to line strengths, gear markings should be improved. New marks will only take effect in two areas: Maine/New Hampshire and the northern part of the Southeastern U.S., thus providing NOAA with information regarding occupied whale habitat, feeding areas, and where fishing gear is causing the greatest problems. Having better markings on gear could provide NOAA insight about how to improve the ALWTRP and eliminate the risk of entanglement to the baleen whale species.

Finally, improvements in monitoring and enforcement of these requirements will help ensure that the ALWTRP is working at full capacity to reduce entanglements. Specifically, fisheries should be increasingly monitored on a day-to-day basis to better understand what is happening and where. This will allow NMFS to target certain fisheries or management areas and ensure that the regulations employed are the most effective for that particular area. This can be achieved in a few ways, including increasing the frequency of observation presence on fishing boats or through the possible use of video surveillance.[22] There needs to be a general improvement in data collection, which will lead to stricter enforcement and greater protections for the baleen whale species.

IV. Best Available Science – Alternative forms of Technology

The co-occurrence model, as used by the NMFS to identify risk-prone areas, is not an accurate method to detect whales because it relies solely on visual sightings. Because of the inherent inaccuracies of visual sightings, it is very possible that there are other important feeding areas of which we are unaware.[23]

Alternative technology exists to detect whales. For example, in Alaska, NMFS utilizes not only visual sightings, but also passive sonobuoys to detect areas that Pacific right whales frequent.[24] These acoustic readings, in conjunction with visual sightings, improve the ability to identify those areas where potential conflicts between whales and fishing operations may exist. This method of detection would be particularly effective for large Atlantic whales because so much is

[22] LAETITIA NUNNY, THE PRICE OF FISH: A REVIEW OF CETACEAN BYCATCH IN FISHERIES IN THE NORTH-EAST ATLANTIC 44 (2011), *available at* http://www.wdcs.org/submissions_bin/price_of_fish.pdf. (These suggestions were made internationally for dolphins and porpoises, but they can easily be applied to large Atlantic whales).
[23] Michael Moore, *Whither the North Atlantic Right Whale?,* 43 OCEANUS MAGAZINE, Dec. 2004, *available at* http://www.whoi.edu/oceanus/viewArticle.do?id=2482.
[24] P.R. Wade et. al., *Rare Detections of North Pacific Right Whales in the Gulf of Alaska, With Observations of their Potential Prey*, 13 ENDANGERED SPECIES RESEARCH 99, 102 (2011), *available at* http://www.int-res.com/articles/esr_oa/n013p099.pdf

unknown about the feeding and mating habits of the whales protected under the ALWTRP. With such new information, it may facilitate a reduction in the harm posed to the baleen whale species.

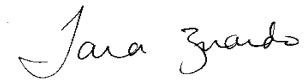
V. Conclusion

The purpose of the ALWTRP is to protect the North Atlantic right whale, humpback whale, and fin whale; three large whales in danger of extinction throughout their Atlantic range. While the revised plan has some benefits, it fails to address: the need for better technology to detect high risk areas and better understand whales' migration, feeding, and breeding habits; removal of exempted waters to ensure the utmost protection of all the whales; increased requirements for gillnets to reduce the risk to humpback whales; and uniformity in the line and link strength in Southeast water requirements to ensure that whales receive the full protections that they require. Furthermore, because entanglement not only kills whales, but also causes them great suffering, more must be done to protect these endangered species.

Consequently, AWI respectfully requests the above deficiencies be considered in this decision-making process and addressed in the final ALWTRP. The whales covered under the ALWTRP, all endangered species, deserve greater protections than they are currently afforded under the existing ALWTRP.

Thank you in advance for providing this opportunity to comment on this proposed rule and for considering these comments. Please send any future correspondence or information about this proposed rule to: Tara Zuardo, Wildlife Attorney, Animal Welfare Institute, 900 Pennsylvania Ave., SE, Washington, DC 20003.

Sincerely,



Tara Zuardo
Wildlife Attorney

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September 12, 2013

Mary Colligan
Assistant Regional Administrator for Protected Resources
NMFS Northeast Region
55 Great Republic Drive
Gloucester, MA 01930

Reference: NOAA-NMFS-2013-0095 – Large Whale Proposed Rule

Dear Ms. Colligan,

The New Hampshire Fish and Game Department (NHFGD) would like to express general support for Alternative 6 of the proposed Draft Environmental Impact Statement for Amending the Atlantic Large Whale Take Reduction Plan: Vertical Line Rule (DEIS) and the associated proposed federal rule (RIN 0648-BC90) with a couple exceptions.

The NHFGD and New Hampshire lobster fishing industry (industry) supports the exemption of specific trap per trawl requirements in New Hampshire waters from the amended Atlantic Large Whale Take Reduction Plan's (ALWTRP) proposed rules. This exemption is warranted because of the low co-occurrence of vertical lines and whales within state waters.

Additionally, NHFGD supports the trap per trawl requirements of Alternative 6 in federal waters (3-12 miles = 10 trap trawls and 12+ miles = 20 trap trawls). However, we encourage you to include a provision to allow equivalency strategies to reduced trap per trawls if fishing fewer traps than the maximum allowed under the individual's/vessel's lobster license/permit. This consideration was requested by NHFGD while commenting on the vertical line reduction proposals received by NOAA Fisheries during or after the January 2012 Atlantic Large Whale Take Reduction Team meeting (Attachment 1). There are industry members that would like to continue individual fishing practices and are willing to reduce their number of traps fished to be able to fish fewer traps per trawls. This recommendation will take into consideration the safety concerns, local fishing practices, etc. while still appropriate to proposed rules in reducing vertical line and whale interactions. The NHFGD is willing to work through an equivalency program such as a trap tag return program to accommodate the industry in lowering the number of traps they fish in federal waters to fish less traps per trawl.

The NHFGD is opposed to the proposed Alternatives that include seasonal closures to lobster pot/trap fishing in the areas of Jeffreys Ledge and Jordan Basin. The Take Reduction Team agreed to make decisions based on a co-occurrence model in reducing whale interactions with vertical lines and not concentrate on "hot spots". There is too much uncertainty with displacement of gear out of the closed areas around "hot spots". These uncertainties include will the gear: be removed or displaced to alternative fishing ground, surround the closure areas creating a wall and become a heavy co-occurrence area where none currently exists, produce a gear conflict area, etc. There is only a small percent difference of less than 4% between the total percent reduction of co-occurrence in Alternatives 4 and 5 which include the seasonal closures and Alternative 6 (40.8%, 42%, and 38.3%, respectively) as shown in Exhibit 1-5 of the DEIS. The NHFGD would like the NOAA Fisheries to evaluate the actual changes in co-occurrence interaction that occur with the implementation of a reduction in vertical lines through minimum trap per

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trawls first before considering instituting seasonal closures or other additional rules.

Considering Exhibit 1-7 of the DEIS, there are many key communities affected by the proposed ALWTRP modifications between Maine and Rhode Island. These proposed regulations along with the recent groundfish regulations will further compound fishing communities and infrastructure already imperiled. This is another reason to conduct and evaluate one measure to reduce interactions at a time such as instituting a minimum trap per trawl rule to reduce vertical line interactions with whales.

The new proposed requirements for gear marking will become difficult for the industry that fishes in both exempted state waters and federal waters. For New Hampshire the industry gear marking coloration of blue and red will be imposed for all fishing in state exempt waters. The industry will be changing out vertical lines or individual coloration on a regular basis as they fish between both zones. We don't see the utility of having a different coloration in areas that have already proven to be a very low co-occurrence interaction zone with whales and vertical lines through modeling. If there is a warranted need to have a different coloration scheme for exempted waters, NHFGD would request a different color scheme from Maine's exempted waters.

The NHFGD proposes that any increased gear marking requirements be suspended until after NOAA Fisheries is able to develop more area definitive scenarios that will help identify when and where whales are becoming entangled in gear in high co-occurrence areas. Vertical line marking doesn't inform whale researchers where the entanglement occurred when expanding the single red color scenario for the entire Gulf of Maine, therefore will not increase the degree of accuracy needed for analysis to further reduce the risk of entanglements. It may show the type of gear that the whale was entangled with (lobster gear vs. gill net) but not where or when.

Finally, the NHFGD would recommend not implementing the amended Plan until June 1 of the fishing year as this will coincide with the trap tag season (June 1) and gear will likely be set in either federal or state waters and not in a state of flux between nearshore and offshore fishing seasons.

Thank you for the opportunity to comment and feel free to contact us if we can be of assistance in developing an equivalency program for reducing a trap per trawl option in federal waters.

Sincerely,

Douglas E. Grout
Chief of Marine Fisheries

Enclosure

cc: Glenn Normandeau, Executive Director
Cheri Patterson, Supervisor of Marine Programs
Bob Nudd, ALWTR Team member
Eric Anderson, NHCFA

ATTACHMENT 1

New Hampshire
Fish and Game Department

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April 27, 2012

Kate Swails, ALWTRP Coordinator
National Marine fisheries Service
Northeast Regional Office
55 Great Republic Drive
Gloucester, MA 01930

Dear Ms. Swails,

The New Hampshire Fish and Game Department (NHFGD) would like to comment on the vertical line reduction proposals received by NOAA Fisheries (NMFS) during or after the January 2012 Atlantic Large Whale Take Reduction Team (ALWTRT) meeting.

First, during the November/December 2010 ALWTRT Northeast Subgroup meeting the members unanimously agreed that the co-occurrence model should serve as the primary platform for developing and analyzing a vertical line reduction management strategy. As such the States and NMFS drafted vertical line reduction proposals based on the co-occurrence model platform. While there are areas that appear to have seasonally high whale distributions according to the North Atlantic Right Whale Consortium Sightings Database, they may not coincide in areas where there are high vertical line densities with lobster gear. Therefore, the NHFGD believes proposals drafted with a management reduction strategy that is based on seasonal area closures should be very cautiously considered.

Those proposals that only consider seasonal area closures based on sightings data may not be fully considering gear displacement or additional gear conflicts. The industry may only move gear out to the perimeter of the proposed area closures or produce areas with higher vertical line density elsewhere, thereby not reducing whale/vertical line interactions. Additionally, the analysis conducted by NMFS indicates little or no significant change to the annual percent change in the number of vertical lines deployed with the "Closure Area" proposals to NMFS's vertical line reduction proposal.

Also during the November/December 2010 ALWTRT Northeast Subgroup meeting, fisheries representatives strongly advocated for an approach that would enable States to develop vertical line reduction strategies tailored for specific geographies and fisheries. These equivalency strategies, broadly supported by Subgroup members, would be developed to provide a level of vertical line reductions for consideration by the full ALWTRT and NMFS rather than insisting on a blanket formula (i.e., single buoy lines or minimum trap per trawl requirements) for those areas identified as high risk. This approach was endorsed as a way to tap into local initiative, bring affected parties together in a collaborative discussion, build incentives and buy-in for any eventual changes in fishery practices, and avoid top-down actions that may be unsafe or uneconomical for vertical line fisheries.

The proposals that the States developed largely address this approach. Each State worked with their industry to either produce a reduction in vertical lines, prove the interaction risk is already reduced due to local fishing practices, show future vertical line reductions due to

attrition, or instituting regulations that will reduce interactions during high co-occurrence months. These efforts produced variable percentages in changes of vertical lines deployed. Each of the State's proposals, combined with NMFS's, achieved a minimum of a twenty-four percent change in reduction of vertical lines from the baseline; resulting in a twenty-seven percent reduced co-occurrence score in the northeast region (see Attachment 1). However, these percentages are lower than what will actually be achieved as Maine plans on instituting its second proposal.

The NHFGD has provided the necessary data and shown that during high risk co-occurrence months, vertical lines in state waters have already been reduced due to the timing of the season or the industry is already primarily fishing more traps/trawl than NMFS has proposed. In the absence of a defined goal of the number of vertical lines to be reduced, the proposals received by the northeast states and NMFS have achieved management measures to reduce vertical line interactions with Atlantic large whales, therefore the NHFGD supports all the State's preferred proposals.

In addition, the NHFGD would strongly support an allowance for additional proposed equivalency strategies for harvesters that may not be able to fish the amount of required traps per trawl in a particular area in the federal rule. Additional equivalency measures can be developed that allow for a variety of fishing practices that may maintain or further reduce the required number of vertical lines without compromising a harvester's safety and remaining economically viable with current fishing practices.

Thank you for the opportunity to comment and if you have further questions or concerns please contact Cheri Patterson, ALWTRT state representative.

Sincerely,

Douglas E. Grout
Chief of Marine Division

cc: Glenn Normandeau
Cheri Patterson

Attachment 1: Summary of impacts of all vertical line reduction proposals presented by NOAA Fisheries, April 2012.

Summary of Impacts

Proposal	NMFS	ME #1	ME #2	NH	MA	RI	Jordan Basin	CCB to GSC	CCB (Young)	Jeffreys	GSC Sliver	NORTHEAST REGION		COASTWIDE	
												% Change in VL	% Change in Co-Oc.	% Change in VL	% Change in Co-Oc.
NMFS	X											-36.1%	-34.6%	-34.2%	-34.3%
ME #1	X	X										-29.0%	-34.6%	-27.5%	-34.3%
ME #2	X		X									-30.4%	-36.0%	-28.8%	-35.7%
NH	X			X								-35.9%	-34.5%	-34.0%	-34.2%
MA	X				X							-31.2%	-26.8%	-29.6%	-26.6%
RI	X					X						-37.2%	-35.0%	-35.2%	-34.8%
Jordan Basin (Kraus)	X						X					-36.1%	-34.7%	-34.2%	-34.4%
CCB to GSC (Kraus)	X							X				-36.1%	-34.8%	-34.2%	-34.6%
CCB (Young)	X								X			-36.9%	-37.0%	-35.0%	-36.7%
Jeffreys (Young)	X									X		-36.0%	-34.7%	-34.1%	-34.4%
GSC Sliver (Young)	X										X	-36.1%	-34.6%	-34.2%	-34.3%
NMFS + All State	X	X	X	X	X	X						-24.1%	-27.0%	-22.8%	-26.8%
NMFS + Kraus et al.	X						X	X				-36.1%	-34.9%	-34.2%	-34.7%
NMFS + Young et al.	X								X	X	X	-36.9%	-37.2%	-35.0%	-36.9%

Commonwealth of Massachusetts

Division of Marine Fisheries

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Paul J. Diodati
Director

Deval Patrick
Governor
Richard K. Sullivan, Jr.
Secretary
Mary B. Griffin
Commissioner

September 13, 2013

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

ATTN: Large Whale Proposed Rule (NOAA-NMFS-2013-0095)

Dear Ms. Colligan,

Please accept these comments from the Massachusetts Division of Marine Fisheries (*MarineFisheries*) concerning the proposed rules of the Atlantic Large Whale Take Reduction Plan (ALWTRP) designed to reduce risk of entanglement with vertical lines.

We were pleased that National Marine Fisheries Service (NMFS) held three public hearings in the Commonwealth because of the regional differences in fixed gear fisheries that capitalize on the varied habitats in our Southern New England, Gulf of Maine, and east of Cape Cod regions. More than any other state partner involved in the Take Reduction Team (TRT) process, Massachusetts is responsible for managing wide-ranging fleets that are as distinct and varied as the habitats they utilize.

Stakeholders provided some honest and candid testimony on the proposed rule. Much of their comments will be echoed in this comment letter.

We are respectful of the Service's mandate and goals to conserve large whales and reduce serious injuries and mortality, as well as the enormous amount of modeling effort that has been done. However, after careful review of the DEIS, and the comments received at the public meetings held in the state, we urge NMFS to substantially scale back the action in the final rule.

General Comments. As state partners on the TRT, we have acted as leaders on matters pertaining to large whale conservation. We have and we must continue to make intelligent proposals and smart decisions that allow the co-existence of endangered marine mammals and the legacy industries (fishing) that the nation cherishes.

We share NMFS' frustration in attempting to use past entanglements to prescribe future solutions when nearly all entanglement cases are documented as "unknown gear" or simply "rope." It is difficult to solve the entanglement problem, given the wide-ranging annual migrations of these whales, the inter-annual variability of habitat use, the non-existent data on the spatial-temporal distribution and configurations of fishing gear, and an inadequate gear marking system.

Despite inadequate data on whales and gear, the Marine Mammal Protection Act (MMPA) and Endangered Species Act (ESA) still force us to devise solutions to accomplish their stated conservation goals. However, we must ensure that the solutions are logical, likely to succeed, economical, and do not put fishermen at risk with unintended consequences.

In Massachusetts an abundance of whales are enjoyed by the general public and its support businesses in the whale watching community. The Division of Marine Fisheries has also enjoyed a longstanding state/federal partnership to conserve endangered whales that features a successful and high profile disentanglement program at the Provincetown Center for Coastal Studies (PCCS). This program is jointly funded by NMFS and the Massachusetts Environmental Trust.

With an abundance of whales off our coast, a vibrant whale watch industry, and evolving whale protection regulations levied on fixed gear fisheries for the past 17 years, some fishing industry members have wrongly concluded that their government cares more about whale conservation than the fate of the commercial fishing industry and its individual members. Compounding this sentiment are the well-publicized struggles of the declining commercial groundfish fisheries which have resulted in many fishermen being displaced to gears that are now proposed to be further regulated. Finally, the industry's views are also colored by the government's management actions in the last decade that have resulted in the loss of many owner/operators and small scale fishing businesses in favor of more corporate and larger scale business models. We urge you to be mindful of unintended consequences that might take us down that path for trap/pot fisheries.

We concede that the number of serious injuries and mortalities tallied against the allowed Potential Biological Removal (PBR) is being exceeded. However, we remind NMFS that PBR is calculated as all anthropogenic mortality and includes mortality across international boundaries, ship strikes, and entanglements in many fishing gears that are not being targeted by the proposed rule.

We have serious concerns about the proposed rule put forth by the Agency and believe it lacks components that are vital to achieving the goal of reducing entanglement risk. <u>The proposed rule does not address issues of reporting, latent effort, or emerging fisheries, all of which could have significant impact on the reduction of risk and monitoring of fisheries that are prosecuted in whale habitats</u>.

In the following comments we will elaborate on our support for the enhanced buoy line marking, support for a state-managed closure of the state waters portion of Cape Cod Bay Critical Habitat, and support for other strategies that NMFS chose not to propose in the rule. We urge NMFS to abandon most of the strategies captured in the alternatives, and to task the agencies responsible for trap/pot fisheries management (i.e., states, the Atlantic States Marine Fisheries Commission, and NMFS Sustainable Fisheries) with meeting a measureable and scientifically justified goal for vertical line reductions. *MarineFisheries* would support a sound plan for large whale conservation with measurable objectives that are applied with equity across all jurisdictions. We feel the proposed rules fall far short of this and as such do not see eye-to-eye with the Service.

Trawling up mandates. The core of the proposed rule is a strategy to reduce vertical line risk by forcing current and future fishermen to abide by "trawling up" requirements. We cannot support this strategy. The elimination of single traps will needlessly reconfigure the inshore small boat fisheries while providing little benefit of risk reduction.

In Lobster Management Area (LMA) 1, commercial permits are allowed to fish up to 800 traps, but many do not. Some lobstermen choose to fish at a much reduced scale and many fish single traps especially close to shore in rocky areas where floating groundline was once deployed but banned by the Commonwealth a

decade ago to protect whales. In this area, nearly all single trap fishing occurs almost exclusively close to shore conducted by small boats (less than 25 ft.) and operated by fishermen in small-scale businesses. These fishermen remain close to shore in these undersized vessels and choose to fish single traps for safety reasons as traps strung together require additional deck space and extra hauling power in the event of traps becoming entangled with other traps. We have been told by some small scale operators that if forced to fish trawls, they will either stop fishing for safety reasons or reluctantly replace the vessel with a larger one to accommodate trawls. To pay the expenses of a larger vessel, many will increase the number of overall traps resulting in an increase in buoy lines. Moreover the deployed ropes will be heavier to accommodate the extra gear to be hauled and the target fishing areas will likely shift further offshore. These unintended consequences would have a negative effect on vertical line reduction and entanglement risk.

In the Outer Cape Cod and LMA 2 (Southern New England), lobster permit holders are managed under a different system that depends on strict, individual history-based trap limits and transferable trap-fishing rights among eligible permit holders. In these areas, most permit holders have a low trap allocation that is not economically conducive to large vessel operations.

Trap allocations are being further reduced in these areas. Upon transfer of a lobster permit or a trap allocation, 10% of the traps are retired. Many among the fleet are somewhat “trap starved” and are attempting to make a living by efficiently deploying low number of traps. They have insisted that the single trap scheme is the most economically efficient because it allows them to maintain small vessels with limited deck space and low hauling power while surgically deploying their limited traps on the most productive lobster bottom. This “old school” approach is a conservation benefit for lobsters and their inshore activities do not usually coincide with large whales.

The Massachusetts fish pot and whelk pot fisheries in Southern New England are another example of fisheries being managed as small-scale operations that could be at risk from a trawl mandate. Trap limits are extremely low: 200 traps for sea bass potters, 200 traps for whelk potters, and 50 traps for scup potters. Due to these low limits, most are deploying single traps.

In Southern New England the trap allocations are to be reduced another 50% over the next six years with a goal of reducing actual traps fished by 25% under the interstate management plan. As a result we may see some further shift to small-scale lobster operations that will need to maximize their per-trap catch rate and will likely seek to deploy single traps as a result.

These inshore fishermen are small scale operators and include part-time fishermen such as those who hold a Massachusetts “student” lobster permit, limited to 25 traps set during summer months only. Large whales rarely frequent these inshore habitats during the summer months at the height of fishing. So there is much less actual co-occurrence with this gear than the model suggests. Reductions in vertical lines projected by the models at first glance are impressive: ranging from 29 to 38%. However, if nearly all the reduction in buoy lines occurs in the narrow and shallow inshore zone where whales rarely occur, then the benefits will fall far short of the projections. While we understand the calculation showing “co-occurrence reduction”, we insist it is exaggerated because large whales rarely aggregate very close to shore where and when single traps are set.

Finally, the inshore zone is also fished by recreational lobstermen, yet the ALWTRP and the proposed rule do not apply to recreational lobster gear. This is problematic because under the proposed rule, commercial single pots would be banned from areas where recreational singles are also being fished, creating a double standard. It is not politically or financially feasible for Massachusetts to outlaw the use of single traps by recreational lobster fishery, nor logistically possible for recreational permit holders to fish trawls.

We are deeply concerned that the burden will fall mostly on the smallest scale fishing businesses and in places where whales do not aggregate. The intent is to make substantial strides in risk reduction but those strides will never materialize.

Conversely, the minimum trawl lengths proposed for federal waters will likely do little to reduce the number of vertical lines in that area. The DEIS doesn't partition out the change in co-occurrence or number of vertical lines by state vs. federal waters, but we are confident that fishermen are already using those trawl minimums and that little reduction in vertical lines will occur in federal waters because of that.

Based on the projected reductions in buoy lines and the reduction in the modeled "co-occurrence scores", this rule will not achieve the necessary reduction in serious injuries and mortalities to meet the PBR goals. But it will have severe negative consequences on discrete components of the northeast U.S lobster trap and fish pot fishermen.

The unintended consequences of the move to multiple trap trawls will be the deployment of heavier and stronger rope. At the Chatham meeting, we learned from one lobsterman that to satisfy the proposed rule he would be replacing his buoy lines with much heavier and stronger rope to withstand the rigors of hauling additional traps on the same trawl and to withstand the strain of hauling other fishermen's trawls that cross over his. He predicted this could be more injurious to an entangled whale.

At the 2011 TRT meeting, we learned from New England Aquarium staff that complexity of the entanglement does matter when forecasting serious injury and mortality. The single trap fishery in shallow water (hence short buoy lines) presents the least complex and heavy gear that whales may encounter. NMFS also appears to support that concept that singles pose less risk of complex entanglements, since the rule proposes to require singles in state and federal waters in the Southeast.

We also find it curious and counterintuitive that single pots would be *required* in state and federal waters off Florida and Georgia, based on the low weight of the gear and the simple configuration which would allegedly reduce the severity of entanglement for right whale calves; in contrast to the Northeast where singles are being banned because of risk. This lack of consistency does not make sense. If single pots are preferred in the Southeast to reduce the severity of entanglement, this should also apply in Northeast waters.

Need to improve data gathering for Federal Waters Fisheries. We believe NMFS must tackle gaps in the reporting and regulation of federal fixed gear fisheries. The Agency does not require reporting for those permit holders who fish with a federal lobster permit only, an oversight that makes it difficult to track or manage risk associated with that gear. According to NMFS data, 85% of these federal lobster-only permit holders land in the State of Maine, thus subjecting them to limited reporting requirements from the state perspective as well.

The lack of reporting makes it impossible for NMFS to assess the risk of entanglement to large whales or assess the effectiveness of the proposed vertical line reduction strategy. Without addressing these issues, any estimates of entanglement risk reduction are questionable at best, and estimating future risk levels will be imprecise and likely inaccurate.

We also strongly urge the Agency to address the risk associated with emerging pot fisheries such as Jonah crab and waved whelk, which are prosecuted with no restrictions through loop holes in the management system. There is no tracking of these fisheries, nor any limit on the number of vertical lines they can put in the water.

In addition, the impact of latent effort is not addressed in this proposed rule. There is significant latent effort in LMA 1, which could cancel out any reductions in vertical lines achieved through this rule. In the Massachusetts portion of LMA 1 the average number of traps fished is 350. Given the 800 pot limit, the number of traps fished and associated buoy lines could more than double. Similar problems exist in Maine and in federal waters portion of LMA 1; however, they remain undocumented because of the lack of catch and effort reporting system for fishermen licensed by Maine and/or by NMFS.

The result of inadequate catch and effort reporting is a shell game in which proposed rules can be targeted at jurisdictions that have good catch and effort data. These rules can be "projected" to have conservation benefits for large whales to meet the mandates of the ESA and the MMPA. Yet underlying issues of latent fishing effort and poor characterization of fixed fishing effort in U.S. territorial waters make these empty promises of conservation. Meanwhile the fishing industry bears the economic burden of this "false conservation" and will be understandably incredulous when we come back to them in five years asking for more.

Exemption Areas. We strongly oppose exempting New Hampshire state waters from the entire ALWTRP. There is no reason to put floating ground line back in the water column due to the risk it poses to large whales and other wildlife. Exemptions from the Proposed Rule were discussed with the TRT in the context of this vertical line rule only. It is inappropriate to exempt NH from the entire plan, and not consistent with what was represented during TRT discussions. We are not opposed to NH being exempt from the trawling up scenarios in the Proposed Rule since they have very little co-occurrence in their waters. However, NMFS should be equitable in the implementation of that standard.

Many portions of Massachusetts waters have no co-occurrence or only seasonal co-occurrence, yet a year-round, state-wide ban on single traps has been proposed by the Agency without justification for the double-standard. Portions of Massachusetts state waters that have no co-occurrence, specifically LMA 2 (Buzzards Bay, Vineyard Sound, and Nantucket Sound) and Cape Cod Bay during the summer months, should be exempt from the trawling up requirements. We emphatically do not support the requirement for trawling up or closures in areas with no co-occurrence.

Gear Marking. We do support the proposed increase in the size and frequency of colored markings on vertical lines, and the marking of vertical lines within the Maine Exempt Area. However, the spatial scale of the colored markings in the Proposed Rule is not sufficient. A second color should be added by LMA in Northern and Southern Nearshore and Inshore Trap/Pot Waters. The current system where RED represents all of New England nearshore waters is not specific enough to pinpoint the origin of entanglements in that area. A separate color should be added for each LMA. In addition, we do not support the use of ORANGE as the color for marking trap/pot gear in Southern Nearshore waters, as it is too similar to red, unless a secondary, unique color was associated with it to eliminate confusion.

Closed Areas. We support the use of closed areas to manage risk to right whales, particularly in locations where right whale abundance is predictable and the impacts to the industry are minimal. Cape Cod Bay during February – April is such a location. In recent years, this habitat has experienced the highest density and most predictable aggregation of right whales of any known habitat, at a time when fixed gear fisheries are minimal. *MarineFisheries* staff and PCCS researchers see more abandoned and lost gear in this area among right whales than actively fished gear.

We do not support a closure beyond the state waters portion of Cape Cod Bay Critical Habitat. *MarineFisheries* also requests that NMFS allow the Cape Cod Bay closure to be state managed so that refinements can be done more quickly and in response to the needs of the whales and the fishing industry.

We believe that any closure in the Cape Cod Bay area should be able to be lifted or altered due to the thorough surveillance program conducted in that area each year.

The DEIS notes that the impacts of closing Stellwagen Bank, Jeffreys Ledge, and Massachusetts Bay Restricted Area #1 would likely economically devastate nearly 200 lobster businesses (see DEIS 11-18). These impacts are severe and not equitably shared among the industry. Though the model attempts to surgically manage in areas of known high co-occurrence there is clearly ample risk beyond the areas proposed for additional measures. It is naïve to believe that if Alternatives 2 through 6 were enacted as proposed, the goals of take reduction would be met. Undoubtedly the march of additional closures would continue putting more fleets at risk in the future.

It should be noted that the outline of the Massachusetts Bay Restricted Area #1 includes a wedge of Nantucket Sound just west of Monomoy where no co-occurrence is documented and no whale has likely ever been. We do not support the use of Restricted Area #1 for this reason.

Moreover, NMFS should not adopt the closure on Jeffreys Ledge and Jordan Basin. We have reviewed the economic impacts of the closure in the DEIS (exhibit 8-5) and do not believe the cost of the closure is worth the minimal reduction in co-occurrence scores. Furthermore, we believe most fishermen will choose to continue to fish and be displaced to other areas where the buoy lines will become more concentrated. This will result in numerous gear conflicts with mobile gear and other fixed gear fisheries.

DEIS and the Alternatives. The analysis presented in the DEIS is lacking. It does not show the breakdown of potential vertical line or co-occurrence reductions across LMA or state versus federal waters. This is a significant and problematic oversight. It is difficult to evaluate the potential impact or benefits of the rule without that resolution.

Of additional concern is NMFS' dismissal of the viewpoint raised by Independent Reviewer #1. In the Biological Impacts section, NMFS briefly states that the independent reviews were favorable. This is in direct contrast to the viewpoint of Reviewer #1 who cites a number of problems with the model and states that the current version is not ready for use in management applications. We wholeheartedly agree that this model is not ready for use in fine-scale management of vertical lines.

The IEC Model. The data used in the model are not sufficient for the intended purpose. No credible data on gear configuration exists, so NMFS and IEC created estimates based on questionable methodology. *MarineFisheries* staff cautioned NMFS and IEC that the vertical line data we supplied lacked the appropriate spatial resolution to make robust estimates of co-occurrence. We also warned that it would not be appropriate to estimate the number of traps per trawl using the vertical line and number of traps fished data we provided. However these serious comments and concerns went unheeded.

Furthermore, the use of Right Whale Consortium data only for all whale species is also not appropriate. A great deal of humpback whale data was not included in the model because it resides outside the Consortium Database. The inclusion of this data would provide more balance and a complete picture of where humpbacks whales actually occur.

We feel that the IEC model is not ready to be used for management purposes given the lack of robust inputs and the lack of data from federally permitted lobster boats.

Summary

The proposed rule attempts to reduce vertical lines through the TRT process, despite inadequate data resulting in problems with the accuracy and validation of the model, the lack of connection to the lobster management process, and the highly inequitable proposed rule.

NMFS should endeavor to fill the data gaps immediately. Only then will it be possible to establish a scientifically valid and defensible reduction goal for buoy lines. We can then create a verifiable conservation plan and have a chance to gain the support and trust of the stakeholders to effectively reduce vertical lines in the water column. We do not believe the current proposals will have any meaningful effect on the level of entanglements. The lack of consistency in the proposed regulations across different jurisdictions is being done without sound reason or data to support.

We recommend that NMFS:

- Abandon the trawling up strategy;
- Focus on strategic closures for addressing risk to right whales, including closing those areas to gillnets;
- Improve the gear marking scheme by increasing the frequency, size, colors and spatial resolution associated with buoy line markings;
- Develop a target for appropriate vertical line reductions, and work through the lobster management system to achieve those reductions;
- Require reporting of catch, gear configuration, and gear amounts for all federal lobster permit holders; and
- Eliminate loop holes for emerging fixed gear fisheries that are exempt from management and reporting.

In closing we are concerned that the Commonwealth of Massachusetts has been targeted by NMFS for whale conservation in part because we require our fishermen to comprehensively report their catch and effort information. While jurisdictions like Maine and the federal waters managed by NMFS, which lack any or only have minimal reporting requirements, are largely exempt from whale conservation measures. The lack of data from these jurisdictions is not sufficient reason to exempt them from regulation. Conversely a jurisdiction should not be singled out merely because it is the only one that supplied adequate data. The lack of data over a very broad portion of the Northeast prevents all of us from accurately characterizing the risk of entanglement to large whales. Meaningful and measurable large whale conservation cannot be achieved until the necessary steps are taken to address the overwhelming data gaps and latent effort in the U.S. lobster fishery and other fixed gear fisheries.

Sincerely,

Paul J. Diodati

Paul J. Diodati
Director

cc: McKiernan, Burke, Glenn (MA DMF)
MA Marine Fisheries Advisory Commission

The Humane Society of the United States • Center for Biological Diversity • Whale and Dolphin Conservation • Caroline Good • International Fund for Animal Welfare • Defenders of Wildlife

Via Regulations.gov

September 13, 2013

Mary Colligan
Assistant Regional Administrator for Protected Resources
NMFS Northeast Region
55 Great Republic Dr.
Gloucester, MA 01930

Re: Atlantic Large Whale Take Reduction Plan Proposed Rule

Dear Ms. Colligan,

The conservation representatives of the Atlantic Large Whale Take Reduction Team, including The Humane Society of the United States, Center for Biological Diversity, Whale and Dolphin Conservation, Caroline Good, the International Fund for Animal Welfare, and Defenders of Wildlife, submit the following comments on the National Marine Fisheries Service's (NMFS) proposed rule to amend the Atlantic Large Whale Take Reduction Plan (ALWTRP), 78 Fed. Reg. 42,654 (July 16, 2013), and the Draft Environmental Impact Statement (DEIS) on the proposed amendments.[1]

We strongly support adopting additional conservation measures to decrease the risk of entanglement of endangered North Atlantic right whales, humpback whales, and fin whales, as well as minke whales, and to ensure the continued survival and eventual recovery of these imperiled species. The known serious injury and mortality rate for right whales and humpback whales from fishing gear entanglement was *double* the potential biological removal (PBR) between 2006 and 2010,[2] and scientists have long recognized that both groundline and vertical line present entanglement risk.[3] Although the agency's 2007 ALWTRP rule required gear modifications and other measures to reduce groundline risk, entanglements have continued.[4] Further risk reduction is imperative to conserve the species and meet the requirements of the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA).

As described in detail below, in order to reduce entanglement risk, we generally support time/area closures in key areas where whales concentrate and increasing the minimum number of

[1] NMFS, Draft Environmental Impact Statement for Amending the Atlantic Large Whale Take Reduction Plan: Vertical Line Rule (July 2013) (DEIS).
[2] Waring G.T., E. Josephson, K. Maze-Foley, P.E. Rosel, editors. 2013. U.S. Atlantic and Gulf of Mexico Marine Mammal Stock Assessments -- 2012. NOAA Tech Memo NMFS NE 223; 419 p. Available at http://www.nefsc.noaa.gov/nefsc/publications/
[3] DEIS at 2-41.
[4] *Id*.

traps per trawl to reduce the number of risk-prone vertical lines in the water. *Among the alternatives* presented by the agency, *Alternative 5 (the agency's proposed rule) is preferable* because it includes appropriate seasonal time and area closures in Jordan Basin, Jeffreys Ledge, and Massachusetts Restricted Area #1; requires minimum traps per trawl; and presents the highest reduction in co-occurrence score among the alternatives.

However, *Alternative 5 and NMFS's DEIS are insufficient in several regards*. As described below:

- NMFS inappropriately proposes to exempt Maine and New Hampshire state waters from complying with any risk reduction measures, except gear marking. These exemptions are entirely unwarranted.
- NMFS does not propose any risk reduction measures in the mid-Atlantic, even though the area presents a risk for both right and humpback whales.
- In the Southeast, NMFS largely retains the status quo, despite known and growing vertical line risk, and the agency fails to justify varying requirements for weak links and breaking strengths of line in different areas.
- The proposed rule fails to sufficiently reduce risk for humpback whales.
- The proposed rule fails to sufficiently address risk from gillnets.
- Proposed new gear marking requirements do not sufficiently differentiate between areas.
- The co-occurrence model used to identify risk-prone areas fails to include relevant data on whale presence and inappropriately aggregates fishing effort data, resulting in potentially erroneous risk scores.
- The DEIS fails to consider an adequate range of alternatives and insufficiently evaluates cumulative impacts.

We urge the agency to act as expeditiously as possible to revise the proposed rule and DEIS and implement the most conservative measures to ensure the species' continued survival and recovery and to further ensure NMFS meets its substantive and procedural duties under the MMPA and ESA. *See* 16 U.S.C. §§ 1387(f)(7)(C), (F) (requiring NMFS to implement amendments to the TRP "[n]ot later than *60 days* after the close of the comment period") (emphasis added).

A. NMFS Must Adopt Additional Measures to Reduce Entanglement

1. Despite Existing ALWTRP Measures, Endangered Large Whales Are Threatened by Continuing Entanglement.

With a minimum population of fewer than 450 individuals, "the western North Atlantic right whale (*Eubalaena glacialis*) is one of the rarest of all large cetaceans and among the most endangered species in the world."[5] Although the right whale has been listed as endangered since 1970, the species has not recovered.[6] NMFS has repeatedly stated that the species' survival and

[5] DEIS at 102.
[6] *See e.g.*, NMFS, *Recovery Plan for the North Atlantic Right Whale (Eubalaena glacialis)* (Aug. 2004) at III-1 ("North Atlantic right whales face a high risk of extinction into the foreseeable future").

recovery is dependent on protecting every individual animal, and "the population can sustain no deaths or serious injuries due to human causes if its recovery is to be assured."[7] NMFS has identified entanglement in commercial fishing gear and ship strikes as the two primary factors impeding the North Atlantic right whale's recovery.[8] Humpback and fin whales are also listed as endangered, and entanglement poses serious risks to the species' survival and recovery.[9]

NMFS adopted the ALWTRP in 1997 to reduce impacts of commercial fishing on North Atlantic right, humpback, and fin whales. *See* 16 U.S.C. § 1387(c)(3)(A)(iv); 50 C.F.R. § 229.32.[10] Since that time, and despite several ALWTRP amendments, documented serious injury and mortality for both right whales and humpback whales has continued to exceed potential biological removal (PBR) levels.

In 2001, NMFS issued several biological opinions concluding that the original ALWTRP would not avoid the likelihood of jeopardy for right whales. The agency amended the ALWTRP in 2002 to adopt Seasonal Area Management and Dynamic Area Management restrictions.[11] However, that year, eight more right whales were found entangled, and NMFS concluded that these management measures were "not effective at avoiding the likelihood of jeopard[y]" and that the ALWTRP again required revision.[12]

During the next stage of revisions, NMFS and the ALWTRT recognized that both groundline and vertical line cause entanglement and needed to be addressed.[13] In 2007, NMFS amended the ALWTRP to require all trap/pot fisheries along the Atlantic coast to use sinking groundline, except in certain exempted areas.[14] However, although the agency clearly recognized that risk from vertical lines remained a problem, the agency stated vertical line "will be address[ed] . . . with the ALWTRT" in the future.[15]

Since that time, large whale entanglements have continued. The known serious injury and mortality rate for right whales from fishing gear entanglement was *double* PBR between

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[7] 73 Fed. Reg. at 60,176; *see also* 69 Fed. Reg. 30,857, 30,858 (June 1, 2004) (concluding that the "loss of even a single individual may contribute to the extinction of the species," and that "if current trends continue, the population could go extinct in less than 200 years").
[8] *Recovery Plan* at v.
[9] Waring et al. 2013.
[10] 62 Fed. Reg. 39,157 (July 22, 1997).
[11] 67 Fed. Reg. 1142 (Jan. 9, 2002).
[12] 70 Fed. Reg. 35,894 (June 21, 2005) (describing ALWTRP history).
[13] *See* NMFS, Final Environmental Impact Statement for Amending the Atlantic Large Whale Take Reduction Plan: Broad-Based Gear Modifications (Aug. 2007) at 2-41, 2-42 (noting estimates that 56% of whales for which entangling gear could be identified were entangled in vertical/buoy line, and 28%were entangled in groundline); Johnson, A.J., G.S. Salvador, J.F. Kenney, J. Robbins, S.D. Kraus, S.C. Landry, and P.J. Clapham. 2005. Fishing gear involved in entanglements of right and humpback whales, *Marine Mammal Science* 21(4): 635-645 (noting that any part of the gear (buoy line, groundline, floatline, and surface system line) creates a risk for entanglement); NMFS, Endangered Species Act Section 7 Consultation on the Continued Implementation of Management Measures for the American Lobster Fishery (Aug. 2012), at 94 (2012 Lobster BiOp).
[14] 72 Fed. Reg. at 57,104.
[15] *Id.*

2006 and 2010 (serious injury and mortality from fisheries is 1.8, while PBR is 0.9).[16] NMFS's 2012 Biological Opinion analyzing the effects of the American lobster fishery concludes that federal fisheries may kill or seriously injure up to three right whales each year.[17] The biological opinion also notes preliminary data indicating that, in 2010 alone, there were five new observed right whale entanglements and two entanglement-related right whale deaths, and that, in 2011, there were eleven new right whale entanglements and at least one right whale death from entanglement.[18]

However, as NMFS acknowledges, documented serious injury and mortality rates may vastly under-represent actual mortality, as many entanglements and mortalities are unobserved;[19] scarring data may better reflect actual entanglement rates.[20] A 2005 analysis of scarification data revealed that over 75% of right whales were scarred at least once by fishing gear, and between 14 and 51% of all right whales are involved in entanglements *each year*.[21] A more recent study estimated even higher rates of entanglement – finding that, based on scarification, between 1980 and 2009, 82.9% of known right whales suffered entanglements and 59% of right whales have been entangled more than once.[22]

Entanglement also poses a substantial threat to other endangered Atlantic large whales. Serious injury and mortality for humpback whales for the same period was also double PBR (serious injury and mortality from fisheries is 5.8, while PBR is 2.7).[23] However, as with the right whale, actual entanglement rates of humpbacks are likely much higher than observed rates. Again based on scarification data, it is estimated that between 48 and 65% of the Gulf of Maine humpback population has experienced entanglements.[24] This same methodology indicates that the annual entanglement-related mortality rate of Gulf of Maine humpback whales may be as high as 18.8 to 29.3 whales per year, depending on the assumptions underlying estimates of population size.[25] NMFS's Draft Batch Biological Opinion on the continued operation of gillnet fisheries estimates that federal fisheries kill or seriously injure eight humpbacks per year.[26] In addition, NMFS estimates that two endangered fin whales are killed or seriously injured each year due to entanglement in commercial fishing gear.[27]

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[16] Waring et al. 2013; DEIS at 2-32.
[17] 2012 Lobster BiOp at 126.
[18] *Id.* at 114-16.
[19] Waring et al. 2013; DEIS at 1-3.
[20] DEIS at 2-32.
[21] *Id.*; Waring et al. 2013; 2012 Lobster BiOp at 118.
[22] Knowlton, A.R., P.K. Hamilton, M.K. Marx, H.M. Pettis, and S.D. Kraus. 2012. Monitoring North Atlantic right whale *Eubalaena glacialis* entanglement rates: a 30 yr retrospective. Marine Ecology Progress Series 466: 293-302.
[23] *Id.*
[24] Waring et al. 2013.
[25] Robbins, J. 2009. Scar based inference into Gulf of Maine humpback whale entanglement: 2003-2006. Report to the National Marine Fisheries Service. Order Number EA133F04SE0998.
[26] NMFS. Draft Endangered Species Act Section 7 Consultation on the Continued Implementation of Management Measures for the Northeast Multispecies, Monkfish, Spiny Dogfish, Atlantic Bluefish, Northeast Skate Complex, Mackerel/Squid/Butterfish, and Summer Flounder/Scup/Black Sea Bass Fisheries (May 2013), at 258 (Draft Batch BiOp).
[27] DEIS at 2-36.

2. The MMPA and ESA Mandate Further Reduction of Entanglement Risk

NMFS clearly has both the authority and the legal mandate to take additional action to protect endangered whales from fishing gear entanglement. Both the ESA and MMPA mandate that NMFS protect and recover the North Atlantic right whale, the humpback whale, the fin whale, and other imperiled marine life. The agency must take further action to ensure that it complies with its statutory mandates.

Enacted in 1972, the MMPA seeks to maintain stable, functioning marine ecosystems, to secure and restore healthy marine mammal populations, and to protect individual animals from harm. 16 U.S.C. §§ 1361(2); 1362(18)(A); *Animal Welfare Inst. v. Kreps*, 561 F.2d 1002, 1007 (D.C. Cir. 1977) ("the MMPA is an unusual statute . . . motivated by considerations of humaneness towards animals, who are uniquely incapable of defending their own interests"). Accordingly, the goal of the MMPA is to maintain an "optimum sustainable population" of each marine mammal stock, defined as "the number of animals which will result in the maximum productivity of the population or the species," considering both carrying capacity of the habitat and ecosystem health. *Id.* §§ 1361(6), 1362(9).

To reach these goals, Section 118 of the MMPA requires NMFS to develop a "take reduction plan" for each "strategic stock" of marine mammals that interacts with any fishery that causes either "frequent" or "occasional" mortality or serious injury to marine mammals. 16 U.S.C. § 1387(f)(1). Strategic stocks include those stocks that are listed as a threatened or endangered species under the ESA and for which the level of human-caused mortality exceeds the PBR level. *Id.* § 1362(19). PBR is defined as the "maximum number of animals . . . that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population." *Id.* § 1362(20).

The MMPA sets specific deadlines both for when take reduction plans must be created and also when the plans must accomplish their goals. The "immediate goal" of a take reduction plan is to reduce, "within 6 months of its implementation," the incidental mortality and serious injury of marine mammals to below the PBR level. 16 U.S.C. § 1387(f)(2). The long-term goal of a take reduction plan must be to, within 5 years, reduce incidental mortality and serious injury "to insignificant levels approaching a zero mortality and serious injury rate." *Id.* The agency has defined "insignificant levels approaching . . . zero" or "ZMRG" to mean 10% of a stock's PBR. 50 C.F.R. § 229.2. In enacting the MMPA, Congress expressed its clear intent that Section 118 would require "*immediate* action to protect . . . marine mammal stocks most affected by interactions with commercial fishing operations." S. REP. NO. 103-220, at 6 (1994) (emphasis added).

Yet, as explained above, entanglements of Atlantic large whales continue. The observed level of serious injury and mortality for right whales and humpback whales from entanglement nearly *doubles* PBR for both species,[28] and estimated entanglement rates based on scarification indicate serious injury and mortality may be even higher. Because serious injury and mortality of right whales and humpback whales exceeds PBR and vastly exceeds insignificant levels

[28] *See* DEIS at 1-2 (stating that NMFS set the PBR for right whales at 0.9 and the PBR for humpback whales at 2.7).

approaching zero, the current ALWTRP is not meeting the MMPA's mandate and must be amended. 16 U.S.C. § 1387(f)(2). Further, because serious injury and mortality occur at a rate above PBR, the recovery rate for the stock will be retarded, by definition, and will preclude the species from reaching its optimum sustainable population. *Id.* §§ 1361(6); 1362(9).

Enacted in 1973, the ESA seeks to protect endangered and threatened species and conserve the habitats upon which they depend. 16 U.S.C. § 1531(b). Considered "the most comprehensive legislation for the preservation of endangered species ever enacted by any nation," the ESA embodies the "plain intent" of Congress to "halt and reverse the trend toward species extinction, whatever the cost." *Tenn. Valley Auth. v. Hill*, 437 U.S. 153, 180, 184 (1978).

To implement this mandate, Section 7(a) of the ESA requires that all federal agencies "utilize their authorities in furtherance of the purposes of this chapter by carrying out programs for the conservation of endangered species and threatened species." *Id.* § 1536(a)(1); *see also id.* § 1531(c)(1) (it is the "policy of Congress that all Federal . . . agencies shall seek to conserve endangered species and threatened species and shall utilize their authorities in furtherance of the purposes" of the ESA). The ESA defines "conserve" as "the use of all methods and procedures which are necessary to bring any endangered species . . . to the point at which the measures provided pursuant to this chapter are no longer necessary." *Id.* § 1532(3).

In addition, Section 4(f) specifically requires that NMFS "develop *and implement*" recovery plans for each threatened or endangered species. 16 U.S.C. § 1533(f) (emphasis added). Recovery plans must "incorporate . . . a description of such site-specific management actions as may be necessary to achieve the plan's goal for the conservation and survival of the species." *Id.* § 1533(f)(1)(B)(i). The Recovery Plan for the North Atlantic right whale explicitly requires NMFS "to reduce or eliminate" mortality from entanglement in fishing gear and concludes that "rigorous and urgent action is needed" to reduce these threats.[29] Thus, in order for NMFS to meet its mandates under Sections 2, 4, and 7 of the ESA, the agency must take action to reduce the continuing threat of whale injury and death from entanglement in commercial fishing gear.

Continued entanglements are not only impeding the MMPA's mandate to reach ZMRG and the ESA's recovery mandate for the North Atlantic right whale and other endangered whales, but are unlawful. The ESA prohibits the "take" of an endangered species. *Id.* §§ 1538(a)(1), (g) (also prohibiting any entity, including an agency, from "caus[ing] take"). The ESA defines take to prohibit conduct that will "harass, harm, . . . wound, kill, [or] trap" an individual of a listed species. *Id.* § 1532(19). Similarly, the MMPA establishes a "moratorium on the taking" of marine mammals and specifically prohibits "any person . . . or any vessel [from] tak[ing] any marine mammal." *Id.* §§ 1371(a); 1372(a). The statute broadly defines take to mean "to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal." *Id.* § 1362(13).

Although both the ESA and the MMPA contain provisions to authorize take incidental to an otherwise lawful activity, including commercial fishing, *see* 16 U.S.C. §§ 1536(b)(4); 1371(a)(5)(E); 1387(a), NMFS has not invoked these limited exceptions to permit the incidental

[29] Recovery Plan at II.

take of any endangered whales by the fisheries that must comply with the ALWTRP.[30] Nevertheless, NMFS continues to authorize the operation of these fisheries, and endangered whales continue to become entangled in fishing gear and die. NMFS must therefore implement additional mitigation measures to protect these imperiled species and ensure that the agency does not violate the ESA or MMPA by causing their unlawful take. Amending the current ALWTRP with additional protections discussed below is a necessary step towards achieving those important goals.

B. The Amended ALWTRP Must Reduce Serious Injury and Mortality to Below PBR, Approaching Insignificant Levels

As noted above, under the MMPA, the "immediate goal" of a take reduction plan must be to reduce, "within 6 months of its implementation," the incidental mortality and serious injury of stocks to below PBR and within 5 years, to ZMRG or 10% of PBR. 16 U.S.C. § 1387(f)(2); 50 C.F.R. § 229.2. To meet these goals, the MMPA requires that a take reduction plan "shall include measures the Secretary expects will reduce, within 6 months of its implementation, . . . mortality and serious injury to a level below the [PBR] level." 16 U.S.C. § 1387(f)(2).

Accordingly, to comply with these MMPA requirements, NMFS's proposed ALWTRP rule must include vertical line reduction and other risk reduction measures that the agency "expects will reduce, within 6 months of the plan's implementation," right whale and humpback serious injury and mortality to below PBR. 16 U.S.C. § 1387(f)(5)(A). The DEIS indicates that the various action alternatives proposed will reduce the number of vertical lines in the Northeast and reduce the co-occurrence score. However, the agency fails to definitely link the proposed measures to a reduction in serious injury and mortality. While we fully appreciate the difficulty of this task, the MMPA clearly requires the agency and the ALWTRP to meet this minimum legal standard, and it is currently impossible for the public or the agency itself to determine whether the plan is sufficient.

As we noted above and in our comments submitted in April 2012, based on the most recent final Stock Assessment Report (SAR), right whale serious injury and mortality is double PBR (serious injury and mortality from fisheries is 1.8, while PBR is 0.9),[31] and serious injury and mortality for humpbacks is more than double PBR (serious injury and mortality from fisheries is 5.8, while PBR is 2.7).[32] As not all carcasses are detected or retrieved for necropsy, these numbers represent the minimum level of mortality and serious injury suffered by these species. However, these numbers suggest that, at a minimum, a 50% reduction in entanglement risk may be necessary to sufficiently reduce serious injury and mortality for both species to below PBR. While a 50% reduction in risk does not necessarily equate to 50% reduction in vertical lines or co-occurrence score, a 50% reduction in co-occurrence score provides at least some basis for meeting PBR.

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[30] *See, e.g.*, Lobster BiOp; Batch BiOp; DEIS at 2-9–2-10 (listing fisheries that must comply with ALWTRP).
[31] Waring et al. 2013; DEIS at 2-32.
[32] *Id.*

Yet the projected range of both co-occurrence score and vertical line reduction resulting from the current proposal is quite limited. For example, under the various alternatives, NMFS predicts that, coast-wide, vertical lines will be reduced by only 29.2 to 36.5% and co-occurrence scores reduced by between 35.8 and 41.7%, even assuming a 100% suspension of fishing in closure areas and no displacement.[33] None of the alternatives results in a 50% vertical line or co-occurrence score reduction as suggested above, let alone addresses the serious injuries and mortalities that go unaccounted for, as noted in the SARs. In order to comply with the requirements of the MMPA, NMFS's proposed rule should meet this standard, or provide a rational and detailed explanation for how the agency's rule will reduce right whale and humpback serious injury and mortality to below PBR within six months of the rule's implementation. 16 U.S.C. § 1387(f)(5)(A); 5 U.S.C. § 706.

C. Seasonal Closures and Trawling Up Are Essential to Entanglement Risk Reduction

The conservation members of the TRT support NMFS's proposal in Alternative 5 to require a minimum number of traps per trawl because the proposal incorporates suggestions from the states, NMFS, scientists, and conservation groups involved, and is expected to achieve the greatest reduction in co-occurrence. However, without a clearly defined target for vertical line reduction or indicator that can directly measure reduction in risk, we have serious doubts that the increased trawling requirements and restriction to one endline for trawls of five traps or less will by themselves achieve the impact required to reduce take below PBR. For this reason, we believe that closures in Jordan Basin, Jeffreys Ledge, and Massachusetts Restricted Area #1 are essential to reducing entanglement and serious injury/mortality of right whales and humpbacks, as required by the ESA and MMPA. The number of Full Time Equivalent lobster vessels expected to be affected by the included closures is minimal (five in Jordan Basin, 69 in Jeffreys Ledge and 110 in Massachusetts Restricted Area 1),[34] while the reduction in co-occurrence score is more than a 10% improvement over Alternative 3, which lacks these closures. Therefore, we strongly urge NMFS to continue its support for key targeted closures and include those described in Alternative 5 in the final rule.

The closures in Alternative 5 (submitted to NMFS by our group and Scott Kraus and supported in our comments in February and April 2012) are necessary to ensure new measures will reduce take below PBR. As described above, with reported serious injury and mortality still double PBR for both right and humpback whales (1.8 versus 0.9, and 5.8 versus 2.7, respectively),[35] at minimum, a 50% reduction in risk is likely necessary to sufficiently reduce take to below PBR. Reduction in co-occurrence score is not a direct measure of reduction in risk. Nonetheless it is unclear whether the coast-wide co-occurrence score reduction of 41.7% projected under Alternative 5 (assuming a 100% suspension) will achieve this 50% reduction in risk.[36] However, with all other alternatives projecting more limited reductions in co-occurrence, the best means proposed at this point to reduce risk is through targeted closures, according to the prescribed times and locations mapped out for Alternative 5.

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[33] DEIS at 5-10.
[34] DEIS at 1-11.
[35] *Id.*
[36] DEIS at 5-10.

Each of the closure areas proposed under Alternative 5 has a high co-occurrence score in the months proposed for closure. These areas also represent key habitat for feeding and breeding of large whales, right and humpback in particular, and so should be afforded additional protection. North Atlantic right whales feed primarily on copepods, and only in areas that have high enough concentrations of plankton to sustain the proper caloric intake for survival.[37] Locations that provide the necessary concentrations are not common, and the locations that do should be protected because the whales cannot simply move to another place to feed. Below we have provided additional evidence of the presence of right whales in these areas during the months recommended for closure, to complement our February 2012 proposal for these seasonal closures.

1. Jordan Basin

Jordan Basin is an important area for North Atlantic right whales and humpbacks, particularly during the winter months when right whales congregate in the area for feeding and breeding.[38] During this same time, presence of whales overlaps with heavy fishing effort resulting in a high degree of co-occurrence.

Surveys of Jordan Basin have produced high numbers of right whale sightings. Surveys by NMFS's Northeast Fisheries Science Center (NEFSC) in the winter of 2008 reported 44 individual right whales observed on December 3 in the Jordan Basin area and about a week later on December 14, 41 right whales were sighted a little west of Jordan Basin.[39] Between 2002 and 2008, NMFS aerial surveys identified half the North Atlantic population in the central Gulf of Maine between November and January.[40]

The mixture of shallow topography, enriched waters and coastal nutrient input generates exceptionally high productivity in the Gulf of Maine, including Jordan Basin. As a result, these areas produce vast amounts of the prey upon which North Atlantic right whales feed.[41] The whales are sighted all year long in this area, but they forage in especially high numbers during the fall and early winter months when copepods are found at their highest concentrations in these deep-water basins.[42]

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[37] Pace, R.M. III and R. Merrick. 2008. Northwest Atlantic Ocean Habitats Important to the Conservation of North Atlantic Right Whales (Eubalaena glacialis). NEFSC Ref. Doc. 08-07. Available at: http://www.nefsc.noaa.gov/publications/crd/crd0807/index.html

[38] Cole, T., P. Hamilton, A. Henry, P. Duley, R. Pace, B. White and T. Fraser. 2013. Evidence of a North Atlantic right whale Eubalaena glacialis mating ground. Endangered Species Research. July 3, 2013. V.21. P 55-64. Available at: http://www.int-res.com/abstracts/esr/v21/n1/p55-64/

[39] Dawicki, S. 2009. High numbers of right whales seen in Gulf of Maine. *NOAA National Marine Fisheries Service*. Available at: http://www.eurekalert.org/pub_releases/2009-01/nnmf-hno010209.php

[40] Cole, T., P. Hamilton, A. Henry, P. Duley, R. Pace, B. White and T. Fraser. 2013. Evidence of a North Atlantic right whale Eubalaena glacialis mating ground. Endangered Species Research. July 3, 2013. V.21. P 55-64. Available at: http://www.int-res.com/abstracts/esr/v21/n1/p55-64/

[41] Good, C.P. 2008. Spatial ecology of the north atlantic right whale (eubalaena glacialis). *ProQuest Information and Learning Company*. Available at: http://search.proquest.com/docview/20429157?accountid=10207

[42] Pace and Merrick 2008.

For example, right whale surveys conducted in Jordan Basin during the winter of 2004-2005 reported up to 24 foraging whales at a time.[43] Unfortunately, fishermen also take advantage of the biological productivity of these areas, which entails vessels and fishing gear in significant numbers. Since the presence of right whales coincides with abundance of copepods, and Jordan Basin is a hotspot for copepod accumulation, it should not be surprising that whales are present in this area to feed and should be protected while doing so.

Multiple Dynamic Management Areas (DMAs) associated with aggregations of three or more right whales have also been put in place in Jordan Basin during the fall and winter months. In 2009, DMAs were established in October and December;[44] in 2010 for the months of January, February, and October through December;[45] in 2011 during January, November, and December,[46] and more recently in January of 2012.[47] Higher survey effort in 2009 and 2010 resulted in peak sightings of 81 and 153 right whales respectively in Jordan Basin. These repeated sightings of right whales during aerial surveys, which triggered establishment of DMAs and associated voluntary speed restrictions, only further reinforce that right whales are frequenting this area during winter months and should therefore be further protected from heavy fishing effort during this time. These data also demonstrate the value and need for continued funding for research and survey efforts, as higher survey effort in 2009 and 2010 corresponded to a greater number of sightings and subsequently an increased number of established DMAs.

Based on the large body of evidence supporting high presence of right whales co-occurring with fishing effort, we support the NMFS proposal to close Jordan Basin from November 1 through January 31 as part of NMFS's final rule.

2. Jeffreys Ledge

Fishing closures should also be extended to cover concentrations of right whales and other baleen whales present in and around Jeffreys Ledge. The northwest edge of Jeffreys Ledge has been identified as being a hot spot for North Atlantic right whales, according to Sightings Per

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[43] *Id.*

[44] Khan, C., T. Cole, P. Duley, A. Glass, J. Gatzke. 2010. North Atlantic Right Whale Sighting Survey (NARWSS) and Right Whale Sighting Advisory System (RWSAS) 2009 Results Summary. *US Dept Commer, Northeast Fish Sci Cent Ref Doc*. Available at: http://www.nefsc.noaa.gov/publications/crd/crd1007/crd1007.pdf

[45] Khan, C., T. Cole, P. Duley, A. Henry, J. Gatzke, J. 2011. North Atlantic Right Whale Sighting Survey (NARWSS) and Right Whale Sighting Advisory System (RWSAS) 2010 Results Summary. *US Dept Commer, Northeast Fish Sci Cent Ref Doc*. Available at: http://www.nefsc.noaa.gov/publications/crd/crd1105/1105.pdf

[46] Khan C., T. Cole, P. Duley, A. Henry, J. Gatzke, Corkeron. 2012. North Atlantic Right Whale Sighting Survey (NARWSS) and Right Whale Sighting Advisory System (RWSAS) 2011 Results Summary. *US Dept Commer, Northeast Fish Sci Cent Ref Doc*. Available at: http://www.nefsc.noaa.gov/publications/crd/crd1209/

[47] J. Gatzke, C. Khan, A. Henry, T. Cole, P. Duley. 2013. North Atlantic Right Whale Sighting Survey (NARWSS) and Right Whale Sighting Advisory System (RWSAS) 2012 Results Summary. *US Dept Commer, Northeast Fish Sci Cent Ref Doc*. Available at: http://www.nefsc.noaa.gov/publications/crd/crd1308/

Unit Effort (SPUE) data from between 2003-2009.[48] The North Atlantic Right Whale Consortium 2012 Annual Report Card reported 90 right whale sightings at Jeffreys Ledge between November 2011 and October 2012.[49] These surveys show that right whales are undoubtedly present in this area during the fall and winter months. Furthermore, there have been various sightings and documentation, ranging from 4 to 50 individual right whales in Jeffreys Ledge during the fall and winter months (September-December) with subsequent sightings in Cape Cod Bay from January to May (Table 1).[50]

Table 1. Number of individuals seen in each habitat by year. # Adjacent column reflects the number of individuals seen in Jeffreys Ledge during a sighting season (September – December) and subsequently in Cape Cod Bay the following season (January – May). % Adjacent column reflects the percentage of whales seen in Jeffreys Ledge during a sighting season that are subsequently seen in Cape Cod Bay the following season.[51]

Season	**JL Individuals**	**CCB Individuals**	**# Adjacent**	**% Adjacent**
2003/2004	14	60	2	14.3
2004/2005	21	45	5	23.8
2005/2006	4	63	1	25.0
2006/2007	29	126	12	41.3
2007/2008	50	192	23	46.0
2008/2009	32	193	12	40.6
2009/2010	16	124	0	0.0

Surface skimming and near-surface feeding behavior has also been observed in this area from October to December. Additionally, during 20 years of observations from the 1970s to 1990s, 52 of 374 photo-identified North Atlantic right whales (13.9% of the population) were seen at least once on Jeffreys Ledge.[52]

A 2011 progress report noted approximately 20 right whales seen on Jeffreys Ledge in mid-October, after which a DMA was created for the subsequent 15 day period, ending on November 7.[53] In 2009, five DMAs were put into place in between January-February and

[48] Longley, K.E. 2012. Investigating the role of an understudied North Atlantic right whale habitat: Right whale movement, ecology, and distribution in Jeffreys Ledge. Master's Thesis.
[49] North Atlantic Right Whale Consortium 2012 Annual Report Card. Available at: http://www.narwc.org/pdf/2012_Report_Card.pdf
[50] Longley, K.E. 2012. Investigating the role of an understudied North Atlantic right whale habitat: Right whale movement, ecology, and distribution in Jeffreys Ledge. Table 2.3. Master's Thesis. Pg 46.
[51] *Id.*
[52] Weinrich, M. T., Kenney, R.D., & Hamilton, P.K. 2000. Right whales (*Eubalaena glacialis*) on Jeffreys Ledge: A habitat of unrecognized importance? *Marine Mammal Science, 16*(2), 326. Available at: http://www.gso.uri.edu/~rkenney/reprints/Weinrich%20et%20al%202000%20Jeffreys%20Ledge%20RIWHs.pdf
[53] The Whale Center of New England. 2011. Research and Habitat Protection of North Atlantic Right Whales on Jeffreys Ledge IFAW Progress Report.

October-November.[54] At least seven DMAs were declared in Jeffreys Ledge in 2010,[55] and at least eight DMAs were declared between August 2011 and June 2012.[56] This repeated activation of DMAs in Jeffreys Ledge is further proof to the presence of right whales during these months. Data collected since 2002 indicate this area is an area of continual, annual, high use.[57]

High fishing effort combines with this concentration of whales to produce a very dangerous situation during much of the fall and winter, as is shown in the NMFS calculations of co-occurrence scores. Because Jeffreys Ledge is a feeding area with a high presence of right whales in the fall and winter, it warrants closure to trap/pot and gillnet fishing to protect these essential and vulnerable individuals from being injured or killed, and we support the inclusion of a Jeffreys Ledge closure from October 1 to January 31 as part of NMFS's final rule.

3. Cape Cod Bay and Outer Cape

Existing trap/pot gear modification requirements and restrictions for the Cape Cod Bay restricted area are insufficient to effectively reduce risk within this area, therefore we recommend extension of current closures to cover trap and pot fisheries from January 1 through April 30 across the larger Massachusetts restricted area described in Alternative 5.

While the North Atlantic right whale remains one of the most critically endangered species in the world, sightings are becoming increasingly frequent in this region both within and adjacent to currently designated critical habitat in Cape Cod Bay. As demonstrated in Table 1 above, sightings of 45 to 193 whales were recorded January to May during survey efforts from 2003-2010.[58] The Provincetown Center for Coastal Studies reported that during an aerial survey on April 26 of this year, 113 right whales were sighted – the most in one day since 2011.[59] In other words, more than 20% of the entire population was confirmed to be in this one area on one day. In January of 2013, a right whale was observed in the unprotected western side of Cape Cod Bay, accompanied by a newborn;[60] there is also abundant evidence over the past decade of feeding and nursing of calves in and around Cape Cod Bay and the outer Cape, highlighting this as a key habitat for recovery of this population.

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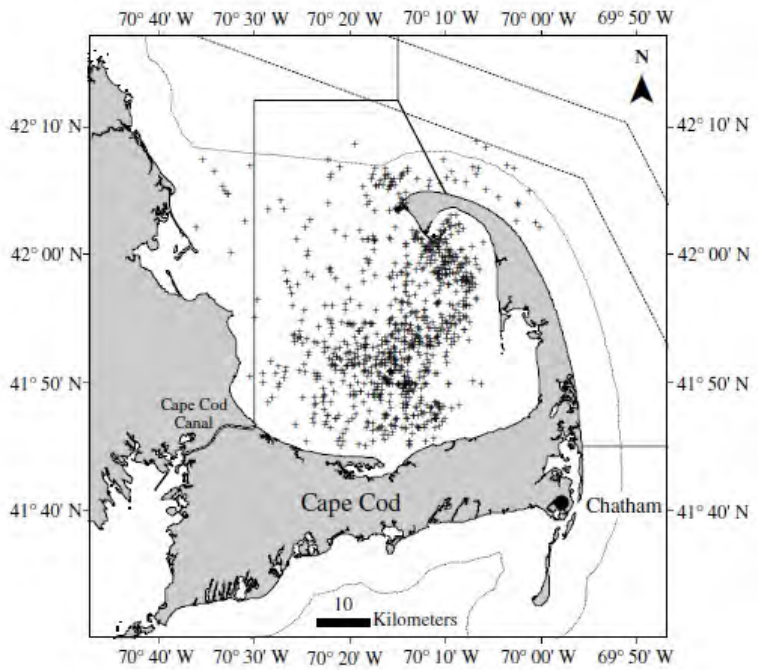
[54] Bettridge, S. and Silber, G.K. 2010. Vessel Operations in Right Whale Protection Areas in 2009. *National Marine Fisheries Service*. Available at: http://www.nmfs.noaa.gov/pr/pdfs/shipstrike/opr44.pdf
[55] Khan et al. 2011.
[56] Center for Biological Diversity, Defenders of Wildlife, Humane Society of the United States, and Whale and Dolphin Conservation Society. "Petition for Rulemaking to Prevent Deaths and Injuries of Critically Endangered North Atlantic Right Whales from Ship Strikes." Submitted to the Secretary of Commerce and NOAA Fisheries on June 28, 2012.
[57] Asaro, M.J. 2012. "Geospatial analysis of management areas implemented for protection of the North Atlantic right whale along the northern Atlantic coast of the United States." Marine Policy (36) 915–921. Available at: http://www.sciencedirect.com/science/article/pii/S0308597X1200005X
[58] Longley, K.E. 2012. Investigating the role of an understudied North Atlantic right whale habitat: Right whale movement, ecology, and distribution in Jeffreys Ledge. Table 2.3. Master's Thesis. Pg 46.
[59] Rossiter, W. 2013. Watching Wandering Whales. In: Whales Alive, Vol. XXIII No. 2. http://csiwhalesalive.org/newsletters/pdf/CSI2013_07%20Whales%20Alive.pdf
[60] Newborn Right Whale in Cape Cod Bay Fights for Survival. Cape Cod Today. January 15, 2013. http://www.capecodtoday.com/article/2013/01/15/16507-newborn-right-whale-cape-cod-bay-fights-survival

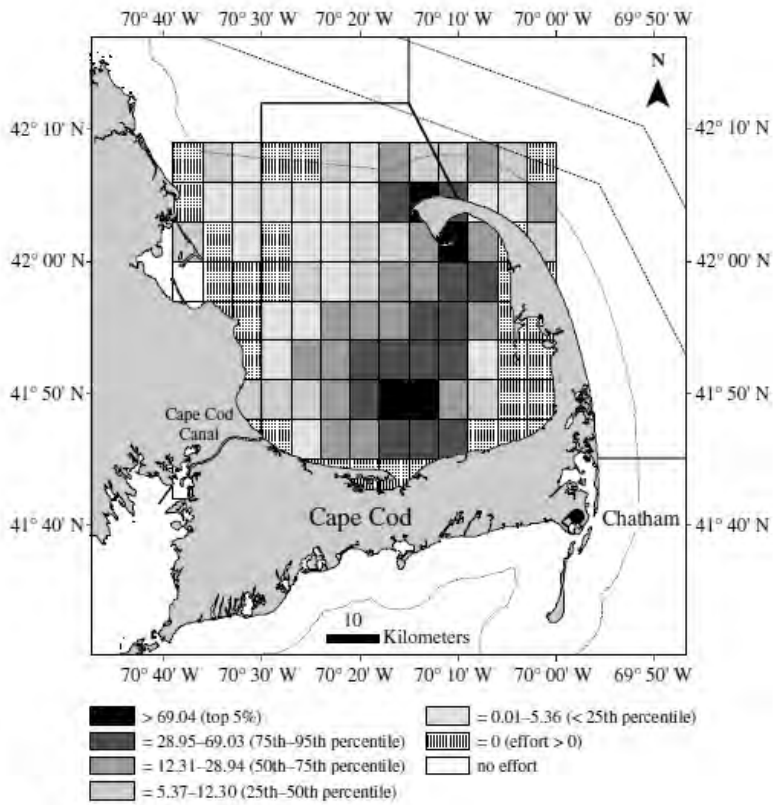
However, the Massachusetts restricted area closure should not be limited to just the area currently designated as critical habitat (Figure 1). In addition to the need to protect the western side of Cape Cod Bay, a 2008 study found that, a 2008 study found that there is no statistically significant difference in SPUE data for right whales between the areas inside the current Cape Cod Bay critical habitat and the areas to the east (P= 0.669) (Figure 2); therefore, sightings data indicate equally high presence of whales extending beyond the bay and along the outer Cape.[61]

Figure 1. North Atlantic right whale sightings recorded during aerial survey effort 1998-2002. Sightings extend outside the currently designated Critical Habitat. A sighting is defined as one or more whales observed at the same time and location.[62]



[61] Nichols, O.C., R.D. Kenney, M.W. Brown. 2008. Spatial and temporal distribution of North Atlantic right whales (Eubalaena glacialis) in Cape Cod Bay, and implications for management. *Fishery Bulletin*, 106(3), 270-280.
[62] *Id.*

Figure 2. Overall mean North Atlantic right whale sightings per unit effort, 1998-2002.[63]



The DEIS provides additional evidence supporting the need to include all of these high use waters. The adjusted co-occurrence scores in Appendix 5B-2 of the DEIS are elevated for this entire area as well, showing similar scores for inside Cape Cod Bay and along the backside of the Cape for at least the period of January through April.

As currently designated, protected areas and time are neither contiguous nor continuous, leaving gaps in protection. For example, the current Cape Cod Bay closure is instituted prior to protections in the Great South Channel or the back side of Cape Cod as though the whales don't have to traverse these waters to enter Cape Cod Bay when coming from the south, when clearly they do have to make this transit. NMFS must include the largest area of protection for this area as defined in Alternative 5, rather than continue to expose whales to elevated entanglement risk that results from gaps in the timing of non-continuous risk reduction measures.

4. Trawling Requirements

NMFS proposes to increase the minimum number of traps per trawl as a way to reduce the number of risk-prone vertical lines in the water column. Presumably, fewer lines will reduce encounter risk and thus the risk of death or serious injury. Clearly, however, this involves interplay of factors such as line strength, relative density of lines, whale behavior, and chance. We support the trawling requirements proposed in Alternative 5, even though other alternatives would require longer trawls and, presumably, result in fewer vertical lines in the water column.

[63] *Id.*

The DEIS acknowledges that, although preferred Alternative 5 does not result in the highest percent reduction of vertical line, it has the potential to result in the greatest reduction in co-occurrence scores. The lower scores in the preferred alternative are a consequence of presumed reductions in vertical line consequent to increased trawl length requirements that are combined with its having the largest areas with proposed seasonal closures. Prohibiting risk-prone gear in an area is the surest means of reducing entanglement risk. As posited in the DEIS, the greatest benefit would come from implementing seasonal closures that are more inclusive in size, in combination with increasing the number of traps per trawl in other areas or times.

Lastly, in its *Federal Register* notice, NMFS requests comments on whether the final regulations should be adjusted so that the number of traps per trawl is limited by specific vessel sizes.[64] NMFS has also requested comment on whether the net benefits of the rule would be affected by exempting vessels under a particular size class."[65]

Both of these proposals were raised by industry and/or state representatives to the take reduction team. They were not consensus recommendations by the team. The intent was to provide a smaller minimum trawl size for small vessels (for example allowing single pots or doubles instead of longer trawls). It is our understanding from discussions in the TRT that small vessels tend to operate closer to shore and the trawling requirements in nearshore waters are already proposed to be shorter lengths.[66] We do not support further reducing trawl lengths by way of exemptions for small vessels. The purpose of the proposed rule is to reduce the number of vertical lines in the water column. If NMFS allows singles and even shorter trawls, this changes the calculus of how many lines remain and thus it would affect NMFS's projections of risk reduction in a manner that has not been analyzed in the DEIS. We feel strongly that the net benefit of the rule would be reduced by altering minimum trawl lengths based strictly on vessel size and that vessels should not be exempted from risk reduction measures simply on the basis of their size class.

As described in the sections above, we strongly support the agency's proposal to reduce vertical line by requiring minimum traps per trawl and closures in the Northeast, as these measures are necessary to conserve both right whales and humpback whales and to meet the mandates of the ESA and MMPA. However, the agency's proposal is not sufficiently protective in several regards. The remainder of this comment describes those failings; we request that NMFS amend its current proposal and DEIS to further protect these endangered species.

D. Proposed Exemption Areas in Maine and New Hampshire State Waters Are Unwarranted

In its rule, NMFS proposes to retain the current exemption of approximately 70% of Maine's state waters from any gear modification requirements, an exemption to which we, as the TRT's conservation members, have long objected. Additionally, the preferred alternative would also exempt the state waters of New Hampshire from complying both with *new* gear measures

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[64] 78 Fed. Reg. at 42,658.
[65] *Id.*
[66] *Id.* at 42,667.

proposed in this rule *and* existing risk reduction measures required by the current TRP.[67] In proposing these exemptions – including waters that have been subject to risk reduction measures since 1998 – NMFS appears willing to accede to unacceptable levels of risk to both endangered large whales and sea turtles.

1. Exemptions Pose Elevated Risk to Sea Turtles

NMFS has failed to present sufficient information in the DEIS to analyze and explain the effects of its continuing exemption of Maine or its proposed exemption of New Hampshire state waters, with respect to impacts on endangered sea turtles, particularly leatherback sea turtles. As the DEIS acknowledges, NMFS has received reports of leatherback entanglements in lobster trap/pot buoy lines, gillnet buoy lines, and whelk trap/pot gear in waters from Maine to Virginia; indeed, leatherbacks may be attracted to buoys because of their resemblance to jellyfish, and/or because of other prey organisms that colonize buoys and ropes.[68]

The DEIS acknowledges that potential for adverse impacts to protected species from the expansion of exempted areas is likely to be the greatest for leatherbacks, particularly if they swim into shallow waters to pursue nearshore jellyfish.[69] Despite acknowledging that a large number of fishing vessels operate in exempted waters, particularly in New Hampshire, NMFS downplays the significance of these impacts by stating that only one leatherback entanglement was reported in New Hampshire waters between 2002 and 2011. Therefore, NMFS concludes "the likelihood of adverse impacts on leatherbacks is minimal."[70] But NMFS has not provided sufficient evidence in the DEIS to support this conclusion, an error that must be rectified in the Final EIS.

To begin with, because leatherback entanglements may be grossly underreported or never observed in the first place, NMFS cannot justify assuming that leatherback entanglements in exempted waters will not increase significantly, based solely on a single entanglement report in New Hampshire waters in a decade. This is especially true given the lack of observer coverage and a reliance on self-reporting in the lobster fishery. Nor may NMFS avoid its obligation to analyze the impacts of the ongoing exemption in Maine state waters on leatherback entanglements as part of its discussion of past and present impacts.

Furthermore, NMFS makes no attempt to quantify the occurrence of leatherbacks in existing or proposed exempted waters, through survey data, entanglement, or stranding reports, or any other data source. This quantification is critical not only to calculate impacts of current exempted Maine state waters on leatherback entanglements, but also to calculate the increase in potential entanglement rates assuming the number of fishing vessels exempted from protective gear requirements in New Hampshire state waters increases significantly, as predicted. In the absence of any quantitative analysis of leatherback presence during fishing seasons, NMFS has shirked its obligations to present an adequate analysis of the cumulative effects of exemptions in

[67] 78 Fed. Reg. at 42,656.
[68] DEIS at 5-31, 9-63.
[69] DEIS at 5-35, 8-3
[70] DEIS at 5-35.

state waters, and certainly cannot justify its conclusions that its proposed exemptions will have minimal impacts.

Finally, NMFS fails to mention, let alone discuss, scientific research about the effects of climate change and other environmental perturbations on surface water temperatures or on jellyfish populations and how these adverse effects would impact leatherbacks.[71] In New England waters, warmer surface waters and/or increased jellyfish populations may attract increasing numbers of leatherbacks for longer periods, thus increasing the risk of entanglements in proposed exempted areas. In its Final EIS, NMFS must integrate information about the potential effects of sea temperature rise and prey population increases, or distributional shifts on the presence of leatherbacks in state waters affected by current and proposed exemptions.

In sum, the DEIS's conclusion that the expansion of currently exempted waters will have minimal impacts to endangered sea turtles, particularly leatherbacks, lacks sufficient evidentiary support, thus preventing the public from being informed of the actual or likely significance of the impacts of each alternative. Although the ALWTRP proposed rule is intended (and necessarily so) to increase greatly-needed protections for critically endangered right whales and other ESA- and MMPA-protected whale species, NMFS cannot and must not avoid its statutory obligation to provide a thorough discussion based on high-quality information of the Alternatives' significant impacts to ESA-protected sea turtles, particularly endangered leatherbacks. NMFS must rectify this deficiency in the Final EIS.

2. Exemptions Pose Elevated Risk to Whales

In addition to unacceptably increasing entanglement risk for ESA-listed sea turtles, the proposed exemptions also sustain and increase risk for whales. Data cited in the co-occurrence model, information on the location of past entanglement of right whales, and the nature of risk in the water column all demonstrate these exemptions are risk-prone and violate the agency's duty under the MMPA to include measures that will reduce serious injury and mortality of right whales and humpback whales to below PBR, let alone ZMRG.

First, the waters proposed for exemption in both Maine and New Hampshire have similar co-occurrence scores to areas that the agency proposes to regulate, suggesting all areas share the

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[71] *See, e.g.*, Purcell, J. 2012. Jellyfish and ctenophore blooms coincide with human proliferations and environmental perturbations. Annual Review of Marine Science. Vol. 4: 209-235. Available at http://lgmacweb.env.uea.ac.uk/green_ocean/publications/annurev-marine-120709-142751.pdf. McMahon, C.R. and Hays, G.C. 2006.Global Change Biology. Vol. 12, Issue 7, 1330-1338. Thermal niche, large-scale movements and implications of climate change for a critically endangered marine vertebrate. Available at: http://www.researchgate.net/publication/227709584_Thermal_niche_largescale_movements_and_implications_of_climate_change_for_a_critically_endangered_marine_vertebrate/file/9fcfd50bfe0c486312.pdf Witt, M.J. *et al.* 2007. Prey landscapes help identify potential foraging habitats for leatherback turtles in the NE Atlantic. Marine Ecology Progress Series. 337: 231-243. Available at http://www.vliz.be/imisdocs/publications/231296.pdf Houghton, J.D.R. *et al.* 2006. Jellyfish aggregations and leatherback turtle foraging patterns in a temperate coastal environment. Ecology 87: 1967-1972. Available at: http://grizzlie.utm.utoronto.ca/~w3bio205/jellyfish_turtles.pdf

same level risk and should all be regulated.[72] For example, Appendix 5B-2 of the DEIS clearly shows that the adjusted co-occurrence scores for vertical lines (as depicted by color blocks) in much of Maine's exempted waters are identical to (and, in several summer and fall months, *higher than*) other areas where risk-reduction measures (e.g., trawling, weak links, etc.) are required. The agency provides no explanation for why Maine's waters should continue to be exempt. Further, in DEIS Appendix 5B-2 where NMFS provides the "Baseline Co-Occurrence Comparison of Combined Right/Humpback Whales," the color gradients in map blocks show monthly co-occurrence scores when the adjusted sightings (not solely SPUE data) are used. These adjusted co-occurrence scores in state waters of New Hampshire (proposed for exemption) and state waters of northern Massachusetts (which are not exempted) are the same for all but one month of the year (February). In eleven months of the year, Maine and New Hampshire share with northern Massachusetts the same color gradient (i.e., co-occurrence score 1-100) and thus would seem at equal risk. In fact, the maps provided in Appendix 5B-2 show that the co-occurrence score is actually *higher* in the proposed exempted waters of New Hampshire than it is in Massachusetts in the month of November, yet NMFS proposes to exempt New Hampshire waters without explanation of the incongruity.

Second, the exemption of Maine state waters is unwarranted and fails to sufficiently reduce entanglement risk. During its last ALWTRP amendments in 2007, NMFS attempted to justify its exemption of Maine's waters from sinking ground line requirements, in part, because NMFS believed whales merely transit the coastal waters of Maine and do not spend substantial amounts of time diving or feeding.[73] The agency therefore apparently believed floating groundline in these waters would not put whales at as great of a risk.

While we question the agency's assumption that transient whales are at less risk from floating groundline, the agency's reasoning certainly does *not* hold true for risk from vertical lines. Because females with calves tend to spend more time at or near the surface,[74] whales that transit the exempted areas are likely at greater risk from vertical lines than from floating groundlines. Any whale transiting a dense field of vertical lines and surface buoy systems faces risk regardless of its dive profile, and NMFS must be especially precautionary when it comes to protecting females with dependent calves, as these animals are necessary to ensure the future growth of the species. In depicting areas that may pose the greatest risk, the agency's co-occurrence model does not appear to have taken into account the difficulty inherent in

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[72] The agency also exempted Maine waters from ALWTRP risk reduction measures in 2007 because its review of sightings data through fall of 2005 indicated limited right whale presence in the exempted areas, although the agency acknowledged that "[o]nly a small amount of the overall effort from surveys occurred within Maine state waters."

[73] NMFS. 2007. Final Environmental Impact Statement for Amending the Atlantic Large Whale Take Reduction Plan. Broad Based Gear Modifications. National Marine Fisheries Service, Northeast Regional Office. Volume 1, Chapter 3 Available at: http://www.nero.noaa.gov/whaletrp/eis/Volume%20I/CHAPTER%203.0%20Regulatory%20Alternatives.pdf. Based on satellite telemetry data from a study by Baumgartner and Mate NMFS concluded "that right whales typically do not spend substantial amounts of time in the coastal waters of Maine. Rather, they appear to move into Maine state waters briefly." *Id.* at 3A-3.

[74] Baumgartner, M. and B. Mate. 2003. Summertime foraging ecology of North Atlantic right whales. Marine Ecology Progress Series. 264:123-135. Available at: http://www.whoi.edu/cms/files/m264p123_59393.pdf

documenting transiting whales with limited survey efforts, nor the higher risk whales face from transiting a very dense field of vertical lines in nearshore and inshore waters.

Third, other sources of data indicate that right whales may be expected to use the waters inside the exemption lines for Maine and proposed for New Hampshire. For example, data from the fishery-related Dynamic Area Management (DAM) program and the vessel-related DMA program between 2002 and 2011 clearly illustrate risk extending well into waters proposed for exemption from this rule.[75] As can readily be seen in Asaro,[76] areas of DMAs and DAMs repeatedly extend into Maine and New Hampshire and other areas that NMFS claims are lower risk areas for right whales (Figures 3 and 4). The intent of setting DMA/DAM boundaries beyond the initial sighting itself was to "encompass the movements of right whales during the entire course of that event."[77] This means, in essence, that NMFS expects a whale may roam within the DAM/DMA area's confines for at least a two week period. By putting in place the many DMA/DAM zones off the coast of New Hampshire and Maine, NMFS acknowledges that there is a reasonable expectation that right whales would be within these waters (i.e., in the proposed exempted area). However, nowhere in the DEIS chapters on the Affected Environment or the Biological Impacts does NMFS even mention the imposition of DMA/DAMs and why consideration of the waters and boundaries that are protected in these risk-reduction actions is not relevant for consideration in this rulemaking.

[75] Asaro, M.J., 2012. "Geospatial analysis of management areas implemented for protection of the North Atlantic right whale along the northern Atlantic coast of the United States." Marine Policy (36) 915–921 http://www.sciencedirect.com/science/article/pii/S0308597X1200005X

[76] *Id.*

[77] Clapham, P.J. and R.M. Pace. 2001. Defining Triggers for Temporary Area Closures to Protect Right Whales from Entanglement: Issues and Options. NMFS. NEFSC Reference Document 01-06. 28 pp.

Figure 3. (From Asaro 2012). Locations of DAM and DMA zones for right whales, April 2002-June 2011.

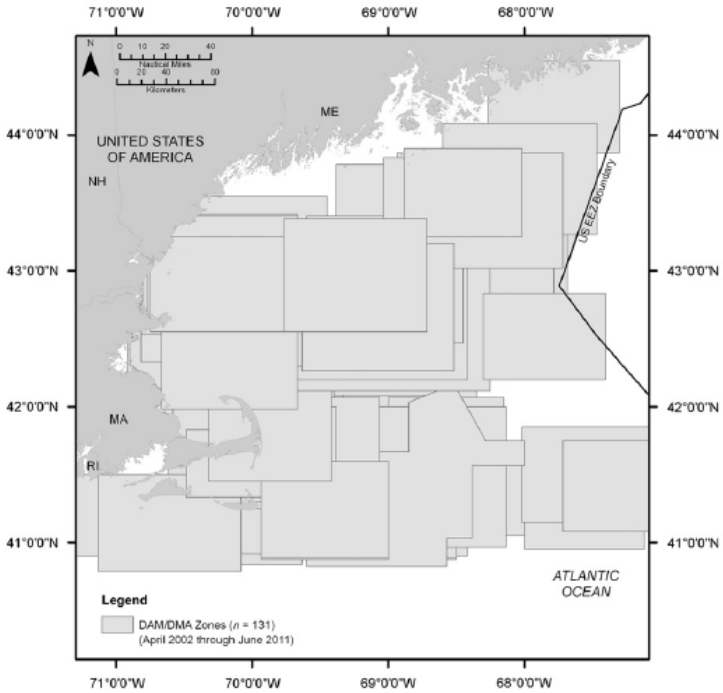
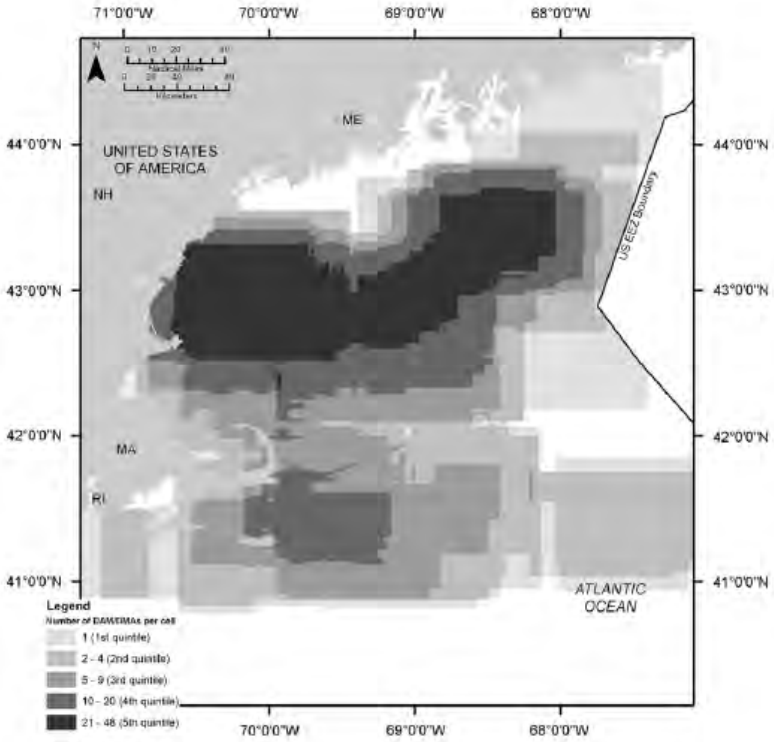


Figure 4. (From Asaro 2012) DAM and DMA densities per 1-minute square cell in waters off northeastern US.



In proposing the exempted areas, NMFS also does not discuss information regarding whales known to have been entangled in Maine or entangled in gear likely to have come from Maine. Between 2002 and 2005, for example, lobster gear from Maine accounted for 23% of all large whale entanglements, the single largest source of all entangling gear where the origin could be determined.[78] Between 1997 and 2005, 37% (3/8) of reported right whale entanglements involved Maine lobster gear.[79] Since 2009, very little information on gear collected from entangled whales has been provided to the TRT. However, a dead stranded right whale in February 2011 was entangled in floating groundline. Although the location of its original entanglement is not known, under the existing TRP, floating groundline was banned in the U.S except for an exempted area that comprises 70% of Maine's state waters. Given the longstanding problem of entanglement in lobster gear originating in Maine, it is not clear why NMFS believes that this area should be exempted from risk reduction measures.

Additionally, the proposed exemption for New Hampshire not only exempts the area from currently proposed risk reduction measures, but would also remove gear modification requirements that have been in place since the inception of the first TRP in 1997.[80] That rulemaking instituted seasonal requirements for the modification of both lobster and gillnet gear in Northern Inshore state waters, including most of New Hampshire state waters. Despite being mandated for over 15 years, weak links and sinking groundline will no longer be required in New Hampshire state waters. This is an unconscionable rollback of protections, particularly since NMFS has little to no information on the origin of entanglements and the available information, including information provided in the DEIS, indicates that the exempted waters of New Hampshire do not show significantly different in risk potential (i.e., adjusted co-occurrence scores) than the waters of northern Massachusetts where regulation will be required.[81]

We believe that the continued exemption of Maine state waters and this proposal to also exempt the state waters of New Hampshire are arbitrary, unjustified, and entirely unwarranted. The exemptions do nothing to decrease vertical line risk, and the New Hampshire exemptions actually *increase* risk to endangered whales and sea turtles in direct contravention of the agency's duties under the ESA and MMPA. We request that NMFS amend the proposed rule to require risk reduction measures in Maine and New Hampshire waters currently proposed for exemption.

E. Additional Risk-Reduction Measures Are Needed in the Mid-Atlantic

Other than required gear marking, for the mid-Atlantic, NMFS proposes only monitoring of interactions and outreach to the commercial fisheries, but no substantive risk reduction measures. 78 Fed. Reg. at 42,657. The lack of any proposed risk reduction for this area is unacceptable. As we discuss in detail below, the mid-Atlantic is a seasonal high use area for humpback whales and is subjected to only sparse systematic survey effort.[82] Additionally, the

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[78] NMFS 2007. Preliminary Summary of NMFS Gear Analysis for Entangled Large Whales for the years 1997-2007 by species. Provided to the Atlantic Large Whale Take Reduction Team on April 28, 2008.
[79] *Id.*
[80] 62 Fed. Reg. 39,157 (July 22, 1997).
[81] DEIS at Appendix 5B-2.
[82] *See, e.g.*, DEIS at Appendix 5A.

agency relies solely on SPUE scores for estimating risk and fails to provide adjusted co-occurrence scores for this area, as it did for the Northeast in subsequent appendices. The recent increases in spiny dogfish and black sea bass quotas are likely to increase effort beyond what was considered in the model. This in turn will result in increased risk to whales transiting or seasonally residing in the waters of the mid-Atlantic.

F. Additional Risk-Reduction Measures Are Needed in the Southeast

The agency's proposal and DEIS fails to adequately address ongoing entanglement risk in the Southeast. The agency proposes the same measures for the Southeast in each of its alternatives, which would include three different trap/pot gear requirements within the same habitat. The NMFS proposal would establish a weak link breaking strength of 600 pounds in the state waters of Georgia and South Carolina, a 200-pound weak link breaking strength in Florida state waters, and a 600-pound breaking strength in the federal waters off all three states. Further, NMFS proposes to establish a vertical line breaking strength of 2,200 pounds in the state waters of Georgia and South Carolina, a 1,500 pound breaking strength for line in Florida state waters and, 2,200 pounds in Federal waters off all three states. This patchwork of requirements within the currently designated critical habitat, which includes state waters off Georgia and Florida as well as federal waters off Florida, is inconsistent and arbitrary.

First, as NMFS acknowledges, the proposed measures largely adopt the existing status quo, so the measures offer no reduction in entanglement risk. Further, although the DEIS attempts to rationalize this patchwork of different requirements by stating that the lower breaking strength in Florida would protect "neophyte" calves, these same "neophytes" are born further to the north,[83] where breaking strengths are far higher (and presumably create higher risk). In addition, NMFS cites Keller et al. (2012) in stating that the lower breaking strengths in Florida state waters are justified because mothers and calves are most often sighted in 10-20 meter depths, which is a depth common in Florida state waters but not Georgia/South Carolina.[84] NMFS does not explain why the Federal waters requirements mirror those of Georgia and South Carolina rather than the more appropriate, and more conservative, Florida breaking strengths. The same Keller et al. (2012) paper that NMFS cites as justifying different requirements for various state waters appears to show that the *same* ideal depth found in Florida state waters (i.e., 10-20 meters) is *also* found in federal waters extending out to the eastern most extent of the current critical habitat, 15 or more miles offshore of *both* Florida and Georgia.[85] The most risk-averse proposal (i.e., 200-pound weak link breaking strength and 1,500 pound vertical line breaking strength) should be adopted for the entire critical habitat if not for the entire Southeast restricted area.

Additionally, NMFS proposes no closures for the Southeast, even though co-occurrence scores in some areas of the Southeast are the same as areas proposed for closure in the Northeast. For example, NMFS proposes to close Cape Cod Bay to trap/pot fishing in January and February

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[83] Waring et al., 2013

[84] Keller, C., L. Garrison, R. Baumstark, L. Ward-Geiger, and E. Hines. 2012 Application of a Habitat Model to Define Calving Habitat of the North Atlantic Right Whale In The Southeastern United States. Endangered Species Research 18. 73-87. July 30, 2012

[85] *Id.* at Figure 1.

based on co-occurrence scores shown in Appendix 5-A of the DEIS that are the same as those same months in portions of Southeast Critical Habitat, in which black sea bass and other trap/pot gear will continue be allowed. Since NMFS proposes to close critical habitat to trap/pot fishing in the Northeast, it makes no sense to allow trap/pot in the Southeast Critical Habitat where calves are younger and smaller and at greater risk.

We are particularly concerned about the failure to more fully address vertical line risk in the Southeast in light of the likely increase effort in the black sea bass fishery – an increase that was not considered in the DEIS.[86] Amendment 19 to the Snapper Grouper Fishery-Management Plan dramatically increased the black sea bass annual catch limits, but at the time of adoption, prohibited commercial black sea bass pots from November 1 to April 30, during high use times for North Atlantic right whale mothers and their newborns.[87] In adopting the seasonal closure, NMFS acknowledged the entanglement risk posed by trap/pot vertical lines and stated that the "prohibition would be a precautionary measure to prevent interactions between black sea bass pot gear and whales during large whale migrations and during the right whale calving season off the U.S. southeastern coast."[88] We strongly support this seasonal closure, as it is necessary to prevent entanglement risk to North Atlantic right whales in the calving grounds that extend from Florida into North Carolina.[89]

However, fishery management plans are notoriously subject to additional amendments that can remove measures necessary for conservation of endangered marine mammals and other protected species. In fact, just one month after approving a seasonal closure to commercial trap/pot gear, the announcement of the upcoming meeting of the South Atlantic Fishery Management Council states that the Council will address a proposed "Regulatory Amendment 16, pertaining to the *removal* of the [seasonal] prohibition of Black Sea Bass pots.[90] NMFS simply cannot allow the increased effort and increased risk that are likely due to the increased black sea bass quota under Amendment 19. We strongly recommend that NMFS adopt the black sea bass seasonal closure currently required under Amendment 19 as part of the current ALWTRP vertical line rule throughout the Southeast U.S. Restricted Area, an area that is already closed to gillnet fishing.

G. Additional Measures Are Necessary to Reduce Entanglement of Humpbacks

As the agency acknowledges in its proposed rule, the ALWTRP "is designed to protect three endangered species – the western North Atlantic stock of right whales, the Gulf of Maine stock of humpback whales, and the western North Atlantic stock of fin whales" from fishing gear entanglement.[91] We do not dismiss the urgent need to protect North Atlantic right whales, a species with a minimum population estimate of only 450 animals.[92] However, NMFS's

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[86] This is also discussed in greater detail below in the section of our comments addressing deficiencies in assessing Cumulative Impacts.
[87] 78 Fed. Reg. 39,700 (July 2, 2013).
[88] *Id.* at 39,701
[89] Waring et al. 2013
[90] 78 Fed. Reg. 52,506 (Aug. 23, 2013) (emphasis added).
[91] Waring et al. 2013.
[92] *Id.*

proposed ALWTRP amendments focus on benefits to critically endangered North Atlantic right whales, largely overlooking the serious entanglement risk to Gulf of Maine humpbacks that remains.

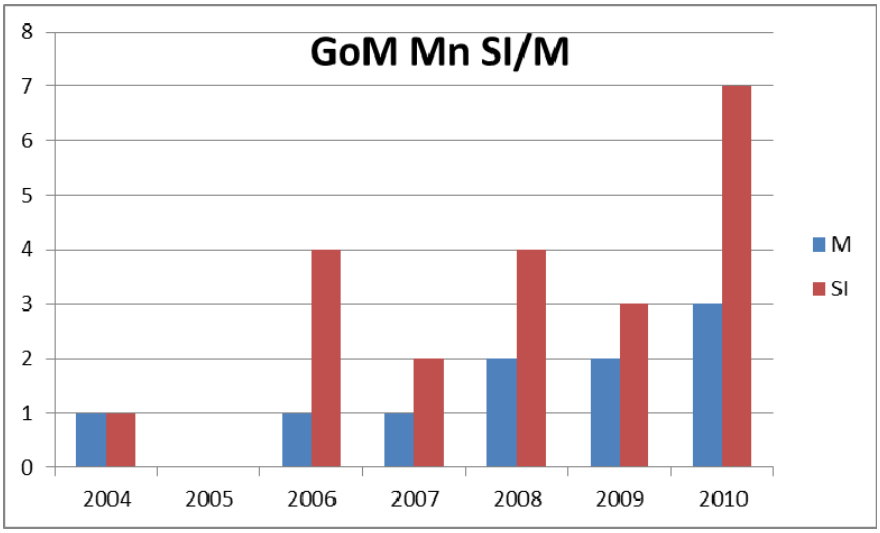
Both right whales and the Gulf of Maine humpback stock continue to suffer serious injury and mortality in excess of their PBR. As is the case with North Atlantic right whales, not all dead humpbacks are likely to be found. NMFS acknowledges in the stock assessment report that serious injury and mortality from U.S. fishing gear for Gulf of Maine humpbacks is a minimum estimate, but, even so, is still more than twice their allocated PBR. The NMFS data on cause of death were undetermined in over 82% (n=98/119) of humpback mortality cases.[93] When carcasses were examined, 43% were attributed to entanglement and 48% to vessel strikes.[94] If these ratios are consistent and are applied to the carcasses that were not examined, an additional 42 humpback whales may have died as a result of entanglement between 2006 and 2010. Further, NMFS indicated an additional 13 humpback entanglements during this time period would have resulted in serious injury if the whales had not been disentangled.[95] Therefore, as many as 64 humpbacks, nearly 13 cases per year, may be viewed as having been seriously injured or killed as a result of entanglements during this period. This is more than four times PBR (n=2.7) and more than twice what is currently reported from U.S. fisheries alone (n=5.2). Since as few as 7% of entanglement cases are witnessed,[96] it is highly likely that the number of serious injury and/or mortality cases is significantly higher than reported in the SAR (Table 2). Even without these additional data on carcasses that remain unexamined, NMFS's own data show a clear increase in serious injury and mortality for this stock is occurring (Fig. 5).

Table 2. Comparison of North Atlantic right and humpback whale Serious Injury and Mortality from the 2012 Stock Assessment Report[97]

2012 SAR	NA right whale	Humpback (Gulf of Maine)
Est. pop.	425	823
PBR	0.9	2.7
Avg fishing SI/M	1.8 (1.6 US)	5.8 (5.2 US)

[93] Henry, A.G., T.V. Cole. M. Garron, L. Hall, W. Ledwell, and A. Reid. 2012. Mortality and serious injury determinations for baleen whale stocks along the Gulf of Mexico, United States east coast and Atlantic Canadian provinces, 2006-2010. US Dept Commerce, Northeast Fish Sci Cent Ref Doc, 12-11.
[94] *Id.*
[95] *Id.*
[96] Robbins. J. 2012. Scar-based inference into Gulf of Maine humpback whale entanglement: 2010. Report to the National Marine Fisheries Service. Order number EA133F09CN0253.
[97] Waring et al. 2013.

Figure 5. Serious Injury and Mortality of humpback whales between 2004 to 2010[98]



The Gulf of Maine humpback stock is reportedly increasing but, at the same time, NMFS acknowledges that studies on its population growth are conflicting.[99] A 1997 study estimated the population growth rate of the Gulf of Maine humpback whale stock at 6.5%,[100] yet an updated analysis indicated that the growth rate was between 0-4%.[101] NMFS appears to dismiss these data because they did not match with the confidence interval of the previous study and defaults to a growth rate of 6.5%, "despite the uncertainty accompanying the more recent estimates of observed population growth rate for the Gulf of Maine stock."[102] Furthermore, calving rates may not reflect the actual growth rate for the population as juveniles are significantly more likely to become entangled and have a lower survival rate from entanglement than adults.[103] The loss of these animals from the potential future recruitment to the population is difficult to quantify but cannot be ignored.

Because the take from the Gulf of Maine humpback stock is over the PBR, and because trend data are equivocal, we believe humpbacks require similar protection from sources of anthropogenic injuries and mortalities as North Atlantic right whales. Despite ongoing humpback mortality, the major mitigation measures put forward in the proposed rule only incidentally protect humpback whales in the Gulf of Maine and do nothing to protect humpback whales in the mid-Atlantic, an area of increasing use for this species.

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[98] Waring et al. 2011; Waring et al. 2012; Waring et al. 2013.
[99] *Id.*
[100] Barlow, J. and P.J. Clapham. 1997. A new birth-interval approach to estimating demographic parameters of humpback whales. Ecology 78:535-546.
[101] Clapham, P.J., J. Barlow, T.Cole, D. Mattila, R. Pace, D. Palka, J. Robbins, and R. Seton. 2003. Stock definition, abundance and demographic parameters of humpback whales from the Gulf of Maine. J. Cetacean Res. Manage 5:13-22.
[102] Waring et al. 2013.
[103] Robbins 2012.

Under NMFS's Preferred Alternative 5, seasonal closures are in areas where humpbacks are known to occur but not during times when they are most abundant and would benefit from the measures. For example, the proposed closures of Jordan Basin (November 1-January 31), Jeffreys Ledge (October 1-January 31) and Cape Cod Bay (January 1- April 30) occur primarily during the winter months when most humpbacks have migrated south to their breeding areas.

Furthermore, we are particularly concerned for humpbacks in the mid-Atlantic where they occur with greater frequently than the NMFS broad scale data currently show.[104] NMFS proposes no measures to reduce risk in the mid-Atlantic and instead only proposes public outreach, monitoring, and a gear marking scheme. While NMFS acknowledges that the waters of the mid-Atlantic are used as a wintering area for humpback whales,[105] the broad scale surveys conducted by NMFS inadequately reflect the increasing use of this habitat by this species. No humpback whales and no near shore sightings of any large whale were recorded during NOAA's 2010 or 2011 AMAPPS surveys of the mid-Atlantic (NOAA 2010, NOAA 2011). Yet sightings of humpback and fin whales were documented by opportunistic platforms in the mid-Atlantic in 2010.[106] Large whale sightings in the mid-Atlantic have been documented during summer, fall, and winter months, and include numerous individuals identified to the Gulf of Maine (Figure 6, Table 3).[107]

Although the DEIS provided adjusted co-occurrence scores for the Northeast in Appendix 5B that incorporated data other than SPUE data, it made no attempt to do so for the mid-Atlantic. This should be corrected to better account for areas with minimal to no systematic survey effort. While management measures designed to protect North Atlantic right whales may provide some coincidental protection to other whales in the mid-Atlantic, NMFS must consider effective management measures for this area.

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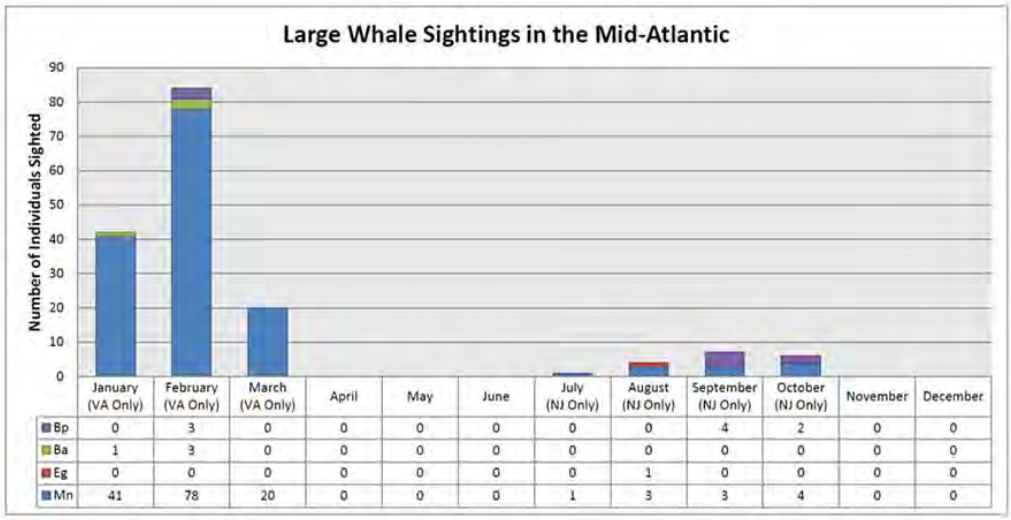
[104] Asmutis-Silvia, R., M. Pepe, and J. Bort. 2012. Whale Watching in the Mid-Atlantic: A Data Rich Resource. 2012. Report to NOAA's Fisheries Northeast Region Program Office (NERO), 55 Great Republic Drive, Gloucester, MA 01930. Award Number NA11NMF4720240. 113pp.
[105] Waring et al. 2013.
[106] Asmutis-Silvia et al. 2012.
[107] *Id.*; Barco, S.G., W.A. McLella, J.M. Allen, R.A. Asmutis-Silvia, R. Mallon-Day, E.M. Meagher, D.A. Pabst, J. Robbins, R.E. Seton, W.M. Swingle, M.T. Weinrich and P.J. Clapham. 2002. Population identify of humpback whales (Megaptera novaeangliae) in the waters of the U.S. mid-Atlantic states. J. Cetacean Res. Manage. 4(2):135-141.

Figure 6. Mid-Atlantic large whale sightings 2011 and 2012.[108]



	January (VA Only)	February (VA Only)	March (VA Only)	April	May	June	July (NJ Only)	August (NJ Only)	September (NJ Only)	October (NJ Only)	November	December
Bp	0	3	0	0	0	0	0	0	4	2	0	0
Ba	1	3	0	0	0	0	0	0	0	0	0	0
Eg	0	0	0	0	0	0	0	1	0	0	0	0
Mn	41	78	20	0	0	0	1	3	3	4	0	0

While the DEIS acknowledges that the original location of entanglements is often unknown, entangled animals have been reported in the mid-Atlantic and Southeast regions of the U.S. (Table 4). Furthermore, a review of entanglement cases reported to the Atlantic Large Whale Disentanglement Network demonstrate that a number of the cases reported in these areas involve gillnet gear (Table 5), a gear type not even considered in this proposed rule. The failure to consider this significant source of entanglement and death in humpbacks is discussed further below.

[108] Pepe, M., J. Bort, G. Lockhart, S. Barco, and R. Asmutis-Silvia. 2013. Can Platforms of Opportunity in the mid-Atlantic be Used to Supplement Broad Scale Survey Data? Poster session presented at: The 2013 Southeast and Mid-Atlantic Marine Mammal Symposium (SEAMAMMS); 2013 March 22-24; Jacksonville, FL.

Table 3. Identified Gulf of Maine humpbacks sighted in the mid-Atlantic (2012) from Asmutis-Silvia et al. (2012).[109]

Name	Year 1st Seen	Year of Birth	Mother	Residency in VA	Residency in NJ	Sightings in Gulf of Maine 2012
Batcave's 2010 Calf	2010	2010	Batcave	7 days	1 day	
Woodpecker	2008	n/a	n/a	n/a*	n/a	April
NAHWC #7621**				1 day	n/a	
Embroidery	2010	n/a	n/a	1 day	n/a	
Knuckles' 2010 calf	2010	2010	Knuckles	n/a*	n/a	
Diablo's 2006 calf	2006	2006	Diablo	21 days	n/a	
Labyrinth	2008	2008	Baja	43 days	n/a	May
JT	2009	n/a	n/a	1 day	n/a	
Hippocampus	2009	n/a	n/a	42 days	n/a	
Fingerpaint	2004	n/a	n/a	1 day	1 day	
Leukos' 2010 calf	2010	2010	Leukos	34 days	n/a	
GoM Unknown #1017	2010	n/a	n/a	15 days	n/a	

Table 4. Entangled humpback and NA right whales documented in the mid-Atlantic and Southeast Regions since 4-5-09.[110]

	Eg	Mn
Mid-Atlantic (NJ-NC)	3	8
SE (SC-FL)	7	2

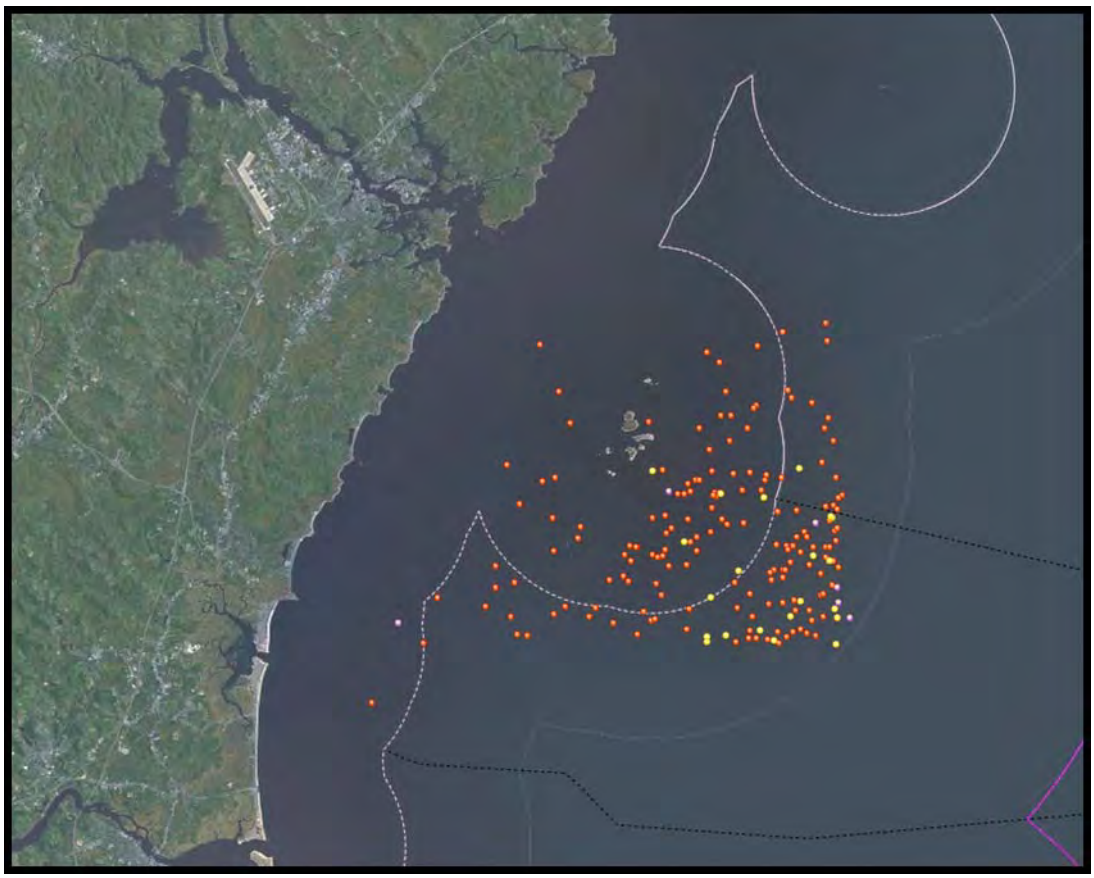
Table 5. Review of ALWDN database since 4-5-2009.[111]

	Eg	Mn	Locations
Definite gillnet	7	3	Eg: MA, GA, FL Mn: MA, VA, NC
Possible gillnet	1	3	Eg: FL Mn: MA, FL
Total entanglements	25	76	

[109] Asmutis-Silvia et al. 2012.
[110] Data from Atlantic Large Whale Disentanglement Network database, accessed September 2013.
[111] *Id.*

As discussed further below, NMFS should propose measures to reduce risk of entanglement in gillnets, a gear type historically found more often on entangled humpbacks, but increasingly impacting right whales as well.[112] Similarly, we are confounded that NMFS would arbitrarily remove all risk reduction measures intended to protect whales in the proposed exempted waters off New Hampshire, particularly given the well-documented presence of large whales in the area. Opportunistic data provided by the Blue Ocean Society demonstrates that large whales, including humpback whales and finback whales are not uncommon New Hampshire state waters (Figure 7).

Figure 7. Sightings of humpback whales (yellow), finback whales (orange) and NA right whales (purple) in NH coastal waters 2005-2013.[113]



In short, we believe that the lack of risk reduction afforded to humpback whales in the proposed rule violates NMFS's statutory obligation to implement both the MMPA and ESA protections for this stock.

[112] Johnson, A., G. Salvador, J. Kenney, J. Robbins, S. Kraus, S. Landry, P. Clapham. 2005. Fishing gear involved in entanglements of right and humpback whales. Mar Mamm Sci 21:635−645.
[113] Data courtesy of Blue Ocean Society, unpublished. Mapped in ArcMap.

H. Need to More Fully Address Risk from Gillnets

NMFS's proposed rule does little to address risk from gillnet gear. Gillnet gear continues to entangle and kill large whales, including both right whales and humpback whales, and is the gear type more often found on entangled humpbacks.[114] NMFS has not – but should – propose measures to reduce risk of entanglement in gillnets.[115] We appreciate the difficulty faced by the gillnet fishing industry in reducing the number of endlines with which they fish, but we also believe it is irresponsible for NMFS to ignore the risk posed by this fishery to North Atlantic right whales and humpback whales in the Gulf of Maine and mid-Atlantic regions. For example, the agency does not even consider applying the Northeast closures to gillnet fisheries, and instead only proposes to close trap/pot fisheries during the times with higher co-occurrence scores.[116] We request that the agency fully evaluate an alternative that considers the vertical line reduction benefits of closing the same Northeast areas to gillnet fishing and further adopt additional measures to reduce entanglement risk from gillnet gear.

I. Proposed Gear Marking Is Inadequate

We find the gear-marking scheme proposed under all alternatives insufficient and unlikely to meet the information needs of the scientists, fishermen, and NMFS alike. Without additional gear marking or a greater frequency of marking for longer length vertical lines, the proposed gear marking measures are likely to provide only limited information about location of entanglement, particularly in the Northeast. Therefore, in addition to the current proposal for gear marking under Alternatives 2 through 6, we recommend additional colors be added to differentiate between Lobster Management Areas and regions, and additional mid-line markings be required for vertical line greater than 130 feet in length.

As we have described, entanglement remains a major concern for Atlantic large whales. It is now estimated that more than 82.9% of right whales have been entangled at some point in their lives, [117] and a study of entanglement-related scarring on humpback whales in the Gulf of Maine estimated that between 48% and 65% had experienced entanglements.[118] Yet, for recorded large whale entanglements from 1997 to 2008, the type of fishery and location where the gear was set was only able to be determined for 15% of all cases.

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[114] Draft Gillnet BiOp at 258; *see also supra* Table 4.

[115] Johnson, A., G. Salvador, J. Kenney, J. Robbins, S. Kraus, S. Landry, P. Clapham. 2005. Fishing gear involved in entanglements of right and humpback whales. Mar Mamm Sci 21:635−645.

[116] *See* 78 Fed. Reg. at 42,655 ("NMFS decided to narrow the scope of the proposed rule to focus on the reduction of vertical lines from trap/pot gear instead of both trap/pot and gillnet gear").

[117] Knowlton et al. 2012.

[118] Robbins, J. and Mattila, D.K. 2001. Monitoring entanglements of humpback whales (*Megaptera novaeangliae*) in the Gulf of Maine on the basis of caudal peduncle scarring. Unpublished report to the Scientific Committee of the International Whaling Commission: SC/53/NAH25; NOAA Fisheries. (2012). North Atlantic Right Whale (*Eubalaena glacialis*): Western Atlantic Stock. *U.S. Atlantic and Gulf of Mexico Marine Mammal Stock Assessments - 2012*. Available at: http://www.nmfs.noaa.gov/pr/sars/pdf/ao2012.pdf

While we support the extension of gear mark length from 4" to 12", and inclusion of unique color markings for the Southeast Restricted Area North as currently proposed by NMFS, additional gear marking colors are needed to better differentiate location of entanglement. This is particularly true for the Northeast and Lobster Management Areas (LMA) 1 through 3, where data have shown the greatest amount of trap/pot fishing effort and highest levels of co-occurrence. Without further adjustment of color marking, the ability of the TRT and NMFS to make informed decisions about the effectiveness of rules and to adjust or modify regulations to better target high risk areas will be extremely limited. It is therefore in the best interests of the agency and fishermen to include additional color markings at the very least color coded by LMA in the Northeast, and by region for the mid-Atlantic and Southeast, so it can be tracked where entanglements are occurring. While the agency rejected consideration of alternatives that would require gear marking by state or fishery, finding this would be "too complex and require undue hardship,"[119] this same rational is not equally defensible for gear marking according to LMA or region. In our February 3, 2012 comments, we submitted a detailed, recommended color marking scheme and have included that proposal as Appendix A to these comments.

Although we are opposed to exemptions for Maine and New Hampshire state waters, if these exemptions are extended and included in the final vertical line rule, we strongly support the requirement for a unique identifier in these areas. The large number of vertical lines (more than 50% of all recorded vertical lines in the Northeast region exist in current Maine exempt waters) suggests that risk exists and additional monitoring through gear marking is warranted.

To maximize the probability that recovered line will contain a colored mark, frequency of gear marking should not be determined arbitrarily but should instead be based on length of line previously recovered. So while we support the addition of new markings at top and bottom, we believe a single midpoint marking will be insufficient, particularly for line of 130 feet or greater, and therefore recommend additional markings be required for lines of greater length.

As described in our previous comments dated February 3, 2012, we analyzed recovered gear line lengths from 28 entanglement events, reported in NMFS's annual Large Whale Entanglement and Ship Strike Reports between 2005 and 2009, and we were able to calculate the probability that recovered line will contain a mark (Table 6, see Appendix B for full analysis). For example, a 100 foot long vertical line marked at top, middle, and bottom (i.e. a 50 foot marking interval) would have an 80% chance of containing an identifying mark. For longer lines, these probabilities fall to 65% for 200 foot line, and less than 50% for 400 foot or longer vertical line.

[119] DEIS at 3-24.

Table 6. Probability that recovered line will contain a mark for different marking intervals

Marking interval (ft)	Probability that recovered line will contain a mark
20	0.92
30	0.88
40	0.84
50	0.80
60	0.77
70	0.73
80	0.71
90	0.68
100	0.65
150	0.56
200	0.49

We support more frequent gear marking, as it would increase the probability of recovering gear with markings. We believe 75% probability is a reasonable goal that balances the need for better data and the economic impact additional marking will incur upon fishermen. To achieve this target, marking at the top, middle, and bottom will be insufficient for any deployed vertical line greater than 130 feet in length (i.e. greater than a 65 foot marking interval); we encourage additional markings midway on these longer lines. Without data on average length of line deployed, we are unable to make exact recommendations for number of midway markings to achieve this target, but encourage the agency to use data available to it along with the above probability analysis to make this determination.

To achieve targeted spatial and temporal regulations with the biggest impact, the TRT, the agency, and fishermen need more information about what type of gear is entangling these whales and where they are being entangled. Improvements to frequency and color of gear marking are important not only for the U.S., but also for differentiation of entanglements occurring in U.S. versus Canadian waters. The U.S. has made great strides to develop new regulations to reduce impacts on large whales, but if we are unable to distinguish U.S. gear from Canadian gear, our ability to gauge the impact of our regulations will be limited. Therefore, we encourage NMFS to include additional gear marking for fisheries, particularly in the Northeast, with additional marks for line over 130 feet in length.

Lastly, because improved gear marking should lead to better data on when, where, and why entanglements occur, we also encourage the agency to produce more robust annual monitoring reports. We also ask that a full five year report be completed and made available to the public in advance of the final rulemaking in 2014, as the sinking groundline rule will have been in place for five years. A full report could assist managers, fishermen, and conservation groups to better understand the impact of the current regulations and, therefore, better inform decisions for the current proposed regulations.

J. Co-Occurrence Model Problems

In the proposed rule, NMFS states that the co-occurrence model "is an integral component of the vertical line strategy."[120] In assessing the risk reduction benefit of proposed management actions NMFS relies largely on the model for evaluation. For example, the agency proposes to exempt New Hampshire state waters from many of the Plan requirements based solely on co-occurrence scores.

Given the prominent role the model is assigned in the NMFS decision-making and evaluation process, it is critical to examine the robustness of the model design. We have serious concerns regarding the adequacy of the current version of the co-occurrence model and point to alternate approaches that would provide more accurate guidance. We appreciate that NMFS is working with imperfect data and that the agency acknowledges in the model documentation the data limitations, assumptions, and sources of uncertainty in the model. However, the agency makes no attempt to further discuss the consequences of these limitations or describe how they likely affect model output. Additional data and new approaches must be employed to strengthen the accuracy of the co-occurrence model and more information provided concerning the areas and time periods most impacted by insufficient data.

1. Concerns Regarding the Co-Occurrence Model and Other Data

a. Lack of Up-to-Date Data

The co-occurrence model is based on data that are already outdated. The data on federally permitted fisheries are only current through 2011; for state fisheries they are available only through 2010 or 2011, depending upon the state, and data on systematic sightings surveys for whales are only updated through May of 2010.[121] These data sets already lack new information on whale distribution, including a large right whale aggregation south of Cape Cod in 2011, and significant numbers of right whales – including a documented birth – utilizing waters on the western side of Cape Cod Bay in the spring of 2013 (an area that is not currently subject to restrictions for the rest of Cape Cod Bay and would be left unprotected under some proposed alternatives in this rulemaking).

b. Failure to Collect Sufficient Fishery Data

Given that entanglement involving trap/pot and gillnet fisheries has long been an important conservation issue, it is inexplicable that more effort has not been made to collect comprehensive spatial and temporal data regarding fishing activity. Most of the available fishery data are woefully inadequate for the quantification of a whale interaction risk model. The model developers have made skillful use of the available data, but have been forced to rely on unverified assumptions regarding the timing, location, and gear configuration of fishing operations.

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[120] 78 Fed. Reg. 42,654 (July 16, 2013).
[121] *Id.*

NMFS must mandate timely and uniform reporting requirements for all states, including at a minimum: (1) quantifying the number of traps (or nets) fished, (2) the type and amount of line being used, (3) information on the type of gear used, (4) the configuration of pots or nets (e.g., how many per string or trawl), and (5) a uniform measure for effort and location of fishing. The lack of uniform data across states has been the subject of much debate in the take reduction team, with some states (e.g., Massachusetts) requiring a great deal more reporting and more data than others (e.g., Maine). For example, in the Southeast, we note that tables in Chapter 9 of the DEIS, which provide information on 2011 landings by state, lack landings data for Georgia.[122] Without uniformity in reporting, monitoring changes in the number of vertical lines and changes in fishing effort and spatial distribution will continue to confound managers.

Unlike the collection of whale data, which requires expensive shipboard, aerial, or acoustic monitoring, data on the location of fishing activity requires minimal time and equipment investment. In most locations along the eastern seaboard, cellular network access extends a few miles offshore, allowing fishermen to use basic smartphone technology to record fishing location data. Most offshore fishers already have vessels equipped with more sophisticated GPS equipment to mark gear location and keep records of past fishing success. Comprehensive gear data would dramatically improve model quality and allow for validation testing. In Canada, where similar trap and gillnet fisheries operate, fishers report on fishing activity in far more detail.[123] This has allowed the Canadians to develop detailed co-occurrence risk models for use in fisheries management.[124] The state of Massachusetts already collects far more comprehensive data than neighboring states, and its procedures, while still partially incomplete with regards to fishing location, could serve as a model for other states.

c. Averaging of Fishing Activity Across Vast Areas

We have significant concerns over the averaging of fishing effort across large areas. According to the co-occurrence model documentation, NMFS lacks data on fishing location for a significant proportion of lobster vessels fishing in the non-exemption portion of LMA 1. As included in the footnotes of the model documentation, for July 2011, this resulted in no location information for 42% of lobster vessels operating in LMA 1, 21% in LMA 2, 29% in LMA 3, and 9% in the Outer Cape LMA.[125] The documentation acknowledges that this is a "significant source of uncertainty" but fails to fully discuss the consequences of this data gap. LMA 1 encompasses the most heavily fished waters of all the lobster zones, as well as areas where right and humpback whales regularly form seasonal aggregations.[126] Assigning such a large

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[122] DEIS at Exhibits 9-24 and 9-25

[123] Johnston, T.L., R.K. Smedbol, A. Serdynska, A. Vanderlaan, N. Helcl, L. Harris, C.T. Taggart. 2007. Patterns of fishing gear in areas of the Bay of Fundy and southwest Scotian Shelf frequented by North Atlantic right whales. Can. Tech. Rep. Fish. Aquat. Sci. 2745.

[124] Vanderlaan, A.S.M., R.K. Smedbol, C.T. Taggart. 2011. Fishing-gear threat to right whales (Eubalaena glacialis) in Canadian waters and the risk of lethal entanglement. Canadian Journal of Fisheries and Aquatic Sciences. 68(12): 2174-2193.

[125] Technical Documentation for the Vertical Line Model, Draft, June 2013. Industrial Economics, Inc. p. 25. Available at: http://www.nero.noaa.gov/protected/whaletrp/eis2013/june_2013_draft_vl_model_documentation.pdf

[126] Khan et al. 2011.

proportion of fishing activity across the entire LMA 1 region fails to adequately address the strong spatial aggregation of most lobster fishing effort in this area.

d. Failure to Utilize All Available Whale Data

NMFS fails to include opportunistic, acoustic, or telemetry data on whale distribution in its latest version of the co-occurrence model. The model documentation provides information regarding the addition of opportunistic sightings using a technique recommended by several members of the TRT.[127] However, this seems to have been conducted as a demonstration rather than a permanent addition to the model. The inclusion of the opportunistic data resulted in a dramatic change in SPUE scores, especially along the coast of Maine; however, the agency did not provide a complete description of results. The inclusion of opportunistic data along with telemetry and acoustic data would greatly enhance the quality and coverage of the whale input and provide critical information for months with sparse sightings effort. Another group of TRT members working on an alternate encounter-risk model raised many of these same concerns in a letter to NMFS dated April 26, 2012.[128]

2. Concerns Regarding Model Structure

a. Failure to Address Uncertainty

Model documentation fails to provide adequate information regarding output uncertainty. As with any model, the quality and accuracy of the co-occurrence model output varies across time and space, depending upon the quality and accuracy of data input. In the model documentation, NMFS discusses significant sources of uncertainty in the model data, but states that it is "not possible to generate statistical confidence intervals that characterize the uncertainty in the model's output."[129] At the very least, NMFS should provide a qualitative score that ranks the quality of the data that was input into each analysis cell. For example, analysis cells with whale sightings effort in the top 2 quartiles of all sightings effort could be ranked as high quality, the bottom 2 quartiles as moderate quality, and cells with no search effort or less than 13km of search effort could be ranked as low quality data. A similar mechanism could be used to determine the quality ranking for the vertical line assessment. In particular, the rating should capture the extent to which the location of fishing activity was spatially explicit or averaged over a large area. This sort of qualitative assessment would provide a basic indicator of confidence in the model output for each individual analysis unit.

b. Zero SPUE Analysis Cells

NMFS wisely identifies concerns with the use of zero SPUE values, especially for analysis units with little or no search effort. Since NMFS states that the co-occurrence models are being used as "a proxy for risk" the standard for determining whether an analysis unit has a value of zero whales (or zero SPUE) should not rely solely on whether a whale has been sighted

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[127] http://www.nero.noaa.gov/whaletrp/trt/meetings/2012/Kenney%20SPUE%20proposal.pdf
[128] http://www.nero.noaa.gov/whaletrp/trt/meetings/2012/Kraus%20et%20al%20comments.pdf
[129] Technical Documentation for the Vertical Line Model, Draft, June 2013. Industrial Economics, Inc. http://www.nero.noaa.gov/protected/whaletrp/eis2013/june_2013_draft_vl_model_documentation.pdf

there, especially with sparse search effort, but whether it is possible that a whale could be present. When evaluating risk, a more appropriate question to ask is whether it is biologically and physically possible for a right whale or a humpback whale to be present in area X at time Y. If the answer is yes, that analysis unit cannot reasonably assume a zero value for whale presence. By using model output as a proxy for risk, NMFS inappropriately changes the meaning of zero SPUE from an empirical finding of "not present" to a conclusion of "never present."

Additionally, in several locations, there are analysis cells with high whale SPUE values separated by cells with a SPUE score of zero. This simply does not make functional sense. Whales cannot travel between high use areas without crossing through these purported zero SPUE cells. Although whales cannot be expected to travel in straight lines, there is an increasing understanding of their general course of movement around the western North Atlantic. Satellite tag data demonstrate that right whale movements exhibit both directed and meandering paths,[130] but ultimately they are frequently moving between well-identified high use areas in a somewhat predictable seasonal pattern.[131] Additionally, right whales are known to have crossed the Atlantic and otherwise have been identified far outside high use areas.[132]

c. Spatial Unit of Analysis

There appears to be a mismatch between the spatial unit of analysis used for the fishing gear (1 min^2 cells) and the whale data (10 min^2 cells). It is challenging to decipher how the model aggregates and then disaggregates data and when in the process this occurs. Further, the model documentation purports to be assessing fishing effort at the level of 1 min^2 cells yet substantial portions of the fishing effort are being averaged over the entire extent of the different LMAs.

d. Sensitivity Analysis of the Co-Occurrence Model

There appears to be some confusion regarding sensitivity analyses. A sensitivity analysis is any technique that examines how the values of independent data used to construct a model influence model output under a given set of assumptions. Put another way, it allows one to determine how much uncertainty in the output can be apportioned to different sources of input data. Two of the three independent reviewers called upon NMFS to conduct sensitivity analyses on several aspects of the co-occurrence model to evaluate the robustness of the model assumptions.

Appendix C of the Technical Documentation for the Vertical Line Model purports to discuss an "analysis of the sensitivity of the co-occurrence scores to the use of adjusted SPUE data." However, this documentation does not provide any true sensitivity analysis. Rather, it details the

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[130] Mate, B.R., S.L. Nieukirk, S.D. Kraus. 1997. Satellite-monitored movements of the northern right whale. Journal of Wildlife Management 61(4): 1393-1405.
[131] Schick R.S., S.D. Kraus, R.M. Rolland, A.R. Knowlton, P.K. Hamilton. 2013. Using Hierarchical Bayes to Understand Movement, Health, and Survival in the Endangered North Atlantic Right Whale. PLoS ONE 8(6): e64166.
[132] Knowlton, A.R., J. Sigukjosson, J.N. Ciano, S D. Kraus. 1992. Long-distance movement of North Atlantic right whales (Eubalaena glacialis). *Marine Mammal Science* 8, no. 4: 397-405.

procedure by which NMFS adjusted SPUE scores, by employing opportunistic sightings data and re-running the model with the new data. No data are provided and only a minor quantitative examination is made of the change in model output as a result of the new data inputs in Attachment 5B-3. Based on the map outputs in Appendices C-2 and 5-B, it appears that the model is indeed sensitive to the presence of whales based on a visual inspection of the maps provided. The addition of new whale data clearly resulted in many analysis cells changing to from a zero co-occurrence score to a score greater than zero, particularly along the coast. Unfortunately, not enough data are provided to fully examine how sensitive the model is to this additional data. Attachment 5B-3 is intended to demonstrate the negligible impact of using the adjusted sightings however the tables provided includes only "net effect" values averaged across all analysis units. Presented this way, the data obfuscates any months and areas where the co-occurrence scores may have changed significantly.

Even a basic examination of the sensitivity of the model to all inputs would be helpful. For example, NMFS could conduct model runs systematically modifying all SPUE values and vertical line indicators by 5%, 10%, 15%, and 25% to quantitatively evaluate the impact on each analysis unit/time frames. NMFS acknowledges that there is a great deal of uncertainty in the accuracy of the vertical line indicators and whale SPUE. Rather than ignoring this uncertainty, the agency needs to evaluate it, even if the evaluation is qualitative in nature.

e. Specific Recommendation for Model Improvement

We recommend the following actions for improvement of the co-occurrence model:

1. Include all data on the spatial-temporal distribution of whales including aerial, shipboard, and opportunistic sightings, as well as acoustic and telemetry data. Opportunistic, acoustic, and telemetry data could be added using the techniques developed in Appendix C of the model documentation.
2. Immediately press state agencies for comprehensive data on fishing activity, with specific attention paid to gear configurations and the location of fishing activity.
3. Investigate the possibility of modeling both whale distribution and fishing activity in relation to physical parameters and environmental conditions to better address gaps in data.
4. Investigate alternative models that calculate encounter risk or entanglement risk including models developed for the Canadian[133] side of the Gulf of Maine, and those under development by TRT members.[134]

3. Broader Fishery Changes and Trends over Time

Lobster effort and landings continue to increase in the state of Maine, characterized in the press as undergoing an 80% increase "over the past few years."[135] Rather than tightly controlling

[133] Vanderlaan, A.S.M., R.K. Smedbol, C.T. Taggart. Fishing-gear threat to right whales (Eubalaena glacialis) in Canadian waters and the risk of lethal entanglement. 2011. Canadian Journal of Fisheries and Aquatic Sciences. 68(12): 2174-2193.
[134] http://www.nero.noaa.gov/whaletrp/trt/meetings/2012/Kraus%20et%20al%20comments.pdf

the market by limiting effort (and "product"), as other industries such as Ocean Spray Cranberries have done, prices paid to fishermen are dropping as landings continue to increase from a 2005 high of $4.63/lbs to $2.20/lbs today.[136] A spokesperson for the Maine Lobstermen's Association stated that "between 2011 and 2012 alone, just here in Maine, we sold an additional 20 million pounds of lobsters."[137] Just as landings are increasing in Maine,[138] lobster stocks in southern New England have suffered a decline to such an extent that in 2010, a technical panel of the Atlantic States Marine Fisheries Commission unsuccessfully recommended a moratorium on harvest.[139] NMFS itself forecasts continuing decline in availability of lobsters in southern New England, even as stocks are at "record high abundance and reproduction and survival rates throughout most of the Gulf of Maine and Georges Bank."[140]

The trend of greater availability of lobster off the Maine coast and a decline further to the south will, no doubt, be accompanied by increased effort in areas that are heavily used by endangered whales, including Georges Bank and the larger Gulf of Maine. This will increase risk in areas that are not proposed for stringent measures intended to reduce risk; the increasing landings in Maine further call into question the exemption of Maine state waters. We believe that this is crucial information for NMFS, the Take Reduction Team, and the public to monitor, as changes in climatic conditions and ecosystem structure within the Gulf of Maine may already be influencing both fishing effort and spatial distribution.

The data on landings in the DEIS should better depict not only regional landings, but landings by specific area to better track shifts in effort. The data provided by NMFS in Chapter 9 of the DEIS show increasing landings through 2011 across the northeastern U.S. but with no information regarding shifts in where these landings are occurring within the region. [141] Although groundfish landings are broken out by state and year in Table 9-17, and there are similar tables depicting landings of scup and other fish species, no similar table depicts trends in lobster landings by state across time. This should be remedied.

There is also substantial latent effort in trap/pot fisheries that must be considered because fishermen can rapidly increase the number of traps (and lines) in the water simply by utilizing their full permit allotment. The ability to increase the number of traps in use with no notice confounds efforts to estimate the number of lines in the water in any given area at any given time. The agency must address and reduce this latent effort. Previous studies have called into question the need for such a large amount of lobster gear and suggested both more efficient

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[135] Glut Of Lobster Brings Price To A 20-Year Low In Maine. National Public Radio. Monday, August 12, 2013. Written article available online at http://hereandnow.wbur.org/2013/08/12/lobster-price-low
[136] "Something fishy is going on in the nation's lobster capitol", NBC News, Business, Sept 1, 2013. http://www.nbcnews.com/business/something-fishy-going-nations-lobster-capital-8C11040946
[137] *Id.*
[138] *See* http://www.maine.gov/dmr/commercialfishing/historicaldata.htm (10% increase in pounds landed between 2011 and 2012).
[139] Lobster Stocks Found Failing. Vineyard Gazette. June 7, 2010. Available at: http://mvgazette.com/news/2010/06/07/lobster-stocks-found-failing
[140] Fish Watch. Seafood Facts. American Lobster. NOAA. Undated (accessed September 1, 2013) Available at: http://www.fishwatch.gov/seafood_profiles/species/lobster/species_pages/american_lobster.htm
[141] DEIS at 9-59.

financial returns and a conservation benefit to whales by reducing gear use in the lobster fishery.[142]

K. "Other Special Measures"

NMFS proposes to add language to clarify 50 C.F.R. § 229.32(i)(2) to require consultation with the Take Reduction Team, prior to *Federal Register* publication of proposed changes in these regulations.[143] We agree that the TRT should be consulted; however, we wish to make it clear that this consultation must involve a dialogue, specify the reasons for the changes and proposing alternatives, and allow for dissent by the Team. Consultation should not be construed to mean an informational presentation to the TRT of a decision that the agency has already made and is presenting as a *fait accompli*.

Additionally, we question whether the "other special measures" provision comports with the MMPA. Section 118 of the MMPA specifies the process required when the agency amends a TRP. The agency "shall amend the take reduction plan and implementing regulations . . . in accordance with the procedures in [Section 118] for the issuance of such plans and regulations." The procedures for plan issuance specifically require the agency to publish "proposed regulations . . . for public review and comment." 16 U.S.C. § 1387(f)(7)(B). The agency may then issue a final plan and implementing regulations. *Id.* § 1387(f)(7)(C). Accordingly, the "[o]ther special measures" provision, which purportedly allows the agency to revise TRP requirements simply "through a publication in the Federal Register," violates these procedural requirements, as it amends the TRP without "public review and comment." 50 C.F.R. § 229.32(i)(2). While we appreciate the need to move quickly when conservation issues arise, the MMPA specifically provides the agency with authority to take emergency actions to promote conservation as appropriate. *See* 16 U.S.C. § 1387(g).

L. The DEIS Is Inadequate

The National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*, requires that NMFS create a "detailed statement" evaluating the environmental impacts of the proposed rule, which constitutes a major federal action significantly affecting the human environment. A central purpose of NEPA is to assure that federal decision-makers consider the environmental consequences of their actions before a decision to act is made and provide for "[a]ccurate scientific analysis, expert agency comments, and public scrutiny" of agency decisions. 42 U.S.C. § 4332(C); 40 C.F.R. § 1501.1; *Marsh v. Or. Natural Res. Council*, 490 U.S. 360, 371 (1989) (NEPA ensures that "the agency will not act on incomplete information, only to regret its decision after it is too late to correct").

Under NEPA, federal agencies are required to take a "hard look" at environmental consequences in order to integrate environmental impacts into the decision making process. *Kleppe v. Sierra Club*, 427 U.S. 390, 410 n. 21 (1976). An Environmental Impact Statement (EIS) under NEPA must evaluate: (i) the environmental impact of the proposed action, including

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[142] Myers, R.A., S.A. Boudreau, R.D. Kenney, M.J. Moore, A.A. Rosenberg, S.A. Sherrill-Mix, and B. Worm. 2007. Saving endangered whales at no cost. Curr. Biol. 17(1): R10–R11.
[143] *See* 78 Fed. Reg. at 42,658.

the cumulative impacts; (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented; (iii) alternatives to the proposed action; (iv) the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented. 42 U.S.C. § 4332(2)(C).

1. Failure to Consider Adequate Range of Alternatives

The "heart" of the NEPA process is an agency's duty to consider "alternatives to the proposed action" and to "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources." 42 U.S.C. §§ 4332(2)(C)(iii), 4332(2)(E). For example, Council on Environmental Quality (CEQ) regulations require the agency to "rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated." 40 C.F.R. § 1502.14(a). "A 'viable but unexamined alternative renders [an] environmental impact statement inadequate.'" *Muckleshoot Indian Tribe v. U.S. Forest Serv.*, 177 F.3d 800, 814 (9th Cir. 1999).

While we appreciate the efforts the agency has made to consider various options, including trawling up, closures, and gear modifications, NMFS has not provided a sufficiently wide variety of alternatives in its proposed rule. When comparing the impacts of the various alternatives, annual reduction in co-occurrence (assuming 100% suspension) ranges between 35.8% and 41.7% coast-wide – suggesting there are relatively minor differences in impacts between the alternatives.[144] At the very least, and as we specifically requested in our April 2012 scoping comments, the agency should evaluate an alternative that reduces co-occurrence score by 50%, as mortality and serious injury for both right whales and humpback are currently twice PBR.[145]

Additionally, the agency should have considered an alternative that mandates reductions in the amount of gear that can be used and the seasons in which it is fished. Research examining the catch of lobsters in Maine and Canada concluded that there is far more effort in the U.S. than is needed to obtain the same level of catch.[146] Accordingly, seasonal closures and trap reductions could provide substantial benefit to endangered whales while having little economic impact on fishermen.[147] The authors of a 2007 study stated that "if Maine restricted its fishing season to 6 months and reduced the number of traps by a factor of 10, the same amount of lobster could be landed with greatly reduced risk to right whales and other species."[148] We understand that this may be controversial, as the study authors themselves acknowledge; however, this appears to be a strategy for management that would substantially reduce risk while having

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[144] DEIS at 5-10.
[145] *See supra*, Section B.
[146] Myers et al. 2007.
[147] *Id.*
[148] *Id.*

comparatively little economic impact. Given recent press coverage of the falling prices for lobster due to the glut in the market, this would seem to be a win-win option.[149]

Moreover, NMFS must consider an alternative that more fully addresses gillnets. For example, the agency "decided to narrow the scope of the proposed rule to focus on the reduction of vertical lines from trap/pot gear instead of both trap/pot and gillnet gear" in the Northeast.[150] The agency must consider an alternative that evaluates the risk reduction benefits of closing areas in the Northeast to both trap/pot and gillnet fishing. Further, as noted in Section (I) above, we submitted a detailed, recommended gear marking scheme with our February 3, 2012 comments, but the agency only considers a single marking scheme in its DEIS. NMFS's failure to consider an adequate range of alternatives violates NEPA. 40 C.F.R. § 1502.14(a).

2. Failure to Adequately Consider Cumulative Impacts

Under NEPA, agencies are required to consider a full range of environmental impacts, "whether direct, indirect, or cumulative." 40 C.F.R. § 1508.8. Cumulative impacts are:

> impact[s] on the environment which result[] from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

Id. § 1508.7; *see Native Ecosystems Council v. Dombeck*, 304 F.3d 886, 895 (9th Cir. 2002) ("NEPA always requires that an environmental analysis for a single project consider the cumulative impacts of that project together with "past, present and reasonably foreseeable future actions.").

Projects need not be finalized before they are reasonably foreseeable. *Northern Plains Resource Council v. Surface Transp. Bd.*, 668 F.3d 1067, 1079 (9th Cir. 2011). Further, the impacts of the "other actions" considered in the cumulative impact analysis need not be directly caused by the project. *See Nat. Res. Def. Council. v. Hodel*, 865 F.2d 288, 298 (D.C. Cir. 1988) (cumulative impact assessment of an Outer Continental Shelf (OCS) oil and gas leasing activity must consider the cumulative impacts of "simultaneous OCS development in different areas" without requiring that such other OCS development be *caused* by the proposed leasing activity). Consideration of cumulative effects pursuant to NEPA requires "some quantified or detailed information," because "[w]ithout such information, neither the courts nor the public, in reviewing the [agency's] decisions, can be assured that the [agency] provided the hard look that it is required to provide." *Neighbors of Cuddy Mountain v. U.S. Forest Serv.*, 137 F.3d 1372, 1379 (9th Cir. 1998); *Klamath-Siskiyou Wildlands Ctr. v. Bureau of Land Mgmt.*, 387 F.3d 989, 993–94 (9th Cir. 2004).

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[149] Glut Of Lobster Brings Price To A 20-Year Low In Maine. National Public Radio. Monday, August 12, 2013. Written article available online at http://hereandnow.wbur.org/2013/08/12/lobster-price-low
[150] 78 Fed. Reg. at 42,655.

As described below, NMFS's DEIS fails to adequately consider the cumulative impact of several projects and proposals that will affect sea turtles, right whales, humpback whales, fin whales, and their habitats, as well as the fisheries regulated under the ALWTRP.

a. Inadequate Consideration Fishery Management Actions that Affect Gillnet Effort

In Chapter 3 of the DEIS, NMFS states that, largely because the trap/pot industry accounts for a larger number of vertical lines in the water column than the gillnet fishery, "the proposed gear modifications and setting requirements target just the trap/pot industry."[151] Other than gear marking requirements, no changes in management are proposed for gillnets. Nonetheless, numerous fishery management actions that will likely increase the effort of the gillnet fisheries – and the concomitant risk – are not addressed by the proposed rule or discussed in the DEIS. This is particularly true for the Northeast and the mid-Atlantic.

Specifically, although NMFS discusses Amendments 18 and 19 to the Northeast groundfish management plan, it fails to discuss or consider the implications of these and other amendments and framework adjustments. For example, Framework 48 allowed sectors to apply for exemptions that would permit them to fish in substantial portions of long-closed areas.[152] These closed areas were originally adopted not only to reduce groundfish mortality, but also serve as lower risk areas for a variety of protected marine species. Areas proposed for new fishing effort under Framework 48 include an area off the Great South Channel and the Western Gulf of Maine closure – areas of seasonal high use area for right whales, according to NMFS data.[153] Fishing effort that shifts to, or increases in, the re-opened areas is likely to expose fin, right, humpback, and minke whales to additional risk of entanglement in vertical lines used by gillnets that were previously prohibited in these closed areas.

Additionally, NMFS has also approved an exemption that allows for the use of gillnets targeting spiny dogfish in high-use right whale habitat. It is reasonable to expect a dramatic increase in effort, since vessels no longer need to use their limited "days at sea" allotment if they are targeting dogfish.[154] This increase in directed effort is not discussed in the DEIS. In fact, the DEIS only discussed dogfish effort through 2005,[155] and does not address recent and significant increases in quotas and landings of dogfish.[156] The annual increase in quota of more than 5 million pounds over the prior quotas will increase effort, as can be seen clearly in landings

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[151] DEIS at 3-2.

[152] NEMFC, 2012. Framework Adjustment 48 to the Northeast Multspecies FMP Draft Management Measures. New England Fishery Management Council, in consultation with the Mid-Atlantic Fishery Management Council and National Marine Fisheries Service. December 13, 2012. Available at: http://www.nefmc.org/nemulti/index.html; NMFS/NERO Northeast multi-species Fishery Regulations for the 2013 fishing year, at 6. Available at: http://www.nero.noaa.gov/nr/2013/April/13mulfw48fw50phl.pdf

[153] Right Whale Sightings Data. Available at http://www.nefsc.noaa.gov/psb/surveys/

[154] NMFS/NERO. Holders New Spiny Dogfish Exemption Areas East and West of Cape Cod Effective Date: June 1, 2013. Available at: http://www.nero.noaa.gov/nr/2013/May/13sdogeaewccphl.pdf

[155] DEIS at 9-121.

[156] Dogfish Increasingly Important to Cape Fleet. Wicked Local. November28 2012. Available at: http://www.wickedlocal.com/brewster/photos/x35743517/Dogfish-increasingly-important-to-Cape-fleet

increases that began in 2012. In that year, a single sector in Cape Cod announced that, although its members had caught 1.2 million pounds of dogfish in 2010, by November 2012, they had already caught 3.8 million pounds with additional time and quota remaining in the fishing season.[157]

The EIS must address these likely changes in gillnet effort – and entanglement risk – that have or will result from the re-opening of long-closed groundfish management areas, increased quotas on dogfish, and other fishery management actions.

b. Inadequate Consideration of Changes in the Management of Black Sea Bass in the Southeast

Although Chapter 9 of the DEIS discusses the trap/pot fishery for black sea bass from Cape Hatteras to Cape Canaveral, it misleadingly states that the most recent amendment is 18A. NMFS summarizes the likely effect of this amendment, stating "[b]ecause the number of trap pots and participants was reduced, the potential entanglement risk from this gear type may be reduced provided remaining fishermen do not increase their effort. However, if the reduction in participants and pots increases effort among the remaining participants or extends the fishing season so that it overlaps with right whale calving season, the entanglement risk could remain the same or increase."[158]

The DEIS fails to mention that the South Atlantic Fishery Management Council passed, and NMFS has itself proposed, increasing the annual catch limits for black sea bass.[159] Along with the significant increase in quota, Amendment 19 would prohibit black sea bass pots from November 1 through April 30 of each year, specifically to prevent increase entanglement risk to right whale mothers and calves.[160] While this would seem to obviate any additional risk, we must point out – and the DEIS must address – the Council's action in its June 14, 2013 meeting when it voted to "direct staff to begin development of a regulatory amendment that would *remove the November 1 to April [Black sea bass] pot closure*." [161] Further, the agenda announced for the Council's upcoming Snapper-Grouper Committee meeting on September 17-18, 2013 states that the Committee will discuss "Regulatory Amendment 16, pertaining to the removal of the [seasonal] prohibition of Black Sea Bass pots."[162] This is a foreseeable impact that must be addressed as it would pose risk to both humpback and right whales. 40 C.F.R. § 1508.8. And as we have noted, NMFS should adopt the seasonal closure of the commercial black sea bass pot fishery under the ALWTRP and the MMPA, rather than subjecting right whale conservation to the vicissitudes of Fishery Management Council actions.

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[157] *Id.*
[158] DEIS at 9-89.
[159] 78 Fed. Reg. 39,700 (July 2, 2013).
[160] *Id.*
[161] South Atlantic Fishery Management Council. Stuart, FL. June 14, 2013. Summary of Approved Actions (emphasis added). Available at: http://www.safmc.net/LinkClick.aspx?fileticket=bqXBBiQUyj8%3D&tabid=788
[162] 78 Fed. Reg. 52,506 (Aug. 23, 2013).

c. Inadequate Consideration of Intense Ocean Noise

Chapter 9 of the DEIS discusses potential impacts from noise pollution, listing as sources ship and boat propeller noise; drilling, blasting, and dredging; acoustic deterrent devices used by fish farms and fishing vessels; sonar and airguns used in seismic exploration; and the use of low- and mid-frequency sonar in military operations. However, the agency fails to consider and discuss several other significant sources of noise.

Although the DEIS notes the noise generated by the Navy's SURTASS LFA, it does not discuss the noise that will be generated by the omnibus Atlantic Fleet Training and Testing (AFTT) program that will begin in 2014. The Navy has predicted that this program, which will utilize a variety of noise generation sources, including the detonation of explosives, will result in close to 200 deaths of whales and dolphins, 11,267 serious injuries and 1.89 million injuries of marine mammals (including temporary hearing threshold shifts) over a five year period. Injuries are predicted to affect species that are the subject of this rulemaking, including temporary hearing threshold shifts in close to 3,000 fin whales, over 1,000 humpback whales, and 60 right whales. Permanent threshold shifts are predicted to occur for both humpback and right whales.[163] The DEIS must address this impact in its discussion of cumulative impacts.

Additionally, the agency fails to address the intense ensonification of feeding habitats due to fishery research. A prototype acoustic survey technology has been tested and used with the intent to clear up disputes over fish biomass for managed fisheries. The impacts of this technology were seen in the testing of Ocean Acoustic Waveguide Remote Sensing (OAWRS). Researchers studying whales for another purpose detected significant behavioral changes as a result of the noise from this technology that was being used roughly 200 km from the whales.[164] The researchers concluded that:

> The lack of humpback whale song during the OAWRS experiment was the most substantial signal in the data. Our findings demonstrate the greatest published distance over which anthropogenic sound has been shown to affect vocalizing baleen whales, and the first time that active acoustic fisheries technology has been shown to have this effect. The suitability of Ocean Acoustic Waveguide Remote Sensing technology for in-situ, long term monitoring of marine ecosystems should be considered, bearing in mind its possible effects on non-target species, in particular protected species.[165]

We agree. The EIS must address this technology and its impacts.

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[163] Atlantic Fleet Training and Testing Final EIS/OEIS. August, 2013. At table 3.4-15 Available at: http://aftteis.com/Portals/4/aftteis/FEIS/Volume/AFTT_FEIS_Volume_2_2013.pdf

[164] Risch, D., P.J. Corkeron, W.T. Ellison, S.M. Van Parijs. 2012. Changes in Humpback Whale Song Occurrence in Response to an Acoustic Source 200 km Away. PLoS ONE 7(1): e29741. doi:10.1371/journal.pone.0029741. Available at: http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.0029741

[165] *Id.*

d. Inadequate Consideration of the Dramatic Increase in Offshore Alternative Energy Development

Among activities that may adversely affect species subject to this plan, NMFS has not addressed the substantial impacts that are likely from the wind and wave energy projects either proposed or approved along the Atlantic coastline from Florida through Maine.[166] The programmatic EIS undertaken by the Bureau of Ocean Energy Management (BOEM) acknowledges that there will be adverse impacts from site surveys, construction of wind energy generating sites, and operational noise levels.[167] Among other impacts, BOEM states that these activities may cause auditory masking or interference with socialization, foraging or predator avoidance.[168] Furthermore, "interturbine spacing may be as little as 12 m (40 ft.) at facilities with linear turbine placement. Such a placement scheme could effectively create a wall of mooring cables, increasing the potential for collisions and entanglement and thus injury to large marine mammals moving through the area" and "[d]epending on the species affected, entanglement may result in minor to moderate impacts to most marine mammals but moderate to major for endangered or threatened species, such as the North Atlantic right whale."[169]

In addition, there is a significant likelihood of displacing marine mammals from key migratory routes, breeding areas, feeding areas, or calving areas.[170] BOEM acknowledges that displacement increases energetic costs for migratory animals and "if sited in important feeding or calving grounds could also displace individuals from these important habitats, which could result in population-level effects to some species. While it is not known how marine mammals might respond to the presence of an operating current energy facility, there is a potential for minor to moderate impacts to some species, especially those that are threatened or endangered and utilize specific areas for important portions of their life histories."[171] Indeed a comparison of the mapped locations of proposed and approved sites for each state,[172] overlaid with right whale distribution as depicted by NMFS right whale sightings archives,[173] shows a clear and substantial overlap of these facilities with the distribution of right whales, particularly south of Massachusetts. The site approved for development off Massachusetts and Rhode Island was the site of large aggregations of right whales in the spring of 2010 and 2011.[174] Similarly, project proposals for the mid-Atlantic overlap sizeable annual aggregations of humpback whales that are the subject of a vital whale watch industry from New Jersey through Virginia.

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[166] BOEM Smart from the Start. Available at: http://www.boem.gov/Renewable-Energy-Program/Smart-from-the-Start/Index.aspx and http://www.boem.gov/Renewable-Energy-State-Activities/

[167] BOEM. Programmatic Environmental Impact Statement for Alternative Energy Development and Production and Alternate Use of Facilities on the Outer Continental Shelf Final Environmental Impact Statement Volume II: Chapter 5 (Oct. 2007). US. Department of the Interior, Minerals Management Service. Available at: http://www.boem.gov/Renewable-Energy-Program/Regulatory-Information/Guide-To-EIS.aspx

[168] *Id.* at 5-274.

[169] *Id.*

[170] *Id.* at 5-275.

[171] *Id.*

[172] http://www.boem.gov/Renewable-Energy-State-Activities/

[173] http://www.nefsc.noaa.gov/psb/surveys/

[174] *Id.*

In its Environmental Assessment (EA) for the project site south of Massachusetts, BOEM stated that it "anticipates that temporary adverse impacts equivalent to Level B harassment from noise will affect ESA-listed marine mammals and sea turtles during HRG survey and pile driving activity."[175] BOEM discussed the alarm responses evoked in experimentally exposed right whales and the complete cessation of normal activity during the test.[176] Although BOEM acknowledges in the EA that there have been several recent years with large groups of right whales in the vicinity of project activities, most of their conclusions regarding impact are based on a longitudinal systematic sightings database that does not include these years, and that BOEM acknowledges is based on limited survey effort in the area that may not reflect true distribution and density.[177]

Pile driving that accompanies construction of offshore wind is an intense impulsive noise that BOEM states is "audible to these marine mammals at very long ranges of more than 100 km, and possibly up to more than a thousand kilometers." Although displacement of bowhead whales up to 16 km from construction activities is well documented,[178] and European windfarm construction caused complete abandonment of habitat by harbor porpoise, BOEM did not deign to speculate on similar displacement along the U.S. east coast. Should some displacement occur (as seems likely) it may force migratory right and humpback whales into adjacent areas outside of the project site, where fishing activities and shipping are more concentrated, thereby elevating risk of serious entanglement in vertical lines. This should be discussed in this EIS as a foreseeable, cumulative impact.

Sites that are proposed for offshore of Tybee Island, Georgia and offshore of Florida raise the added concern of the possibility of harassment, displacement, and harm to newborn calves in this and other offshore wind energy projects proposed as far north as North Carolina. Loud acoustic surveys and development in this area pose an even greater threat to a vulnerable demographic that represents the future reproductive capacity of the species in this area that NMFS has declared "core calving habitat.[179]" This risk must be addressed in the EIS.

The discussion of cumulative impacts must address impacts from the noise that will be generated by surveys, construction, and operation of offshore wind and wave projects, including a discussion of the consequences of displacement of animals into even more risk-prone areas as a result of these activities.

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[175] BOEM. 2012. Commercial Wind Lease Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf Offshore Massachusetts Environmental Assessment. U.S. Department of the Interior. BOEM. Available at: http://www.boem.gov/uploadedFiles/BOEM/BOEM_Newsroom/Library/Publications/2012/BOEM-2012-087.pdf

[176] *Id.* at 145.

[177] *Id.* at 132.

[178] Southall, B.L., A.E. Bowles, W.T. Ellison, J.J. Finneran, R.L. Gentry, C.R. Greene, D. Kastak, D.R. Ketten, J.H. Miller, P.E. Natchigall, W.J. Richardson, J.A. Thomas, P.L. Tyack. 2007. Marine mammals noise exposure criteria: Initial scientific recommendations. Aquatic Mammals. 33(4):1-521.

[179] 72 Fed. Reg. 34,632, 34,636 (June 25, 2007) (NMFS characterizing the Southeast gillnet restricted area, which extends to the southern border of North Carolina, as a "substantial and core portion of the right whale calving area").

e. Inadequate Discussion of the Impacts from Entanglement

In Chapter 9 of the DEIS, NMFS briefly notes that impacts can result from chronic entanglement, but the only citations are to work that is, in most cases, more than 15 years old,[180] even though newer published research better characterizes the problem. Poor body condition in right whales is a serious limitation to reproductive success. Blubber thickness, which can be affected by chronic entanglement, is also critical to reproductive success.[181] Chronic entanglement causes substantial extra drag in right whales,[182] reducing body condition severely at times. Chronic entanglement is likely one of the major contributors to reproductive failure in right whales, and probably all large whales. Knowlton suggests that "in addition to the documented deaths and disappearances of animals observed bearing fishing gear, the sub-lethal effects of severe wounding or repeated entanglements may include reduced reproduction and increased susceptibility to disease."[183] The chronic entanglement of whales and their subsequent slow deaths present not only a biological threat but is also a significant animal welfare concern.[184] NMFS must address this updated understanding of risks from chronic entanglement.

f. Inadequate Discussion of Impacts to Sea Turtles

The DEIS's discussion of cumulative impacts to endangered and threatened sea turtles is inadequate.[185] Sea turtles are significantly adversely affected by entanglement in the fisheries addressed by the proposed rule, as well as other fisheries throughout the species' ranges. Although, as we stated above, the proposed rule necessarily focuses on reducing entanglement risks to critically endangered right whales and other endangered whale species, NMFS must not shirk its obligations under both NEPA and the ESA to analyze and fully describe the effects of the proposed rule and the various Alternatives on sea turtles.

To ensure the adequacy of its cumulative impacts analysis for sea turtles, in its FEIS, NMFS must expand its analysis of sea turtle impacts in Chapter Four as well as the sea turtle section in Chapter Nine. NMFS's description of the affected environment regarding sea turtles[186] must be significantly expanded to better inform the cumulative impacts analysis. The DEIS does not reflect the best available information on sea turtle distribution and abundance, particularly with respect to leatherbacks and loggerheads, nor does it present the best available

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[180] DEIS at 9-8, citing only Demaster and Angliss (1998).
[181] Miller, C., D. Reeb. P. Best., A. Knowlton, M. Brown, M. Moore. 2011. Blubber Thickness in Right Whales Eubalaena glacialis and Eubalaena australis related with reproduction, life history status and prey abundance. Marine Ecology Press Series.438. 267-283. Available at: http://www.int-res.com/abstracts/meps/v438/p267-283/
[182] Van Der Hoop, J., M. Moore. A. Fahlman, A. Bocconcelli, C. George, K. Jackson, C. Miller, D. Morin, T. Pitchford, T. Rowles, J. Smith, B. Zoodsma. 2013. Behavioral Impacts of Disentanglement of a Right Whale Under Sedation and the Energetic Costs of Entanglement. Marine Mammal Science. doi: 10.1111/mms.12042 Available at: http://onlinelibrary.wiley.com/doi/10.1111/mms.12042/full
[183] Knowlton et al. 2012.
[184] Moore. M. and J. van der Hoop. 2012. The Painful Side of Trap and Fixed Net Fisheries: Chronic Entanglement of Large Whales. Journal of Marine Biology. V.2012. 4 pp. Available at: http://www.hindawi.com/journals/jmb/2012/230653/
[185] DEIS at 9-47 – 9-53.
[186] DEIS at 4-80 – 4-86.

information on sea turtle entanglements. NMFS is certainly in possession of much more detailed information, as evidenced by its significantly longer and more detailed analyses of sea turtles in documents such as the May 2013 Draft Batch BiOp.[187]

In particular, NMFS must include better estimates of sea turtle presence and abundance in areas to be affected by the proposed rule as well as better estimates of rates of sea turtle bycatch and entanglement in different types of fishing gear, particularly pot/trap gear using vertical lines. We note for example that the Draft Batch BiOp includes critical data omitted from the DEIS, such as the fact that "[f]rom 1990 to 2000, 92 entangled leatherbacks were reported from New York through Maine. . . . Additional leatherbacks stranded wrapped in line of unknown origin or with evidence of a past entanglement."[188] The Draft Batch BiOp further states that "[a] review of leatherback mortality documented by the STSSN in Massachusetts suggests that vessel strikes and entanglement in fixed gear (primarily lobster pots and whelk pots) are the principal sources of this mortality."[189] *Id.* It is vital that NMFS include reports not only from state stranding networks but especially from the Northeast Region Sea Turtle Disentanglement Network. Throughout, NMFS must present and analyze quantitative data wherever available.

NMFS's sea turtle cumulative impacts discussion is also deficient because it omits entirely any analysis of the reasonably foreseeable effects of the pending critical habitat designations in both the terrestrial and marine environments for the Northwest Atlantic Distinct Population Segment of loggerheads.[190] *See* 40 C.F.R. §§ 1507.7 - 1508.8; *Native Ecosystems Council*, 304 F.3d at 895. The Final EIS should correct this error.

Conclusion

Despite efforts and past measures to protect endangered large whales, serious injury and mortality due to entanglement remains a serious threat that impedes the recovery of these imperiled species. Accordingly, the MMPA and ESA mandate that NMFS amend the ALWTRP to reduce serious injury and mortality to below PBR, approaching a zero mortality level. To achieve this reduction, seasonal closures and trawling up are essential. Both published science and the co-occurrence model support seasonal closures in Jordan Basin, Jeffreys Ledge, and Massachusetts Restricted Area #1.

Accordingly, among the alternatives currently presented, we, as the conservation members of the TRT, believe Alternative 5 is preferable. Alternative 5 projects the highest reduction in co-occurrence score among the alternatives, the closure areas proposed under

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[187] *See* Draft Batch BiOp at 77-117 (Section 4.3, status of sea turtles), available at http://www.nero.noaa.gov/mediacenter/2013/05/draft_nero_batched.pdf. In pointing out the much greater level of detail on sea turtles contained in the Draft Batch BiOp, we do not mean to imply that the Draft Batch BiOp is factually and legally adequate in its analysis; it is, however, far more comprehensive than the DEIS.
[188] *Id.* at 101.
[189] *Id.*
[190] *See* 78 Fed. Reg. 18,000 (Mar. 25, 2013) (U.S. Fish and Wildlife Service proposed rule designating terrestrial critical habitat); 78 Fed. Reg. 43,006 (Jul. 18, 2013) (NMFS proposed rule designating marine critical habitat).

Alternative 5 are both geographically and temporarily appropriate, and the Alternative appropriately requires minimum traps per trawl.

However, as detailed above, we find the agency's ALWTRP proposal and DEIS insufficient in several regards. In order to further reduce entanglement risk, the agency must remove proposed exemption areas for Maine and New Hampshire waters. These closures are unwarranted and pose an elevated risk to sea turtles and whales. The agency also must adopt additional risk reduction measures for the mid-Atlantic and Southeast to ensure protection of high risk areas for humpbacks and right whale mother-calf pairs. Gear marking should be extended to include additional color marking by fishery or region, as well as additional markings for line greater than 130 feet in length. In addition, the agency must fully address risk from gillnets, beyond just gear marking requirements. The co-occurrence model must include all relevant and available data, including comprehensive fishery information, and more clearly account for the data gaps and uncertainty.

We appreciate the agency's consideration of these comments as it moves forward with rule development. Please contact any of us if you have questions regarding these comments.

Sincerely,

Sharon B. Young
The Humane Society of the United States

Sarah Uhlemann
Center for Biological Diversity

Regina Asmutis-Silvia
Whale and Dolphin Conservation

April Wobst
International Fund for Animal Welfare

Caroline Good
Duke University

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Defenders of Wildlife

Appendix A

Proposed Gear Marking Scheme – February 3, 2012 Comment

Trap/pot Fisheries

Area	Color 1	Color 2
ME	Red	Red
ME exemption	Red	None
Non-ME LMA1	Red	Orange
LMA 2	Red	Yellow
LMA 3 (inc. LMA 2-3 Overlap)	Red	Black
Mid Atlantic (NY-NC)	Blue	Yellow
SE Blue Crab (SC-FL)	Orange	Blue
SE Sea Bass (SC-FL)	Orange	Yellow
SE other (SC-FL)	Orange	None

Gillnet Fisheries

Area	Color 1	Color 2
LMA 1	Green	None
ME Exemption	Green	Red
LMA 2	Green	Yellow
LMA 3 (inc. LMA 2-3 Overlap)	Green	Black
Mid Atlantic (NY-NC)	Blue	None
SE (SC-FL)	Green	Yellow
Shark Gillnet	Green	Blue

Appendix B

Analysis of line recovered from baleen whales to estimate the probability that marked line would have been identified – from February 3, 2012 Comment

The aim of the analysis was to estimate the probability that a section of recovered line would contain a mark based on data on actual recovered lines and different marking intervals.

A total of 28 cases were examined from recovered line in the period 2005-2009 involving fin (n=1), minke (n=4), humpback (n=15) and right (n=8) whales. Multiple sections of line were recovered in six of these cases. The lengths of rope recovered varied from 5 to 1200ft. Six entanglements that occurred during this time period that had an associated gear analysis in the report were not included. These cases involved entanglements when actively hauling or working with gear when the whale was immediately freed and released. In these cases it was unclear in the gear analysis if gear length reported truly represented an amount of gear caught on the whale or just the total amount set in the water. Therefore, these cases were not included for analysis since they potentially represented a different type of data from the other 28 cases in which line length was recorded according to what was removed from the whale.

There were no significant differences between the lengths of rope recovered by species of whale (ANOVA, p=0.35) or between the first and second pieces when more than one section of line was recovered (ANOVA, p=0.34).

The recovered lengths were transformed with log(length in feet) which gave an approximately Normal distribution (Figure 1), with the average(log(length))=1.88, median (log(length))=1.86 and stdev (log(length)=0.61)

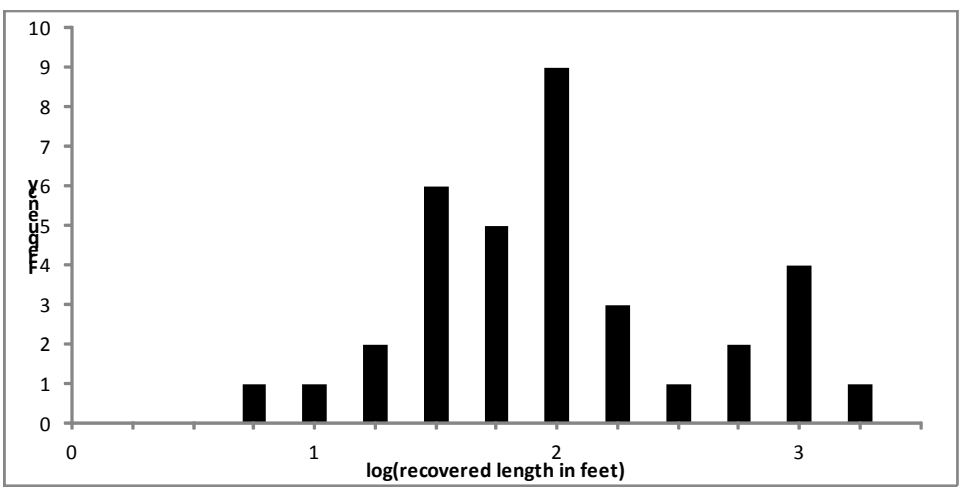

Figure 1. Frequency distribution of log(recovered length).

For a given marking interval *L*, the probability *p* that a recovered length of line of length *R* will contain a mark is given by $p=R/L$. For $R \geq L$, $p=1$.This assumes that the line is equally likely to break at any point in relation to the marks and ignores what happens at each end of the line.

Using the mean and standard deviation derived from the log(length) data to model recovered line lengths with a normal distribution, the probability that a piece of recovered line will contain a mark was estimated for different marking intervals.

Table 1. Probability that recovered line will contain a mark for different marking intervals

Marking interval (ft)	Probability that recovered line will contain a mark
20	0.92
30	0.88
40	0.84
50	0.80
60	0.77
70	0.73
80	0.71
90	0.68
100	0.65
150	0.56
200	0.49

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August 28, 2013

Mary Colligan
Asst. Reg. Admin. For Protected Species
National Marine Fisheries Service, Northeast Region
55 Great Republic Drive
Gloucester, MA 01930

Dear Mary,

The following comments are on behalf of the Atlantic Offshore Lobstermen's Association (AOLA) in response to NOAA Fisheries request for comments on the Draft Environmental Impact Statement (DEIS) and Proposed Rule for Amending the Atlantic Large Whale Take Reduction Plan Vertical Line Rule.

A very troubling issue associated with the entire Large Whale process is that due to the lack of good quality data, there is an inability to accurately quantify very much of anything. This is one area in which the scientists, environmentalists, and the fishing industry agree. Throughout this document and throughout the Large Whale regulatory program it cannot and should not be dismissed that past and impending federal regulations are being promulgated with data, both whale and socioeconomic, that is minimal, poor, and in some cases extremely flawed. For example, section 4.1.1.3 of the DEIS, (*p. 4-6*) identifies the existence of 299 right whales in 1998 (*Kraus et al., 2001*), yet the following paragraph brings forward data that 385 right whales were presumed alive at the end of 1998 (Best et al., 2001, *pg. 4-6*). Considering the serious socioeconomic impacts endured by the fishing industry, the ongoing push for regulations, the fact that a right whale is an *endangered species*, all combined with the exorbitant amounts of federal dollars spent on right whale research, one would hope for a more accurate picture of the actual population of the species targeted for protection! With further concern to population data, Section 4.1.1 of the DEIS indicates "that 425 individually recognized (right) whales in the catalog were known to be alive during 2009, (*waring et al., 2013*)….and another statement describing the same year indicates that, "the minimum population size is 444 (*p. 4-2*)," further, the following Section 4.1.1.1 states, "An additional interpretation of paternity analyses is that the population size may be larger than previously thought. Fathers for only 45% of known calves have been genetically determined. However, genetic profiles were available for 69% of all photo-identified males (*Frasier 2005*). The conclusion was that the majority of these calves must have different fathers that cannot be accounted for by the unsampled males and the population of males must be larger (Frasier 2005); although this inference of additional animals that have never been captured photographically." (*DEIS p. 4-5*).

To summarize and further point out the complexity and frustration of this inadequate data situation; when I began representing the Offshore Lobster fleet, as a member of the LWTRT, scientists informed the participants there were between 250 and 300 right whales in existence (*personal communication)*. "Between 1980 and 2000, a total of 222 right whale births were documented in the western North Atlantic. Seven of these 222 whales are known to have died." (*DEIS Section 4.1.1.2, p. 4-5)* Also, it is important to note in that according to the 2012 Stock assessment Report entitled, *NORTH ATLANTIC RIGHT WHALE (Eubalaena glacialis): Western Atlantic Stock,* "Based on back calculations using the present population size and growth rate, the population may have numbered fewer than 100 individuals by 1935 when international protection for right whales came into effect (Hain 1975; Reeves et al. 1992; Kenney et al. 1995). Further data from that same report indicate that, "adding 19 calves not yet catalogued brings the minimum number alive in 2009 to 444. This number represents a minimum population size." The calculations of population + births – deaths does not

compute. After reviewing stock assessments from 2005 – 2012, certain other inconsistencies were apparent. First and foremost, the overlapping of years and data in each stock assessment was only somewhat troubling, very troubling however, was the whale populations as well as the percentage rate of human-caused mortalities differed in each document, expressly when discussing the exact same time period! For instance, if one agrees to begin with "previous estimates using the same method with the added assumption that whales seen within the previous seven years were alive have resulted in counts of 295 animals in 1992 (*Knowlton et al. 1994)*…..This number represents a minimum population size." (*North Atlantic Right Whale Western Atlantic Stock, December 2012);* and one adds the number of reported right whale production from 1993-2010 of 316 (*North Atlantic Right Whale Western Atlantic Stock, December 2012; Table 1)*, subtracts reported calf mortalities of 21 (*North Atlantic Right Whale Western Atlantic Stock, December 2012; Table 1)*, and after reviewing numerous other right whale stock assessments, to determine the number of human-caused mortalities (to one's best ability, since the data never corresponds from one stock assessment to another), and since there is little justification for the numbers stated, subtracts another 50.6 whales from the overall population, one finds the following:

295+316-21-50.6= **539.4 whales in existence in 2010.** This denotes a difference of (539.4-444) 95.4 whales. When considering socioeconomic impacts of hard-working conscientious individuals, and endangered marine mammals, the possible addition of 95.4 animals into a population from peer review data sources *should* identify a serious data problem, and bring questions upon moving forward! After endeavoring on this exercise, one must ask oneself, are we just dealing with poor, confusing, and multiple streams of data, and/or is this a very bad case of incorrect math? Whatever the case, it cannot be deemed acceptable. This also begs the question; are we even sure that further protective measures are necessary, *especially* those that have serious economic consequences for a small percentage of the fleet? The sad reality is, further measures *will* be implemented; however, it is hoped that the most severe measures are placed on the "back burner" for the time being, especially since data has not yet been gathered on whether the very expensive, heavily impactful sinking groundline exercise has mitigated the problem.

Lobster management areas (being used for whale regulations) were originally created to mirror the socio-economics of the participants within each fishery, as well as the fishery itself within the particular areas. Lobster Management Area (LMA) 3 and issues associated with its participants was
always known to be dissimilar to the other areas, in that, the area is completely in Federal waters, and the fishery itself is much farther offshore than all other lobster areas, hence, the fishing operations differ widely than those of other lobster fishermen. Yet, after all these years, that fact still goes unrecognized. In making socioeconomic determinations for the current DEIS, NMFS utilized the GMRI Lobster Socioeconomic Survey results; these analysis, with regard to the Area 3 fishery were *horribly flawed*. Numerous AOLA members participated and found it extremely difficult to participate, as the questions asked did not pertain to the offshore lobster resource or fishery. Hence, socioeconomic impact analyses in the DEIS and Proposed Rule which resulted from that study, are unquestionably inaccurate.

Further, it cannot and *should not* be taken lightly that, as you are aware, federal regulations regulate individuals and impact their ability to make a living. Socioeconomic negative impacts within section 1.3.3.3 of the DEIS, pg. 1-18, describes pitfalls of the proposed measures and how they may negatively impact an individual's ability to make a living, and are described as follows; increased gear conflicts; additional cost for gear replacement; grappling gear, (thus reducing time spent fishing); increased gear loss (creating more ghost gear for greater risk of entanglement); *safety implications;* competition for fishing grounds (which also cause safety implications over territorial sites); tension; resentment; and conflict (loss of long-time friendships and camaraderie); exclusion from fishing grounds (resulting in lost revenue); stress and anxiety associated with inactivity and lost income (also resulting in further and more serious health issues).

Also noted in the DEIS under 1.3.3.3, pg. 1-18, the positive impacts, as follows; "To the extent that the new ALWTRP regulations successfully protect and restore whale populations, *members of the public who view and photograph whales would benefit from the regulations.* Annual revenues from the New England whale watching industry total approximately $30 million, and studies indicate that consumers' enjoyment increases with the number of whales and species sighted. Consequently, whale watch operators could benefit from increased ridership and revenues as whale populations stabilize or increase."

With all due respect to individuals interested in protecting whales, those who care about whale populations, and those who crafted the NMFS rulemaking documents, the contrast between the above two paragraphs – taken directly from the NMFS DEIS, is abhorrent. To identify the negative impacts which affect a hard-working individual's ability to make an honest living and provide for his family, while laboring to bring food to our nation's, and other nations, dinner tables, and rightfully so, include that those impacts have the ability to affect one's health; while at the same time emphasize the antithesis, positive impact, as allowing people on a whale watch to be able to point, giggle and have an enjoyable day, provides a perverted and out-of-touch viewpoint, that begs for serious reconsideration, indeed!

Finally, overall statements with regard to the total whale populations, socioeconomic impacts, and comments by the environmental community that the vertical line regulations will be a "positive start that will lead to some entanglement risk reduction" (*Jordan Basin Closure Proposal, pg. 1*), are as follows::

A. Whale populations are exploding. Humpback whales are everywhere and continue to increase in population! (Hence, no shortage of happy whale watchers, there!)
B. The right whale population has increased 100% or more, (likely more, since data, and worse yet lack of data, has proven the existence of DNA and whales, yet unknown and unidentified to the scientists) since the ALWTRT process commenced
C. Whale births have increased and numerous measures, including *sinking groundline* is being used by the fishing community which continues to provide a substantial amount of protection and risk reduction for the whales.

economic hardship over many years, and will continue to endure economic impacts for many years to come! Sinking groundline is exorbitantly expensive to purchase; it wears out more frequently, as well, it degrades hauling equipment on lobster vessels. These costs severely impact a lobsterman's bottom line and net income. Therefore, to ignore these on-going impacts in the rulemaking documents, and for the environmental community to be cavalier and dismiss what has already been accomplished is purely insensitive and wrong.

The following comments will deal specifically with Alternative 5, as preferred by NOAA Fisheries in the DEIS and Proposed Rule:

Regarding the numbers of traps per trawl, in order to fish with two endlines: It should be noted that the Area 3 lobster fishery is located approximately 30-200 miles offshore, therefore, the Agency's requirement for ten traps per trawl in order to fish with two endlines in Area 3, from 3-12 miles is a moot point, since there is no part of Area 3 that exists within 3-12 miles.

Biological impacts in the DEIS, Section 1.3.1, discusses the importance of increased numbers of traps per trawl to "reduce the number of vertical lines in the water and thus, benefit large whales by reducing the frequency or severity of entanglement in buoy lines and associated gear." Area 3 fishermen's trawls consist of between 30 – 40 traps per trawl, the highest number of traps per trawl throughout the entire lobster fishery. Each trawl contains only two endlines, and as is widely known by NMFS and the Take Reduction Team (TRT) participants, traps within Area 3 have been reduced by over 30% and will continue to be reduced, through lobster management, by another 25% active

reductions. Additional passive reductions will ensue with an additional 10% conservation tax, resulting from transfers in traps from one fisherman to another. Each transfer will result in 10% of the transferred traps being permanently retired. These are bold strategies used for the sustainability of the lobster resource, however they surely benefit marine mammals by reducing the numbers of traps and amounts of rope in the water and *must not* be ignored or taken for granted throughout the whale management process. Prior to the next 25% reduction in traps within Area 3, there were, within the area's 127,129.68 square miles, only .044 endlines per square mile, calculating actual numbers of trap tags purchased. Once the 25% reduction in traps is finalized, using *allocated trap numbers (actual numbers will be far lower),* there will be less than .043 endlines per square mile in Area 3. Actual endline totals in Area 3 after the 25% reduction in traps will be closer to .03. Realizing there are certain times and areas where and when whales are prevalent, surely there is no other lobster area, when at *any time,* that amount of risk reduction to whales can be proclaimed!

Members of AOLA support the requirement to fish with a minimum of 20 traps per trawl within Area 3 from 12+ miles, noting that the fishery actually begins approximately 30 miles offshore.

The new proposal relative to gear marking will provide far greater cost to fisherman than benefit for whales, since there is no guarantee, nor data to suggest, this will increase the ability to identify gear. Three 12" marks on offshore endlines may seem fairly simple, however closer consideration denotes the situation as quite onerous and impractical. Offshore gear is frequently not brought home to the dock; it is hauled and immediately replaced into the ocean, hence the lines are always wet, adding marks or replacing marks is extremely difficult on wet line, and in the offshore environment. Further, an offshore vessel's "territorial grounds" move and change over the course of a fishing year; changes in fishing grounds frequently mean changes in depths, which determine the lengths of endlines. To abide by the proposed regulations, offshore vessels would need to replace groundlines frequently in order to keep marks at the top, middle and bottom of the endlines, otherwise there would be black marks in many varied locations on the endlines, and fishermen could face enforcement issues. This is impractical and costly for several reasons:

1. Carrying thousands of pounds of extra line may cause instability
2. Carrying thousands of pounds of extra line may preclude the ability to haul gear replacements, as needed
3. Splicing new endlines would impact fishing time and the bottom line (including cost of new endlines in order to have marks properly placed)
4. High likelihood of non-compliance due to the above
5. Enforcement issues could ensue if the endlines were not marked exactly as regulated; or due to non-compliance (also problematic for cost v. benefit)

Offshore gear has always been fairly easy to identify, even without gear markings, due to its size. Therefore, additional gear markings on offshore gear seems rather unnecessary.

The proposal to close Jordan Basin to lobster fishing from November 1 – January 31 is unjustified. First and foremost, the process associated with the Jordan Basin Closure proposal should be considered unacceptable by the Fisheries Service. NMFS requested that all TRT members submit proposals to the agency prior to the most recent TRT meeting for review by the agency and TRT members for discussion at the meeting. The Jordan Basin closure was conceived in rudimentary form toward the end of the three-day meeting, as seemingly an afterthought once all other options had been A) fully vetted, and B) exhausted. This late submission provided no time for the members of the TRT to review or fully vet this proposal; in fact, comments on the proposal were necessitated through written comments post-meeting, which was clearly a poor alternative to discussion. Further, this proposal is based on whale "hot-spot" sightings. Members of the TRT, *including authors of this proposal*, voted at the TRT, against using "hot-spot data" for consideration of management actions, and voted unanimously, instead, to utilize a co-occurrence model indicating the simultaneous presence of both whales and fishing gear together in the same location. The Jordan Basin proposal is *not* an effective representation of the co-occurrence model. The Proposal denotes a high presence of whales and suggests *any* amount of gear is a risk; this is *not* co-occurrence. It is inappropriate to "change the

rules in the middle of the game;" if the TRT voted against a hot-spot analysis, then it is surely unethical and wrong to consider it within this process. This proposal should be disqualified. NMFS hired IEc to study co-occurrence of the lobster fishery and they provided data that little co-occurrence transpired offshore, including within Jordan Basin. Clearly, there is little co-occurrence anywhere offshore, relative to other lobster fishing areas at any time of the year.

Further, it is important to remind the Agency that when sinking groundlines were implemented members of the TRT, which included the makers of the Jordan Basin closed area proposal, voted unanimously that closed areas would no longer be part of the management process due to the extreme amount of risk reduction provided through the implementation of the sinking groundline. The reason Dynamic Area Management (DAMs) and Seasonal Area Management (SAMs) were abolished, which would have most certainly fit into the "co-occurrence" model, was due to closed areas no longer being deemed necessary or pragmatic because sinking groundline was such an enormous step forward toward risk reduction. Clearly, this too, is an example of certain factions trying to change the rules in the middle of the game. It is *wrong and should not be acceptable to the regulating agency.*

Specifically related to the DEIS, *Section 6.3.4.1 Jordan Basin Restricted Area,* unfortunately all data within this section, *other than* that which suggests that the relocation of gear would result in the gear being placed around the perimeter of the closed area (thus, creating greater risk within a known "hot-spot" for whales), is wrong. Further, data (including that which follows) deemed incorrect, should never be used to calculate impacts to an individual's livelihood, as we are all well aware that when considering data – garbage in/garbage out.

A. Not all offshore vessels have an allocation of 1200 traps
B. There are fewer vessels than five fishing in Jordan Basin from November through January, and seldom do they fish their full allocation of gear within the area
C. The estimate of 20 pounds per trap during the closure period is grossly under represented for what is actually landed during that time period

The justification in Section 6.3.4.1 to close Jordan Basin is very poor. Other than much of it being inaccurate, over estimating the amount of gear fishing in the area, and underestimating the economic impact to fishermen, the document clearly states that "complete information on lobster vessel operations in offshore waters is not available, making it difficult to predict how vessels that currently lobster in the Jordan Basin area would respond to the closure." (*DEIS p. 6-33)* Yet it continues on to unknowingly assume that offshore vessels would "likely" relocate rather than suspend fishing during that time of the year; however, the authors have no idea whether there is another area to which that gear can be relocated. It cannot be forgotten that lobster fishing is extremely territorial, and relocation can have economic impacts of its own. All of the data is based on assumptions, yet there is no real data on which to base those assumptions, hence, the economic assumptions are baseless. For instance, the DEIS states, "Absent information on the home ports of the affected vessels, the analysis assumes that the relocation of gear has no material effect on steaming time to and from port; i.e., no additional fuel or time costs are incurred when fishing in the new location." (*Section 6.3.4.1 p. 6-34)* How can assumptions be made "absent information;" I believe that is merely called, a guess, a shot in the dark, or grasping at straws. Clearly, it is not to be considered "data or justification!" Also, calculations were never considered as to the cost of not only moving gear, but also finding new lobster populations on which to fish, where other fishermen are not already fishing.

Also detailed within Section 6.3.4.1 was the following, "For purposes of calculating the impact of relocating gear on fishermen's time, each vessel is assumed to carry a captain and two sternmen. The average number of trips made each week (2.2) is based on data provided by LMA 3 respondents to the GMRI lobster survey. (*p. 6-34, GMRI 2006).* As noted above, the GMRI Socioeconomic Study was "horribly flawed," regarding its resulting data on the Area 3 fishery and its participants. Questions were inappropriately queried and I am aware through personal conversation, various Area 3

lobstermen contacted GMRI to alert them of the problems associated with this survey. The DEIS denotes their calculations using an "assumed" crew of a captain and two sternmen, however, an offshore vessel typically carries a crew of five; also noted is a "weighted average," in determining justification for the proposal, of 2.2 trips made each week. This scenario is virtually impossible for an offshore vessel to steam to the area, haul all the gear present, reset it, steam home, unload, service the vessel, purchase supplies, and make it out there to do the same, twice in one week. Exhibit 6-17, no doubt based on the GMRI Survey, is also exceedingly incorrect.

Focusing only on the issue of endlines and co-occurrence for the moment; using NMFS incorrect data of 6,000 traps within the Jordan's Basin closed area, calculating traps per trawl and total square miles, that formula would provide only .41 endlines per square mile in the 725 square mile Jordan Basin closure area. Using a more correct number of likely traps, the total is reduced to between .25 and .31 endlines. This scenario most certainly does not fit the TRT agreed-upon model of co-occurrence. The Jordan Basin closure, due to the utter lack of true justification, should be disqualified from the Proposed and Final Rules.

Extremely poor data, coupled with environmentalist's desperation to "grasp at straws," creates negative impacts which outweigh any reasons brought forward to close Jordan Basin to lobster fishing. Socioeconomic data used by NMFS when crafting these regulations, as noted above for the offshore fishery, is flawed; therefore, statements such as, "there is no clearly-defined threshold at which annualized costs represent a large enough percent of annual revenues that a vessel operator would cease fishing, or would otherwise suffer social and economic hardship," (*DEIS p. 1-15*) is not only presumptive and incorrect, but entirely insensitive to an individual's ability to make an honest living. A very troubling provision of the entire TRT process and resulting rules, is the inability to quantify the benefits of much of what is being required due to the lack of good data; this is one area in which the scientists, environmentalists and the fishing industry agree. Unfortunately, the lack of data, resulting in the presence of poor suppositions, further complicate good and proper decisions.

Finally, the Atlantic Offshore Lobstermen's Association can support nothing other than Alternative 2, which incorporates NMFS requirements for certain numbers of traps per trawl, minus the gear marking provision within Area 3, for all reasons stated above. Further, AOLA members support an implementation date of June 2015 to allow all those for whom change is necessary, the ability and time necessary to make those changes.

I appreciate the opportunity to comment on the inaccuracies of the data, the absence of co-occurrence, and the severe impacts a closure within Jordan Basin, from November 1-January 31 would create for a small group of individuals. Please feel free to contact me should you have any questions relative to this correspondence.

Sincerely,

Bonnie P. Hyler

Bonnie P. Hyler
Executive Director

National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930
Attn: ALWTRP Large Whale Rule

September 13, 2013

To Whom It May Concern,

I attended the public hearing presented by NOAA/ALWTRT representatives on August 19th, 2013 in Gloucester, MA where there was to be a discussion and comment about the 6 alternatives outlined to reduce whale entanglements, based on a co-occurrence model set forth by scientists. These 6 alternatives were described in depth at http://www.nero.noaa.gov/protected/whaletrp/eis2013/index.html with preference given to Alternative 5, which includes heavy closures, gear modification and gear marking. Of the over 1000 pages of statistical analysis, evaluation and proposed implementation found on their website, the representatives at the Gloucester meeting gave, to be generous, maybe a 10-15 minute presentation. They skipped over some crucial breakdown analysis where even by their estimates, it will cause the trap/pot and gillnet fishermen millions of dollars in lost revenue due to these closures and thousands more in proposed gear modification. In my opinion, they did not perform their due diligence in explaining how some of these alternatives will, at least by their calculations, affect fishermen of the Northeast.

It is also my opinion that their research did not include input from fishermen as the costs associated with Alternatives 2-6 are not realistic, not feasible for many fishermen and are completely unnecessary, to the point where it may have an adverse interaction between whales and fishing gear. There are also major flaws in their vertical line co-occurrence model which is the foundation for their statistical analysis leading to this preferred Alternative 5. There are easier, more enforceable measures which fishermen can accommodate to better assess entanglements, actions fishermen already take as their season progresses which would reduce entanglements and reasonable solutions which would not put the potential entanglement of a whale above the safety of a fisherman.

Gear Marking

The most realistic proposal is the gear marking portion of Alternatives 2-6 which increases marking to three 12" sections, color coded by region, evenly distributed from the bottom, middle and top of each vertical line. Vertical lines are currently marked to distinguish lobster pot/trap gear (coded red) from gillnet gear (coded green) with one 4" mark midway down the line. The problem with the current model is that it is too vague for the entanglement data scientists are looking for. In fact, this is the fundamental problem with the take reduction plan timeline. ALWTRP is exploring alternatives to problems which may not exist, including heavy closures and gear modification on areas where entanglements are presumed but not quantifiable. Even in the ALWTRP-DEIS report, (Section 3.1.8) it notes that from 1997-2008, only 10% of entanglement events could be identified by fishery, location and date, continuing on to state, "A stronger gear marking strategy would help answer questions such as when and where entanglements occur." (ALWTRP-DEIS 3-9)

Gear marking will better identify problem areas to which further proposals can be explored. In the mean time, it is irresponsible to risk the safety of the fishermen or their potential revenues based on

lack of data. For example, in December 2009, there was a humpback whale disentangled off Jacksonville, FL - with clearly marked Canadian gillnet gear. (Humpback Whale Stock Assessment Report December 2012 http://www.nmfs.noaa.gov/pr/pdfs/sars/ao2012whhb-gme.pdf p.29) Had the gear not been identified, one may assume the whale was entangled in US or more specifically, Floridian waters. Because of the migration patterns of these whales, entanglements can occur throughout a large range, between International borders, from different fisheries, etc. Common sense says figure out the best solution by properly assessing the problem.

Trawling Up

Included in Alternative 2 and continuing through Alternatives 3-6, is a proposal to increase the amount of traps per trawl in an effort to reduce the amount of vertical lines. Focusing on their preferred alternative (Alternative 5), this is projected to cost the fishery $1,012,000 - $3,265,000 in annual compliance costs (ALWTRP-DEIS Exhibit 8-3; 8-8). Depending on which Alternative is defined, which state, the zone, area or distance from shore, the minimum traps/trawl is anywhere from 2-20 from the 23 defined locations (ALWTRP-DEIS Exhibit 3.1; 3-3 – 3-5). Of these 23 locations, fishermen may have permits to fish in multiple areas and would have to reconfigure their gear accordingly, adjusting groundline length per trawl and using only 1 vertical line if the trawl consists of 5 or less traps. For smaller boats that are only capable of fishing 2, 3 or 5 pot trawls, regulations forcing them to trawl-up to 10 or 20-pot trawls is not feasible and in even making an attempt to become compliant with their available resources would be dangerous. Also, forcing fishermen to use only one vertical line per 5 or less pot trawl will increase the chances of gear loss significantly. It is a common problem for boat traffic or gear conflict to cause the temporary or permanent loss of a buoy, connected to a vertical line, identifying a trawl. Without the option to haul that trawl from a second vertical line, this will inevitably lead to an adverse impact on the environment and the species within that environment in the form of increased ghost gear. Not every trawl can be retrieved from grappling and marine life can become trapped or entangled in ghost gear just as easily as tended gear. It is also common practice to haul a trawl specifically from one set point or another (i.e. East or West) to more effectively haul or improve the safety of hauling in order to deal with tide or inclement weather.

There is necessity in 2 vertical lines per trawl. There are also considerations in lobstering that account for reduced vertical lines, which if NMFS had a real consultation with fishermen, it would be factored in. For the boats that are only capable of fishing a maximum of 5 pot trawls, I can say with near certainty that these fishermen are also fishing well below the allotment on their permit. For example, a fisherman in Massachusetts may have a permit which allows him to fish 800 traps and with the proposals, fish 10 pot trawls. 800 traps divided by 10 pots/trawl = 80 trawls with 2 vertical lines each = 160 vertical lines. Now a smaller vessel that can only handle 5 pot trawls is likely not capable of fishing his 800 trap allocation actively but is legally entitled to do so. 800 traps divided by 5 pots/trawl = 160 trawls or 320 vertical lines. You can reduce the number of vertical lines by allowing that fishermen the option of either trawling up to 10 pots/trawl or fishing 400 traps in 5 pot trawls, so that in the end, however the configuration of trawls, there is the same vertical line allocation per region according to the numbers drafted in ALWTRP-DEIS Exhibit 3-1 (3-3).

The ultimate goal is less vertical lines in the water and giving a vertical line allocation will offer each fisherman flexibility according to his own situation while not incurring the industry estimated costs as outlined in ALWTRP-DEIS. The capabilities of a vessel, a captain and his gear are not universal and an allotment would allow him to make the decision to fish longer trawls or less gear, whichever configuration allows him the safest and most economical situation for his needs. Since certain fishermen are permitted for multiple areas with multiple regulatory proposals, there would have to be

some further consultation **from fishermen** to see what is fair and realistic for their full allotment of vertical lines fished over the multiple areas. These suggestions are also much more enforceable in that surface counting buoys/vertical lines is much easier than hauling a whole string of gear to count traps/trawl.

The other major consideration in lobstering is seasonal changes. As peak season approaches for lobstering, fishermen are setting their gear in deeper water and they are also trawling up on their own. Gear fished closer to shore in summer months may be configured in 10 pot trawls whereas that same gear will be made into 20-pot trawls as the fall and winter months approach to follow the catch. Fishermen already reduce the amount of vertical lines in the water, some up to half, as a necessity of the fishery. There can be flexibility in gear reconfiguration which will not cost the lobster industry millions of dollars, will not jeopardize the safety of those at sea and will provide the same end result: fewer vertical lines in the water column.

Closures

Alternatives 3-6 include closures, some of which are on lucrative fishing grounds during the peak lobstering season. The closures specified for Alternative 5 (ALWTRP's preference) include Jordan Basin (November – January; 725 sq. mi), Jeffreys Ledge (October – January; 607 sq. mi), and Massachusetts Restricted Area #1 (January – April; 2,464 sq. mi). According to ALWTRP-DEIS Exhibit 8-3 (8-8), the closures alone will affect 184 active fishing vessels, with an annual estimated compliance cost of $1,397,000 - $2,215,000. This is the result of either complete loss in revenue or cost to relocate in an effort to fish elsewhere, if it's even feasible or profitable for the permit holder. The problem is this number is severely underestimated. Even by ALWTRP-DEIS Exhibit 7B-1 (7B-1), the projected loss in landings for Alternative 5 is 601,000 – 1,893,000 lbs/yr and with a modest price of $3.00/lb, that would make the upper bound scenario closer to $5,679,000. Alternative 5 is the preferred proposal because it has the highest reduction in co-occurrence between whales and vertical lines at a 40-42% reduction depending on the degree to which a fisherman suspends fishing or relocates his gear. With further examination from Exhibit 8-5 (ALWTRP-DEIS 8-14) these three major closures only compromise 2.8-4.8% of that reduction whereas the major component to this reduction is 37% from gear reconfiguration. It appears careless to close a combined area of 3,796 sq. miles, costing the industry millions in lost revenue for only, at most, a 4.8% co-occurrence reduction for potential whale entanglements.

ALWTRP-DEIS acknowledges in Section 11 that "the most critical impact is associated with the closure of Jeffreys Ledge from October through January… this measure would displace 69 vessels operating in the Federal waters of the Maine Zone G. The annual cost of complying with this closure, coupled with the cost of complying with other new regulatory requirements, is estimated to range from 40 to 66 percent of the average annual gross revenue of the affected vessels." (ALWTRP-DEIS 11-18) Now in Section 6, it states that the prediction of 69 active vessels is based on incomplete data. ALWTRP-DEIS wrongly assumes this would only affect 1-3 vessels from Massachusetts and 2-4 vessels from New Hampshire (ALWTRP-DEIS 6-43). I have been informed that at least 9 boats from Rockport, MA currently use these fishing grounds during this time and many more permit holders on Cape Ann either fish there or have the option to do so. Speaking with another fisherman, he indicated there are at least 7 boats from New Hampshire that he personally knows who fish there as well. ALWTRP-DEIS Exhibit 8-5 indicates the Jeffreys Ledge closure alone only gives a 1.3-2.5% co-occurrence reduction, costing the fleet $743,000-$1,172,000. Understanding that the vessels affected are more than predicted means this cost is severely underestimated and creates a much larger cost per unit of co-occurrence reduction than cited.

As so many lobstermen depend on these closed areas during their peak season, the majority of lobstermen will not suspend fishing during these times. Revenue generated from these areas is the income that will sustain them through the slow months until summer arrives. Relocation is their only option. Section 6.3.1 (ALWTRP-DEIS 6-23) discusses the uncertainty in evaluating relocation vs. suspension of fishing, citing past closures and their results for various fisheries in Exhibit 6-10 (ALWTRP-DEIS 6-24). From experience and from the citations, what will happen is lobstermen will fish as close to the edges of the closures in an effort to still make a living from whatever lucrative fishing grounds remain available during peak season. Yes, this will cause congestion and gear conflict which fishermen will work to figure out amongst themselves but what ALWTRP-DEIS has failed to identify through all their scientific findings, is the projected co-occurrence model of the closure perimeters, now congested with a wall of vertical lines, surrounding these areas where they seem to think there are so many whale sightings during these designated times. This scenario will create an enclosure surrounded by vertical lines, greatly **increasing** the chance of entanglement for whales traveling into and out of these areas.

Having spoken with naturalists from whale watch organizations or their affiliated non-profits, there is agreement in that this scenario has a high potential for entanglement upon entering or exiting these closures. Besides the fact that this is in direct conflict with ALWTRP's intended mission, the statistics of increased entanglements from enacting closures will not be correlated until years after the fact. Before any further action is taken against fishermen in an effort to reduce large whale entanglements, fishermen have asked for statistical significance, a five year period by which to assess the major April 2009 implementation forcing fishermen to change their floating groudline to sinking groundline. This has yet to be done. Even the stock assessments for each of the 3 species of concern (published for December 2012 on NOAA's website) only have recorded entanglements through 2010, not nearly enough data to properly assess ongoing issues. The problem with enacting this aggressive Alternative 5 is that there is little to no follow up on the repercussions of drastic actions and no budget or desire to reform them, in which this case, has the potential to be self-inflicted higher PBRs for these whales. And after the fact, if PBRs are not met according to ALWTRT's guidelines, will they investigate their own take reduction plan proposals or simply broaden or increase the timeframe for closures?

Criticism

There is a severe lack of statistical conclusion in the vertical line model. This can be best summed up by Reviewer 1 from the Center for Independent Experts Peer Review, stating, "It is my opinion that other model approaches might have been preferable and that this version of model is not ready to be used in a management application until its performance has been validated or compared with other approaches." (http://www.nero.noaa.gov/protected/whaletrp/eis2013/reviewer_1_redacted.pdf p.2) The model he/she is referring to is the Vertical Line Model, independently created by Industrial Economics (IEc), as contracted by NMFS. This model was used by ALWTRT in order to identify Alternative 5 as having the highest percent reduction in co-occurrence for vertical line/whale entanglement potential. This co-occurrence model is based on an overlap of whale sightings and presumed fishing activity in not only the proposed closed areas but those areas affected by minimum trawl lengths, summing their 42% co-occurrence reduction for Alternative 5. Within IEc's documented model, it even outright states, "The dataset, however, is neither geographically nor temporally comprehensive, adding uncertainty to the analysis of both baseline co-occurrence scores and the impact of alternative management measures." (Technical Documentation for the Vertical Line Model, IEc, p. 3) If the foundation, as independently reviewed and contracted, is deemed flawed, then so are the findings upon which it resides. The lengthy ALWTRP-DEIS report and the extrapolated data from IEc cannot possibly identify Alternative 5 as the best alternative when factoring in actual science, true observations and precise fishery practice.

The main purpose for these proposed regulations is to preserve whale populations for their own sake but also for future generations. I was disgusted to see the ALWTRP-DEIS document put such emphasis on enhancing the whale watch businesses of New England as if fishermen or their gear had that great of an impact on these businesses. ALWTRP-DEIS' conclusion is that the public is more likely to purchase a whale watch ticket if there are numerous whales in the area. This is a sore justification and completely irrelevant to an environmental impact statement of this nature. From my personal experience in both taking reservations and working on a whale watch boat this past summer, I can attest that the majority of customers went on a whale watch because they had purchased a coupon to do so. Those who inquired about the sightings and were informed there were fewer sightings than years past still booked. And the customers on board were just as happy and just as likely to come back with the close to boat and surface activity they had from one or two whales versus thirty. The reason why there were so few whales this past summer was from lack of feed –not whale entanglements. It was sickening to read how one seasonal industry which preys off tourists is more important than the most sustainable fishery left, lobstering. So many coastal communities depend on lobsters in terms of its own tourism draw, product for local restaurants, and secondary effects for dealers, processors, and employees thereof, not to forget the direct effect on boat owners, their crew and their families.

Throughout various sections, it is also speculated that with lower landings, less consumer surplus will lead to a greater boat price for fishermen to help offset the cost or loss in revenue from these proposed regulations. Speaking from industry standards and business practices involved in this trade, I can assure you this will not be the case. The US imports Canadian lobsters with no import/export quota restriction, meaning, when these proposed closures result in lower landings from Maine, New Hampshire and Massachusetts, the US businesses depending on this product will increase their imports from Canada before an increase in boat price will trickle down through dealers to harvesters. This may result in a higher Canadian price first, possibly a higher US price later but nothing that will substitute the projected 40-66% loss in average annual gross revenue as stated above. This is especially concerning where another country stands to profit from US fishery regulations and also lacks the same standard of compliance to prevent whale entanglements. Note the incident on 03/25/2006 where a humpback whale was found entangled off Flagler Beach, FL with clearly marked Canadian lobster pot gear (Humpback Whale Stock Assessment Report December 2012 http://www.nmfs.noaa.gov/pr/pdfs/sars/ao2012whhb-gme.pdf p.25). US closures, increased US regulations, and decreased profitability for the US lobster industry will not affect incidents like these.

Conclusion

ALWTRP-DEIS includes a Regulatory Impact Review, citing Executive Order 12866: "In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating… Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits (including potential economic, environment, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach." (ALWTRP-DEIS 10-1) After reviewing the extrapolated data, research from whence it came, and the bare assumptions filling the gaps from improper consultation from fishermen, I can say with confidence that Alternative 5 neither maximizes the benefits, encourages safe fishing practices, takes into account subsequent environmental impacts or fully comprehends the magnitude of social welfare to boat owners, crew or the local counties which will depend on this harvesting revenue. Alternative 5, the preferred alternative is aggressive and irresponsible, especially given the insistent timeline without proper assessment. ALWTRT needs to take time to collect relevant, real, substantial data, reaching out to fishermen to help assess an accurate

vertical line co-occurrence model and take into account a balanced scenario which will truly benefit the whales from entanglement.

I am in favor of gear marking to better assess problem areas. I am in favor of reducing the amount of vertical lines in the water by consulting with fisherman to give a maximum allotment of vertical lines per their permitted region. I am against the closures included in Alternative 5, especially those on Jeffreys Ledge, which will result in not only the increased likelihood of whale entanglements but also cause economic hardship to boat owners and the businesses they support. I would ask that ALWTRT and all involved agencies take time to reconsider these measures before they waste tax payer dollars and cost the US lobster industry millions of dollars by racing to meet a 2014 implementation deadline. I am asking NOAA and NMFS to restore some confidence within the fishing community by taking this opportunity to act responsibly on behalf of the whales they are trying to protect and the fishermen they also have a duty to represent. I thank you for your time in addressing these comments and fully investigating any and all discrepancies within the ALWTRP-DEIS in order to come up with the best possible solution for all interested parties.

Sincerely,

Maren M. Olson

Commercial lobsterman from Gloucester, MA
Board of Directors, Whale Center of New England
olson_maren@yahoo.com

New England Aquarium
Protecting the blue planet

Central Wharf, Boston MA 02110

www.neaq.org 617-973-5200

September 16, 2013

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

Re: Atlantic Large Whale Plan Proposed Rule for Vertical Line Strategy

Dear Mary:

We are writing to provide comments on 50 CFR Part 229: Proposed Rule related to the Vertical Line Strategy. The New England Aquarium in general supports implementation of this Proposed Rule, Preferred Alternative 5 as it is likely to reduce the total number of entanglements. However, we do have concerns about the following which are detailed further below:

- The use of closures to reduce vertical lines
- The use of trawling up as a measure to reduce vertical lines
- Gear marking
- Gillnets and Jeffreys Ledge closed area
- The co-occurrence model validity
- Monitoring strategy

<u>The use of closures to reduce vertical lines</u>

The New England Aquarium has been monitoring entanglement scarring and injury rates on data and photographs of right whales collected since 1980. These data have shown no decline in annual scarring rates over a 30 year period and have shown a disturbing increase in serious entanglements resulting in animals with gear attached or with deep wounds from the

entanglement (Knowlton et al. 2012a). Over 82% of the known population has shown evidence of entanglement interaction. What is notable about these data is that very little is known about where these entanglements have occurred. Only a handful of cases have been able to be traced back to the location of where the gear was set and in some of these cases, the whale acquired the gear during a season or location that was outside of the right whales understood migratory patterns. Right whale #3346 (Kingfisher) is an example of such a case in that he acquired the gear in state waters of southern Maine sometime between late January and mid March 2004. Therefore, the closures proposed in Alternative 5 may provide some reduction in entanglement rates but will likely not allow NMFS and the Atlantic Large Whale Take Reduction Team to achieve the reduction in entanglements needed to reach PBR (see comments on model validity below). While we support their implementation as a first step in mitigating entanglements, we believe it should be seen as only one minor step forward in addressing this chronic issue. Also, regarding the timing of the Jeffreys Ledge closed area, see section on Gillnets and Jeffreys Ledge closed area below.

Creating or expanding closed areas to fishing where there is high overlap of whales and gear intuitively should reduce entanglement risk, and probably does. But the ultimate objective is not to simply reduce risk of mortality and serious injury but to help the population of endangered right and humpback whales *recover*. We request that NMFS use an appropriate and peer-reviewed population model to quantify the impact on the populations that the suite of areas planned for closure might have. This is a critical need, as other case studies involving marine have shown that local reductions in bycatch do not necessarily translate to population recovery unless the protected areas are in the correct location and are of sufficient size (Rojas-Bracho and Reeves 2013, Slooten 2013). This kind of modeling exercise should be carried out to evaluate the potential impact of these proposed measures on target populations.

One consequence of time-area closures is that fishing may become intensified and concentrated in areas outside ones that are closed. Although in NMFS' co-occurrence model such areas were not identified as areas with high concentrations of right whales, an increase in effort within them might result in an increase in the entanglements that ordinarily would have occurred in these areas, at a scale that could reduce the effectiveness of the closed areas. One way to mitigate this is to continue the research and development of alternative fishing gear and techniques that can be shown to reduce entanglement risk to whales. As large whale distributions begin to shift as a result of climate change (as has already been detected), the importance of developing alternative fishing gear and techniques will become even more critical.

<u>The use of trawling up as a measure to reduce vertical lines</u>

Increasing the number of traps/trawl is proposed to reduce the number of vertical lines in the water column. Intuitively this should reduce entanglement probability but there is a possibility that it is trading off one source of risk (high gear density) with others that may increase the chances of severe injury or mortality occurring. For example, increasing the number of

traps/trawl will increase the overall trawl weight. In the event of an entanglement, would the additional weight create more drag thereby increasing injury severity? Would the increased weight of gear result in fishermen choosing ropes with heavier breaking strength? This would be a serious concern in light of one study (Knowlton et al. 2012b) that showed rope breaking strength is a factor affecting the likelihood that a large whale can break free of gear upon entanglement. In this study, several indicators suggested that rope strength in some cases is too strong for large whales to break free from entangling gear before it develops into a complex, serious entanglement. We showed that minke whales have been found in significantly lower breaking strength ropes than right and humpback whales, juveniles right whales are found in significantly lower breaking strength ropes than adult right whales, and adult humpback whales are found in significantly lower breaking strength ropes than adult right whales. All of these findings indicate that whale size and strength play a role in what ropes a large whale can break free from without causing harm.

A second aspect of this study was an exploration of rope manufacturing changes which showed the development of a co-polymer rope in the mid 1990's which led to much stronger ropes of the same diameter. When we evaluated entanglement complexity and injury severity over a 30 year period, the data showed that beginning in the mid 1990's both complexity and injury severity increased significantly. This change could be related to this rope manufacturing development which has resulted in a combination of fishermen using stronger ropes and the co-incidental expansion of several fisheries effort into offshore areas.

As a result of this study, we recommend that NMFS require the fishing industry to use ropes with breaking strengths of less than 1,500 lbs in areas north of Cape Hatteras and ropes of less than 1,000 lb breaking strength in areas south of Cape Hatteras, in consideration of newborn calves that would not have the strength to break free from the stronger rope, where operationally feasible. Our data suggest that large whales should gain substantial benefits from these maximum breaking strengths and that in most cases, the gear should be able to be hauled and set without negative impacts to the fishermen's activities. When a whale gets entangled in the vertical line and starts to tow the gear, this would put a strain on the rope that would exceed the typical loads imposed by hauling and setting the gear. If when such a strain is imposed on the towed gear, if the vertical line breaks more quickly than it presently would, the whale would be able to ideally swim away without becoming further entangled or carrying attached heavy gear. There may also be some unanticipated benefits to the fishing industry including improvement of safety at sea as a hang up would part off before putting a vessel in danger, a potential reduction in bottom gear loss as a whale (or a dragger) might not end up towing gear very far from its origin as the vertical line would break free before the full weight of the bottom gear got under tow and the bottom gear would be able to be grappled or retrieved from the other endline, and lastly, if reduced breaking strength ropes are developed that are of the same diameter as previously used ropes, they would likely be lighter weight and therefore lesser cost. We strongly encourage NMFS to support research and development of reduced breaking strength ropes.

There will likely be fishing areas that because of water depth and currents, reduced breaking strength ropes would not be able to be used. In these areas, we believe the only alternative should be rope-less fishing. Therefore, we believe the research and development of rope-less fishing techniques is paramount to achieving the goal of making fisheries safe for large whales.

Gear marking

The importance of improved gear marking has been discussed for many years, and it will be useful to have a better system in place. Give that it is not uncommon to observe whales carrying ropes without buoys that would identify their owner, it is regrettable that there will still be instances in which the gear will be untraceable to a more accurate location where it was set, which would assist in a reconsideration of the effectiveness of regulatory measures, particularly the placement of area closures. One option which we think should be considered would be to modify the gear marking scheme slightly to help understand what gear configurations (and therefore a slightly more refined area) are leading to complex entanglements. Because the majority of lobster gear is found in the Gulf of Maine, we would suggest that the red gear marking of a 12 inch band at 3 points along the vertical line be changed slightly. For trawls with 5 pots or fewer, retain the 12 inch band of solid red. For trawls with more than 5 pots attached, make each gear mark be two bands of red separated by two inches without color for a total of 12 inches (this would result in two 5 inch bands of red). Some fishermen may shift the number of pots attached to their gear during different seasons from 5 or less to more than 5 pots. This slight change in gear marking would allow a fisherman to slightly change the marking with any change of gear configuration. With this slight change in gear marking, there may be an opportunity to better understand whether heavier gear and longer trawls are leading to more complex entanglements as we suspect.

We are not advocating any change in gear marking in the other areas as at this point as our understanding is that there is not as much diversity in gear configurations in these other regions. However, if it appears that a similar gear marking scheme in other regions would help better our understanding of the gear configurations involved in complex entanglements of all large whale species, then we suggest it be considered as an option.

Gillnets and Jeffreys Ledge closed area

We are concerned that gillnets have not been considered for closed areas. We know of at least two right whales that were entangled in gillnet gear in the Jeffreys Ledge area - #3120 was seen entangled in gillnet on October 20, 2010 and #4090 was seen entangled in gillnet on September 18, 2011. Although #3120 has been resighted, he suffered severe injuries of his flipper which may affect his long term prognosis. And #4090 has not been resighted again and may have died from the entanglement. Based on these two events and the known overlap between right whales and gillnets in this area, we recommend that NMFS include gillnets in the Jeffreys Ledge closed area. Also, we recommend that the timing for the Jeffreys Ledge closed area be extended back to

include the month of September as in addition to the above September sighting, there are two other right whale entanglements seen on Jeffreys Ledge in September - #1503, seen entangled in rope on September 10, 2010 and not seen again, and #1151, seen entangled and anchored in rope near Jeffreys Ledge on September 4, 2009 and disentangled by PCCS. All of these known entanglement cases suggest that Jeffreys Ledge is a hotspot for entanglement in both gear types from September onward through the fall.

The Co-occurrence Model Efficacy

An alternative model for right whales using detailed trap gear characteristics, fishing effort, water depth, and an updated right whale distribution model that included systematic and opportunistic sightings, was presented to NMFS in the early summer of 2012 by Hauke Kite-Powell, Brooke Wikgren, Patrice McCarron, and Scott Kraus. At NMFS request, supplementary details on the model's consequences for humpback whales in the Gulf of Maine were provided. An analysis using this alternative model indicated that hypothetical entanglement reductions based on the co-occurrence model over-estimated actual entanglement risk reductions of the proposed rule by over 50% or more. This is a serious difference, and regulatory actions under the ESA and the MMPA should be based upon the best available data and analyses. There is reasonable doubt that the NMFS co-occurrence model represent either the best data (it ignores opportunistic sightings and tagged whale data), or the best analyses (co-occurrence is a proxy for risk only if all other factors are equal, and the variability in the fishery and Gulf of Maine environment are anything but homogeneous).

Further, the CIE reviews of NMFS co-occurrence model identified several significant problems with it, and were not as positive as the Federal Register announcement makes it sound. Comments in the Federal Register announcement suggest that NMFS was unaware of the alternative model, which is untrue. While the co-occurrence model has prompted proposed changes that are likely to reduce entanglements, the level of that reduction is unlikely to be as large as hypothesized. Given that, this rule is unlikely to significantly reduce the threats to right whale recovery.

Monitoring strategy

One aspect of the entanglement issue that remains unclear are intended plans for monitoring the impacts of these regulatory changes. Although entanglements where gear remains attached to the animal are one metric that has been used, several other metrics for monitoring entanglement impacts are available. Scar coding work has been useful for understanding the annual rate and characteristics of right and humpback whale entanglement events (Knowlton et al 2012a; Robbins 2012). We have three recommendations: 1) This baseline scar analysis work should continue to determine if the annual rate of entanglement scarring increases or decreases and whether the reduction of vertical lines (and of sinking groundline) has reduced the rate of interaction; 2) All right whale entanglement scarring should be categorized into minor, moderate,

or severe entanglement scars to monitor trends in entanglement severity. As noted above, we have seen a significant increase in moderate and severe entanglement scarring since the mid 1990's (Knowlton et al 2012b). This annual proportion of scarring severity will be useful for understanding whether the increase in trawl size, which may result in greater injury, is reflected in the scarring data. Even if overall entanglements are reduced because of fewer vertical lines in the water column, if more of the events result in continued lethal or sub-lethal injuries, this would not be considered an improvement; 3) NMFS should produce an annual map that shows the date and location of origin (or at least region) of all fishing gear retrieved from whales during dis-entanglement efforts. Careful monitoring of all of these data should be carried out expeditiously by NMFS and other research groups involved in these efforts with support from NMFS.

Our final concern is regarding the lack of a strategy if entanglement levels continue to exceed PBR (as has been the case since implementation of the sinking groundline strategy in 2009). Without a clear plan in place such as expanded emergency closures or mandatory fishing gear changes, large whales could continue to experience higher levels of entanglement than legally allowed without any recourse to stop this from happening. This is a situation these species should not continue to endure.

We hope the above comments will be useful as you proceed with this and future rulemaking efforts. Please don't hesitate to let me know if you have any questions.

Sincerely,

Amy R. Knowlton, Research Scientist

Timothy Werner, Senior Scientist

Scott Kraus, Vice President of Research

References

Knowlton, A.R. P.K. Hamilton, M.K. Marx, H.M. Pettis, and S.D. Kraus. 2012a. “Monitoring North Atlantic right whale *Eubalaena glacialis* entanglement rates: a 30 yr retrospective.” Marine Ecology Progress Series **466**: 293-302

Knowlton, A.R., J. Robbins, S. Landry, H. McKenna, S.D. Kraus, and T. Werner. 2012b. “Implications of fishing gear strength on the severity of large whale entanglements.” Submitted in partial fulfillment of a final report by the Consortium for Wildlife Bycatch Reduction, NOAA Award # NA09NMF4520413.

Robbins, J. 2012. Scar-based inference into Gulf of Maine humpback whale entanglement: 2010. Report to the National Marine Fisheries Service. Order number EA133F09CN0253.

Rojas-Bracho, L. and R. R. Reeves (2013). "Vaquitas and gillnets: Mexico's ultimate cetacean conservation challenge." Endangered Species Research **21**: 77-87.

Slooten, E. (2013). "Effectiveness of area-based management in reducing bycatch of the New Zealand dolphin." Endangered Species Research **20**: 121-130.

State of Rhode Island comments to the August 15, 2013 NOAA Fisheries ALWTRT Vertical Line Rule Public Hearing

The State of Rhode Island Department of Environmental Management, Marine Fisheries Section is submitting a formal written comment to the August 15, 2013 NOAA Fisheries ALWTRT Vertical Line Rule Public Hearing held at the University of Rhode Island, Graduate School of Oceanography, Coastal Institute.

1. NMFS Northeast Proposed Management Measures for ASMFC Lobster Conservation Management Area

- Prohibition of Single Pots in Rhode Island State waters (0-3 miles). The State of Rhode Island has substantial seasonal lobster and fish pot fisheries which take place during late spring and summer months in the inshore State waters zone from 0-3 miles. These fisheries are prosecuted by small vessels, usually single handed. The NMFS proposal would institute the prohibition of single pots and require trawls to have three pots per trawl and one vertical line. Three pot trawls are not an option for these small boat fisheries and pose a significant safety concern. Single pot fisheries usually deploy pots before another one is hauled. There can be little room for additional pots and ground line during the fishing operations given the limited size of the vessels. This measure would be unlikely to have an impact on large whale entanglements as this area has a low co-occurrence score based on 2009/2010 Northeast Baseline co-occurrence analysis. There are also no known serious injury or mortality events to marine mammals in Rhode Island State waters attributed to single pot fisheries. The State of Rhode Island is seeking an exemption to the prohibition of single pots in State waters (0-3) nautical miles.
- The Rhode Island fixed gear fishing fleet is diverse with multiple vessel and operation sizes. The fleet is comprised of vessels from wood bottom skiffs measuring 18 feet in length to greater than 50 foot inshore/mid shelf vessels. There are a number of mid range vessels that have tailored their operations based on the vessel's capability to haul and transport gear to and from their fishing grounds which can be from the immediate shore to offshore fishing grounds. The NMFS Northeast proposal for LCMA 2 (12+) would require a minimum of 20 twenty-pot trawls. There are small vessels that fish this distance from shore but can not accommodate large trawls due to space and safety concerns.
- The State of Rhode Island has concerns with the gear complexity issue of trawling up. The fact that trawls will become heavier and thereby difficult for large whales to shed if an entanglement occurs, is a serious concern that may undermine the reduction in vertical line strategy. The impacts of this concern were not adequately addressed in the NMFS proposal.

The problems stated above would create few options for industry to safely meet the objectives of the Large Whale Plan as proposed by the NMFS in the Northeast Proposal.

State of Rhode Island Proposal for Vertical Line Reduction in Fixed Gear Fisheries.

The State of Rhode Island offers the following measures for consideration to mitigate the risk of mortality or serious injury to large whales from vertical lines.

- Under the NMFS Northeast Proposed Management Measures, a change to the current exempted waters from Narragansett Bay and the South Shore Coastal Ponds to include all Rhode Island State waters which would allow for seasonal single pot fisheries
- Under the NMFS Northeast Proposed Management Measures, decrease the minimum number of traps / trawl from 20 to 15 in LMA2 (12+).
- In addition to the above requests, the RIDEM asks that NMFS anticipate the implementation of the Atlantic States Marine Fisheries Commission Addendum XVIII to the Interstate Management Plan for Lobster which reduces the number of traps in LCMA 2 to greater than 50% in the six years through active and passive reductions in traps. It is realized that a 50 % reduction in the

number of traps fished may not equate to a similar reduction in vertical lines, however, considering that the NOAA Vertical Line Reduction Plan does not have a defined target vertical line reduction needed to be achieved, it is anticipated that the goal of the NMFS Northeast Proposed Management Measures will be met by the Area 2 LCMA Effort and Trap Reduction Plan. If the NMFS agrees to accommodate this request, the RIDEM will produce an analysis that will seek to quantify the potential reduction in vertical lines from the effort control plan currently being implemented for the lobster fishery in RI. The NMFS can then use this analysis to measure against the vertical line reduction plan to determine whether it believes it meets the goals of the plan.

United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
Richard B. Russell Federal Building
75 Spring Street, S.W.
Atlanta, Georgia 30303

ER 13/0488
9043.1

March 21, 2014

Kate Swails
55 Great Republic Drive
Gloucester, MA 01930-2276

Re: Comments on the Draft Environmental Impact Statement (DEIS) Amending the Atlantic Large Whale Take Reduction Plan, Vertical Line Rule

Dear Ms. Swails:

The Department of the Interior (Department) has reviewed the DEIS Amending the Atlantic Large Whale Take Reduction Plan, Vertical Line Rule. We have no comments at this time. I can be reached on (404) 331-4524 or via email at joyce_stanley@ios.doi.gov.

Sincerely,

Joyce Stanley, MPA
Regional Environmental Protection Specialist

cc: Jerry Ziewitz – FWS
Gary Lecain - USGS
Anita Barnett – NPS
Chester McGhee – BIA
Tommy Broussard – BOEM
OEPC – WASH

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0038
Comment from Pat Carlisle

Submitter Information

Name: Pat Carlisle
Address:
990 W. Ocean View Ave.
Norfolk, VA, 23503-1910
Email: yoyogimah@yahoo.com

General Comment

I vehemently support this proposed rule to reduce whale entanglements! Thanks for your immediate attention to this matter.

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0037
Comment from Katherine Conrad

Submitter Information

Name: Katherine Conrad
Address: United States,

General Comment

Dear Sirs,
I urge you to please take the appropriate steps to help reduce entanglements of right and humpback whales!

As a whale lover, whale watcher, human being that shares this earth with majestic creatures of all kinds, I beg you to please
help protect the oceanic life and restrict the use of risk-prone lines that go from the lobster and crab pots to the surface buoys but they need to include more gear types and a more comprehensive marking strategy to identify the kind of gear and where it was set.

Specifically, I prefer Alternative #5 - the preferred proposed plan to reduce fatal entanglements. I beg you to ensure that the waters of Maine and New Hampshire are included in the regulations and policy. Please include gillnets in entanglement reduction strategies and increase management efforts in the mid-Atlantic region. This is crucial. We must act now to save whales and help the environment

As your own research shows, the injuries and fatalities for whale types are nearly double or more what is sustainable and we can clearly see from your research that we must act now.

Thank you for your help and consideration on this crucial cause!

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0036
Comment from Elizabeth Claman

Submitter Information

Name: Elizabeth Claman
Address: United States,

General Comment

Accidental killing of whales has become a greater and greater problem. NOAA's whale protection management throughout the mid-Atlantic region is essential, especially the waters off Maine and New Hampshire. I ask that NOAA do all that is possible to protect all large whales by reducing (or better yet, eliminating) fatal gillnet entanglements. Alternative 5 will achieve this goal for both right whales and also humpback whales. In addition there need to be clear restrictions on the use of risk-prone lines that go from the lobster and crab pots to the surface buoys, as well as other hazardous gear types.

I look forward to hearing that NOAA is making verifiable progress in its efforts to protect all whales.

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0034
Comment from C Tracy

Submitter Information

Name: C Tracy
Address: United States,

General Comment

Hello,

You have already received tens of thousands of signatures on petitions to call for making the Ship Strike Rule permanent. Please join people all over the U.S. in supporting the visionary decision to help reduce entanglements of right and even humpback whales. You are in a unique position to protect large whales.

Thank you so much for proposing to restrict the use of risk-prone lines that go from the lobster and crab pots to the surface buoys! Please include more gear types and a more comprehensive marking strategy to identify the kind of gear and where it was set.

Thank you for what you are doing for the country!

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0033
Comment from valerie gilbert

Submitter Information

Name: valerie gilbert
Address: United States,

General Comment

Please help reduce entanglements of right whales! This regulation will also benefit humpback whales. We need you to protect large whales!

NOAA is proposing to restrict the use of risk-prone lines that go from the lobster and crab pots to the surface buoys but they need to include more gear types and a more comprehensive marking strategy to identify the kind of gear and where it was set.

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0032
Comment from Liz Garratt

Submitter Information

Name: Liz Garratt
Address: United States,

General Comment

As someone who cares about wildlife, reducing vertical line in the water to reduce entanglements of whales is important to me. Because of this, I support Alternative #5, the preferred proposed plan to reduce fatal entanglements. I also want the waters of Maine and New Hampshire to be included in the regulations and policy. I also want gillnets to be included in entanglement reduction strategies. I think management efforts should be improved in the mid-Atlantic region.The NOAA's own research shows that the number of serious injuries/mortalities for right whales is nearly double the sustainable limits and is more than double the sustainable limits for humpback whales. That's why I support Alternative 5.

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0031
Comment from Karin Winegar

Submitter Information

Name: Karin Winegar
Address:
1832 Carroll Ave
St. Paul, MN, 55104
Email: horseklw@aol.com
Phone: (651) 303-9887

General Comment

I am a sailor and a journalist who has written about sailing in Maine and elsewhere.

Given their small numbers and ongoing injuries, mortalities and imperiled habitat, I see no need to "take" kill any whales of any species any longer whether right whales, humpbacks or other species. We no longer need whalebone for corsets or whale oil for lamps: we need to protect the integrity of the marine ecosystem by allowing whales to repopulate.

Therefore I support Alternative 5, and I want Maine and New Hampshire waters included and gillnets included.
NOA'S own research shows intolerable levels of injuries and mortalities for right and humpback whales.

It's time to protect them and do so aggressively.

Thank you.

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0029
Comment from Lynette Ridder

Submitter Information

Name: Lynette Ridder
Address: United States,

General Comment

As someone who is concerned about animals and the environment, I and many others would like to see a reduction in whale entanglements. Please support 'Alternative #5' - the preferred proposed plan to reduce fatal entanglements. Ensure that the waters of Maine and New Hampshire are included in the regulations and policy, including gillnets in entanglement reduction strategies and increasing the management efforts in the mid-Atlantic region. Thank you!

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0023
Comment from Stephan Donovan

Submitter Information

Name: Stephan Donovan
Address:
4851 North Bernard Street
Chicago, IL, 60625-5107
Email: StephanDonovan@aol.com

General Comment

Duplicate Comment submitted by multiple people

I want to REDUCE whale entanglements by:
1. Supporting 'Alternative #5' - the preferred proposed plan to reduce fatal entanglements
2. Ensuring that the waters of Maine and New Hampshire are included in the regulations and policy
3. Including gillnets in entanglement reduction strategies
4. Increasing the management efforts in the mid-Atlantic region

Phase 2 of ACT RIGHT NOW focuses on entanglements.

Please help reduce entanglements of right whales. This regulation will also benefit humpback whales as well! We need the regulations m to protect large whales! NOAA is proposing to restrict the use of risk-prone lines that go from the lobster and crab pots to the surface buoys but they need to include more gear types and a more comprehensive marking strategy to identify the kind of gear and where it was set.

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0022
Comment from Paul Lerman

Submitter Information

Name: Paul Lerman
Address:
908 Laburnum Lane

General Comment

As a lifelong lover of whales and dolphins I urge you to stop using vertical lines that entangle them.

Your research shows that the number of injuries and fatalities is nearly double sustainable levels. We cannot lose these beautiful animals.

I support alternative 5 and want Maine and New Hampshire waters to be included and gillinets to be included. It is imperative that laws include more gear types and a more comprehensive marking strategy to identify the kind of gear and where it was set.

Thank you for your help.

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0021
Comment from ron silver

Submitter Information

Name: ron silver
Address: United States,

General Comment

We want to REDUCE whale entanglements by:

Supporting 'Alternative #5' - the preferred proposed plan to reduce fatal entanglements
Ensuring that the waters of Maine and New Hampshire are included in the regulations and policy
Including gillnets in entanglement reduction strategies
Increasing the management efforts in the mid-Atlantic region

Phase 2 of ACT RIGHT NOW focuses on entanglements.

Please help reduce entanglements of right whales. This regulation will also benefit humpback whales as well! We need to protect large whales! NOAA is proposing to restrict the use of risk-prone lines that go from the lobster and crab pots to the surface buoys but they need to include more gear types and a more comprehensive marking strategy to identify the kind of gear and where it was set.

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0020
Comment from Debbie Brush

Submitter Information

Name: Debbie Brush
Address: United States,

General Comment

Please supporte 'Alternative #5' - the preferred proposed plan to reduce fatal entanglements. Please also ensure that the waters of Maine and New Hampshire are included in the regulations and policy. Please include gillnets in entanglement reduction strategies and please also increase the management efforts in the mid-Atlantic region.

Thank you!

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0019
Comment from Gloria Picchetti

Submitter Information

Name: Gloria Picchetti
Address: United States,

General Comment

Please help reduce entanglements of right whales. This regulation will also benefit humpback whales as well! Join us in letting NOAA know that we need them to protect large whales! NOAA is proposing to restrict the use of risk-prone lines that go from the lobster and crab pots to the surface buoys but they need to include more gear types and a more comprehensive marking strategy to identify the kind of gear and where it was set.

PUBLIC SUBMISSION

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0018
Comment from Nicole Weber

Submitter Information

Name: Nicole Weber
Address: United States,

General Comment

Please support "Alternative #5."

PUBLIC SUBMISSION

As of: August 29, 2013
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Tracking No. 1jx-87ak-h4g8
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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0017
Comment from LuAnne Parrish

Submitter Information

Name: LuAnne Parrish
Address:
906 East Shiloh Road
Corinth, MS, 38834
Email: lapqlom@hotmail.com
Phone: 662-287-1159

General Comment

Please help reduce entanglements of right whales. This regulation will also benefit humpback whales as well!

PUBLIC SUBMISSION

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0063
Comment from marisol montoya

Submitter Information

Name: marisol montoya
Address: United States,

General Comment

Please protect large whales. In a real effort to reduce whale entanglements, I fully support Alternative 5 and also hope that the waters of Maine and New Hampshire be included in the regulations and policy. Also, including gillnets in the entanglement reduction strategies as well as increasing management efforts in the mid-Atlantic Region. Thanks so much for your consideration.

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0061
Comment from Lars Jefferson

Submitter Information

Name: Lars Jefferson
Address:
3320 Jackson Street SE
Apt. G
Albany, 97322
Email: larsjefferson78@mac.com
Phone: 5414971877
Organization: Whale and Dolphin Conservation

General Comment

I am writing on behalf of whales. I support "Alternative #5" to reduce or eliminate fatal whale entanglements. This regulation policy must include Maine and New Hampshire, no exceptions. Furthermore, gill nets should be included to avoid whale entanglements. Finally, I support increased efforts in the mid Atlantic region.

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0059
Comment from Mark Gowan

Submitter Information

Name: Mark Gowan
Address: United States,

General Comment

Please support 'Alternative #5' - the preferred proposed plan to reduce fatal whale entanglements.
Ensure that the waters of Maine and New Hampshire are included in the regulations and policy.
Include gillnets in entanglement reduction strategies.
Increase the management efforts in the mid-Atlantic region

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0058
Comment from Elizabeth Cunningham

Submitter Information

Name: Elizabeth Cunningham
Address:
515 Woodmont Ave.
Berkeley, CA, 94708

General Comment

I support Alternative #5' - the preferred proposed plan to reduce fatal entanglements. Please ensure that the waters of Maine and New Hampshire are included in the regulations and policy, including gillnets in entanglement reduction strategies and increasing the management efforts in the mid-Atlantic region.

I greatly appreciate the work of NOAA in conservation field!

PUBLIC SUBMISSION

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0057
Comment from Doug Thompson

Submitter Information

Name: Doug Thompson
Address:
PO Box 800
Morongo Valley, CA, 92256
Email: doug@dolphinworks.com

General Comment

Whales are long lived mammals and worth more money alive then dead. Whale watching is an economic power around the world and especially the United States. Incidental deaths to marine mammals using methods including gill nets, exploration for more ocean oil, and ships strikes are not incidental;they can be avoided.

Whales and other marine mammals have enough to deal with in our modern times. Lets make sure they are protected.

Thanks for you time....Doug Thompson

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0056
Comment from Barbara Matthiessen

Submitter Information

Name: Barbara Matthiessen
Address:
WA,

General Comment

I am writing in regards to whale entanglment and enourage the enactment of alternative 5. Please do not exclude Maine and New Hampshire or gill-nets.
As an ocean and whale enthusiast I am concerned about the survival of many ocean species including the right and humpback whales who's numbers are rapidly dwindling.
My hope is that whales will still exist for my grandchildren.
Thank you for your time and consideration.

PUBLIC SUBMISSION

As of: August 29, 2013
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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0055
Comment from Marcia C. Hackett

Submitter Information

Name: Marcia C. Hackett

General Comment

I strongly support Alt. 5 to reduce fatal entanglements of right whales and other large marine creatures as well. NOAA needs to include more gear types to show where lines are to prevent marine entanglements.

PUBLIC SUBMISSION

As of: August 29, 2013
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Submission Type: Web

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0054
Comment from Veronica Blake

Submitter Information

Name: Veronica Blake
Address: United States,

General Comment

I care about whales and have contributed financially to safeguard them. In addition, I use seafood guides that help me choose only sustainably caught fish when dining. I support Alternative 5 to reduce fatal entanglements in the waters of Maine and New Hampshire as well as all others. Gillnets should be included in this strategy. All management efforts in the mid-Atlantic need to be not only continued but increased.
Veronica Blake

PUBLIC SUBMISSION

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0051
Comment from Mark Weinberger

Submitter Information

Name: Mark Weinberger
Address: United States,

General Comment

I support 'Alternative #5' - the preferred proposed plan to reduce fatal entanglements.

Ensuring that the waters of Maine and New Hampshire are included in the regulations and policy, including gill nets in entanglement reduction strategies, and
increasing the management efforts in the mid-Atlantic region, all will act to reduce whale entanglements.

Thank you.

Mark S. Weinberger

PUBLIC SUBMISSION

As of: August 29, 2013
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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0049
Comment from Susan Margison

Submitter Information

Name: Susan Margison
Address:
821 Piedra Vista Road NE
Albuquerque, NM, 87123
Email: smargiso@yahoo.com
Phone: 505 856-7338
Fax: 505 275-6145

General Comment

Please adopt Alternative 5 to help reduce whale entanglements, being sure to apply it to Maine and New Hampshire waters as well. Additionally, gill nets, the source of much whale entanglement, need to be included in these plans.

I am a retired teacher, lawyer in retirement, and avid amateur whale watcher and observer. I cut my teeth on watching humpback whales off Cape Cod, Massachusetts back in the '70s, and ultimately went on to work with scientists studying short-finned pilot whales off Tenerife in the Canary Islands, orcas in the Northwest US, and South Atlantic Right whales off the coast of South Africa. I have seen the scars of entanglement for myself, as well as had a number of truly amazing experiences with these magnificent creatures while in their presence.

As I grow older (69 and continuing on...for a good long time I hope) I come to only appreciate ever so much more the wonderful diversity of life with which we're blessed on this planet. The large whales in particular capture my head and heart and I am absolutely convinced that we must do all in our power to preserve them, particularly as we ever-increasingly encroach on their environment and cause them great harm and untold risk.

Again, please adopt Alternative 5 and make it as inclusive as possible with respect to the preservation of the great whales and all sea life.

Thank you for your consideration.

PUBLIC SUBMISSION

As of: August 29, 2013
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Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0044
Comment from Desiree Kisselburg

Submitter Information

Name: Desiree Kisselburg
Address:
Kerwood Ave
Los Angeles, CA,
Email: desireekisselburg@gmail.com

General Comment

Please help reduce entanglements of right whales. This regulation will also benefit humpback whales as well! Join us in letting NOAA know that we need them to protect large whales! NOAA is proposing to restrict the use of risk-prone lines that go from the lobster and crab pots to the surface buoys but they need to include more gear types and a more comprehensive marking strategy to identify the kind of gear and where it was set.

PUBLIC SUBMISSION

As of: August 29, 2013
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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0041
Comment from dostana ljusic

Submitter Information

Name: dostana ljusic
Address: United States,

General Comment

Please help reduce entanglements of right whales. This regulation will also benefit humpback whales as well! Join us in letting NOAA know that we need them to protect large whales! NOAA is proposing to restrict the use of risk-prone lines that go from the lobster and crab pots to the surface buoys but they need to include more gear types and a more comprehensive marking strategy to identify the kind of gear and where it was set.

PUBLIC SUBMISSION

As of: August 29, 2013
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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0040
Comment from Michael Goode

Submitter Information

Name: Michael Goode
Address: United States,

General Comment

I want the U.S. Government, my Government, through NOAA, to REDUCE whale and dolphin entanglements by:

Supporting 'Alternative #5' - the preferred proposed plan to reduce fatal entanglements
Ensuring that the waters of Maine and New Hampshire are included in the regulations and policy
Including gillnets in entanglement reduction strategies
Increasing the management efforts in the mid-Atlantic region

Supporting Phase 2 of ACT RIGHT NOW that focuses on entanglements.

Please help reduce entanglements of right whales. This regulation will also benefit humpback whales as well! We are letting you at NOAA know that we need NOAA to protect large whales! We know that you at NOAA are proposing to restrict the use of risk-prone lines that go from the lobster and crab pots to the surface buoys but you need to include more gear types and a more comprehensive marking strategy to identify the kind of gear and where it was set to protect whales successfully.

I know that at least 74,000 signatures and comments were sent to you at NOAA from WDC, in support of making the Ship Strike Rule permanent, and because of this the Ship Strike rule was made permanent, BRAVO to NOAA and the people that wrote in!!! You at NOAA now need to add these additional aspects to the permanent law as outlined in this letter in order to protect whales and dolphins effectively.

We know that you at NOAA responded to our previous efforts and we look forward to NOAA keeping the momentum up and the pressure on to fully protect whales and dolphins in the ways described in this comment area. Thank you.

Michael Goode

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0089
Comment from Patricia Parker

Submitter Information

Name: Patricia Parker
Address:
211 N 2nd Street
Lewisburg, PA, 17837
Email: pparker2112@gmail.com

General Comment

I strongly urge you to REDUCE whale entanglements by supporting 'Alternative #5' - the preferred proposed plan to reduce fatal entanglements; Ensuring that the waters of Maine and New Hampshire are included in the regulations and policy; Including gillnets in entanglement reduction strategies; and increasing the management efforts in the mid-Atlantic region

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0085
Comment from Sandra Cobb

Submitter Information

Name: Sandra Cobb
Address:
3880 Ellendale road
Moreland Hills, OH, 44022
Email: smcobb@beechmere.com

General Comment

Please enact Alternative #5 to reduce fatal entanglements of right whales. The waters of Maine and New Hampshire should be included in these regulations. Include gillnets in the entanglement reduction strategies and increase management efforts in the mid-Atlantic region. This will also benefit other whales and porpoises.

Also restrict the use of risk-prone lines that go from the lobster and crab pots to the surface buoys but they need to include more gear types and a more comprehensive marking strategy to identify the kind of gear and where it was set.

Thank you for your attentionl

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0084
Comment from JoAnn Ellis

Submitter Information

Name: JoAnn Ellis
Address:
15628 Landauer Circle
15628 Landauer Circle
Basehor, KS, 66007
Email: joannpetlover@yahoo.com
Phone: 913-634-0646

General Comment

Reduce whale entanglements by supporting # 5! Please!

PUBLIC SUBMISSION

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0079
Comment from Ian Weinschel

Submitter Information

Name: Ian Weinschel
Address:
630 Country RD
Berkeley Springs, WV, 25411
Email: Domeonmountain@gmail.com
Phone: 304-839-7657

General Comment

These creatures are one of the greatest marvels of our plants Oceans. We could help them or we can hurt them. Let's HELP THEM.

HAVE YOU EVER ACTUALLY SEEN, BEEN UP CLOSE TO ONE OF THESE CREATURES?
MAYBE THAT'S WHAT'S MISSING HERE. GO OUT AND SEE THEM AND THEN RECONSIDER NOT ENACTING REGULATIONS THAT WOULD STOP UNNECESSARY DEATHS.

I would like to see a REDUCTION in whale entanglements by:

Supporting 'Alternative #5' - the preferred proposed plan to reduce fatal entanglements

ESPECIALLY: Ensuring that the waters of Maine and New Hampshire are included in the regulations and policy

Including gill nets in entanglement reduction strategies

Increasing the management efforts in the mid-Atlantic region

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0075
Comment from JUDITH SMITH

Submitter Information

Name: JUDITH SMITH
Address:
2712 GRANDE VISTA AVE
OAKLAND, 94601
Email: axisdance@comcast.net

General Comment

I want NOAA to REDUCE whale entanglements by supporting 'Alternative #5' - the preferred proposed plan to reduce fatal entanglements by:

Ensuring that the waters of Maine and New Hampshire are included in the regulations and policy
Including gillnets in entanglement reduction strategies
Increasing the management efforts in the mid-Atlantic region

Please restrict the use of risk-prone lines that go from the lobster and crab pots to the surface buoys AND include more gear types and a more comprehensive marking strategy to identify the kind of gear and where it was set.

Please help reduce entanglements of right whales. This regulation will also benefit humpback whales as well!

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0073
Comment from Jeri Burgdorf

Submitter Information

Name: Jeri Burgdorf
Address: United States,

General Comment

Please protect marine mammals from damage and death from fishing operations We cannot afford their injury and death due to the greed of commercial fishing businesses or due to your lack of priority placed on these mammals.
Please reign in those fishing operations immediately!

PUBLIC SUBMISSION

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0071
Comment from Robert H. Feuchter

Submitter Information

Name: Robert H. Feuchter
Address:
175-20 Wexford Terrace, Apt 11H
Jamaica Estates, NY, 11432-2898
Email: roberthfeuchter@me.com

General Comment

I am a long time supporter of WDC and participate in their whale adoption program with a number of children and adults. In addition I go on whale watches regularly during the summer and fall in Provincetown. I am very concerned that regulations be put in place to protect these amazing creatures. Specifically I would like to see Alternative #5 approved and that the waters of Maine and New Hampshire be included. It is also essential that gill nets be included.
Your own research shows that unless strong action is taken that the sustainability of these and other whales is threatened. Whales and elephants are rapidly headed toward extinction. We need you to do the right thing and insure the survival of at least one of our fellow inhabits of our planet earth.

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0114
Comment from Lynn Gray

Submitter Information

Name: Lynn Gray
Address:
Durango, CO, 81301

General Comment

We need to leave the whales alone and let them proliferate.

The fishing operations need to change to sustain our oceans. The writing is on the wall,

We are destroying what we most need and that is a sustainable ocean. Please consider

New regulations against the taking of marine mammals in commercial fishing operations and a plan to
Reduce Atlantic large whale takes.

Please and thank you, and your grandchildren will thank you!

I have no progeny and I still thank you in advance,

Sincerely,

Lynn Gray

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0113
Comment from Julie Claunch

Submitter Information

Name: Julie Claunch
Address:
4251 N. Tamera Ave.
Fresno, CA, 93722
Email: julieclaunch@att.net
Phone: 5593072457

General Comment

I had a quick day trip to San Francisco on Monday, the 26th, and as the beauty of the bay overwhelmed me, as usual, I couldn't help but to wonder if the whales would be safe. Whale watching is incredibly popular and a large tourist draw, but with the attacks on our sea life from shipping and from commercial fishermen, their numbers are dwindling, in the Pacific as well as the Atlantic. If we lose many more, we may just hit the point of no return for them. Please do stand up for these beautiful and sentient creatures, do the right thing. Support 'Alternative #5', include the waters of Maine and New Hampshire, include gill nets in entanglement reduction strategies, and increase your efforts in the mid-Atlantic area.

Thank you, God bless.

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0112
Comment from Elaine Becker

Submitter Information

Name: Elaine Becker
Address:
2514 Sharmar Rd.
Roanoke, VA, 24018
Email: elainebecker@yahoo.com
Phone: 540-400-6129

General Comment

I want to protect Right whales because we MUST save species for future generations!

We must listen to the science that tell us that lines in the water entangle whales (and other species) that cause marine mammals to drown. There should be NO exemptions from reasonable limits placed on how many lines and how close together they can be. We can't sacrafice large species to keep harvesting small ones - or soon there will be nothing left!

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0111
Comment from Jennifer Oppenheim

Submitter Information

Name: Jennifer Oppenheim
Address:
Alba, TX, 75410
Email: jenn@crwww.com

General Comment

Please reduce whale entanglements by (1) supporting 'Alternative #5' - the preferred proposed plan to reduce fatal entanglements; (2) ensuring that the waters of Maine and New Hampshire are included in the regulations and policy; (3) including gillnets in entanglement reduction strategies; and (4) increasing the management efforts in the mid-Atlantic region.

Please help reduce entanglements of right whales and humpback whales. While NOAA is proposing to restrict the use of risk-prone lines that go from lobster and crab pots to surface buoys, please include more gear types and a more comprehensive marking strategy to identify the kind of gear and where it was set.

Thank you for your consideration.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0110
Comment from Laraine Bunt

Submitter Information

Name: Laraine Bunt
Address: United States,

General Comment

I urge you to change all practices that endanger Large Whale and other Marine mammals from being entangled in all types of commercial fishing practices, please ban Gill netting it is so harmful to our Marine Mammals. Sustainability of these species is of the utmost importance. It is documented by NOAA that the number of serious injuries and mortality of Southern Right Whales is nearly double sustainability limits, so then why is it that you will not ban all activities that put these Mammals at risk.

I spend many wonderful hours watching the migration along our coastline in Australia East Coast of the Humpback and Southern Right Whales as they head to warmer waters to breed and then the journey back to their home in the Antarctic. We in Australia are very conscious of the protection of these magnificent Mammals, so I am asking that you consider the importance of their existence in your waters and you will do what is the Right thing and save the species that are under threat because of the laws that you allow to be upheld.

PUBLIC SUBMISSION

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0108
Comment from Sonya Lang

Submitter Information

Name: Sonya Lang
Address: United States,

General Comment

Please save the whales. I support this rule.

PUBLIC SUBMISSION

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0107
Comment from william toner

Submitter Information

Name: william toner
Address: United States,

General Comment

NOAA must reduce whale entanglements by supporting Alternative #5- The preferred proposed plan to reduce fatal entanglements.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0105
Comment from David Gustafson

Submitter Information

Name: David Gustafson
Address: United States,
Organization: relations.gov

General Comment

I support alternative #5 to keep whales and other large mammals from becoming entnagled in nets.

PUBLIC SUBMISSION

As of: August 29, 2013
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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0104
Comment from Angela Lopez

Submitter Information

Name: Angela Lopez
Address: United States,

General Comment

Please require more types of fishing gear in this plan. There are so many whales and other marine animals that are lost each year needlessly due to our fishing gear. This problem can be resolved by including more types of fishing gear in this plan and greater enforcement.

PUBLIC SUBMISSION

As of: August 29, 2013
Received: August 28, 2013
Status: Pending_Post
Tracking No. 1jx-87ao-in93
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0101
Comment from Rose Eckert

Submitter Information

Name: Rose Eckert
Address:
784 Providence Island Court
Jacksonville, FL, 32225
Email: rosemme@att.net

General Comment

Give priority to Alternative 5;
Do not exempt Maine or New Hampshire waters;
Gillnets should be included.

PUBLIC SUBMISSION

As of: August 29, 2013
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Tracking No. 1jx-87ao-9eur
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0100
Comment from carolyn massey

Submitter Information

Name: carolyn massey
Address: United States,

General Comment

i want to reduce whale entanglements by
1.supporting alternative #5 -the preferred proposed plan to reduce fatal entanglements
2. ensuring the the water of maine and new hampshire are included in the regulations and policy
3. including gillnets in entanglement reduction policy
4. increasing the management efforts in the mid-atlantic region
i am a supporter of wdc and whale lover. i want to protect the whales so we can countinue to enjoy them years down the road. your own research shows that the number of serious injuries and mortalities for right whales is nearly double sustainable limits and more than double the sustainable limits for humpback whale

PUBLIC SUBMISSION

As of: August 29, 2013
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Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0099
Comment from Joseph Wenzel

Submitter Information

Name: Joseph Wenzel
Address: United States,

General Comment

Hi NOAA, I'd like to urge you to support Alternative 5 to reduce fatal entanglements, include the waters of Maine and New Hampshire in the regulations and policy, include gillnets in the entanglement reduction strategies, and increase the management efforts in the mid-Atlantic region.
Joseph Wenzel

PUBLIC SUBMISSION

As of: August 29, 2013
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Tracking No. 1jx-87ao-40wv
Comments Due: September 16, 2013
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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0098
Comment from Judy Johnson

Submitter Information

Name: Judy Johnson
Address:
1200 W. Winton Ave. Spc 27
Hayward, CA, 94545
Email: jandp1993@comcast.net
Phone: 510-881-1530

General Comment

I want to reduce whale entanglements by supporting 'Alternative #5' - the preferred proposed plan to reduce fatal entanglements. Increase the management efforts in the mid-Atlantic region. Include gillnets in entanglement reduction strategies. Ensure that the waters of Maine and New Hampshire are included in the regulations and policy. Protect large whales! I love whales. They are so beautiful and majestic. I care about the oceans and want to save this species. Please help reduce entanglements of right and humpback whales! REDUCING VERTICAL LINE IN THE WATER TO REDUCE ENTANGLEMENTS OF WHALES IS IMPORTANT TO ME!

PUBLIC SUBMISSION

As of: August 29, 2013
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Tracking No. 1jx-87ao-s5i8
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0097
Comment from Patti Packer

Submitter Information

Name: Patti Packer
Address:
5 Jennifer Rd
Scotia, NY, 12302
Email: pattiac@nycap.rr.com
Phone: 518-399-4843

General Comment

I am writing in support of 'Alternative #5' - the preferred proposed plan to reduce fatal entanglements. We must ensuring that the waters of Maine and New Hampshire are included in the regulations and policy. We must also Include gillnets in entanglement reduction strategies. This will increase the management efforts in the mid-Atlantic region.

PUBLIC SUBMISSION

As of: August 29, 2013
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Tracking No. 1jx-87ao-992j
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0095
Comment from Phyllis Van Leuven

Submitter Information

Name: Phyllis Van Leuven
Address:
7474 Laughing Brook Court
Las Vegas, NV, 89131-2643

General Comment

I am supporting the Alternative #5 to reduce the fatal entanglements.

I have always been a whale watcher and love the humpback & right whales for many years.
It's always been a passion to go boating & watch the whales on vacations.

I want to protect these whales to help save this species from these dangerous entanglements.
Your own research shows that the number of serious injuries & mortalites for right whales has nearly double sustainable limits & more than double the sustainable limits for humpback whales.
We must protect them to help them survive. These whales are such beautiful creatures, it would be ashamed to see them become extinct.

PUBLIC SUBMISSION

As of: August 29, 2013
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Tracking No. 1jx-87ao-28yo
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0094
Comment from Linda Walters

Submitter Information

Name: Linda Walters
Address: United States,

General Comment

REDUCE whale entanglements by:

Supporting 'Alternative #5' - the preferred proposed plan to reduce fatal entanglements
Ensuring that the waters of Maine and New Hampshire are included in the regulations and policy
Including gillnets in entanglement reduction strategies
Increasing the management efforts in the mid-Atlantic region
We need to protect all large whales

I am a Human who wants to protect the Oceans and the Creatures that live there. Protect them & we protect our future.

PUBLIC SUBMISSION

As of: August 29, 2013
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Status: Pending_Post
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Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0093
Comment from Ellen Jahos

Submitter Information

Name: Ellen Jahos
Address: United States,

General Comment

I am writing to urge NOAA to adopt Alternative #5 regarding the proposed plan to reduce fatal entanglements of whales. I am a resident of New Hampshire, and an educator. My students spent all of the 2011-2012 school year studying whales and were amazed at the intelligence of these creatures but alarmed at the level of danger they are in and how close to extinction some whale populations are. They asked me over and over why our government was not doing more. I would like to be able to tell them that the waters of Maine and New Hampshire are going to be included in the regulations and policy that are being proposed. They would want to know that gillnets are included in entanglement reduction strategies and that the United States is doing much more in regard to their efforts to protect Whales in the mid-Atlantic region.

Please understand that our generation is already having to answer to the next generation. There should be no more excuses. These creatures are precious in their own right, but there is so much we can learn from them on so many levels. It's past time to act - no more excuses.

PUBLIC SUBMISSION

As of: August 29, 2013
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Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0138
Comment from Bern Arnold

Submitter Information

Name: Bern Arnold
Address:
6716 NW 62nd Street
Tamarac, FL, 33321
Email: BenArnoldJr@yahoo.com
Phone: 954.721.5060

General Comment

These are the suggested methods to prevent whale entanglements and deaths that we can immediately implement:

Supporting 'Alternative #5' - the preferred proposed plan to reduce fatal entanglements

Ensure that the waters of Maine and New Hampshire are included in the regulations and policy

Include gillnets in entanglement reduction strategies

Increase the management efforts in the mid-Atlantic region

We've already destroyed much too much of our resources, flora and fauna, and covered over all our open spaces with concrete, steel and asphalt.

Not only that, but we have a federal government agency that is charged with indiscriminately killing wildlife of all types whenever they see them. We subsidize and actually aid in the roundup of wild horses for auctioning off to slaughterhouses in Mexico and they're trying to open slaughterhouses in this country.

What kind of barbarians are we to destroy our entire world in order to benefit a few corporations and people who are already much too rich on the 98 percenters' backs?

PUBLIC SUBMISSION

As of: August 29, 2013
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Status: Pending_Post
Tracking No. 1jx-87as-r8o8
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0135
Comment from Mike VanLandingham

Submitter Information

Name: Mike VanLandingham
Address: United States,

General Comment

I prefer alternative 5 and I do not want any exemptions and gillnets should be included. I love whale watching and will pay good money to see these amzing animals in the wild as would many other people. Therefore whale conservation is not not just a question of morals but also economics and your own research has found that the injuries and deaths caused by these methods is not sustainable.

PUBLIC SUBMISSION

As of: August 29, 2013
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Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0134
Comment from Guy D'Angelo

Submitter Information

Name: Guy D'Angelo
Address:
10 Wesley Street
Center Moriches, NY, 11934
Email: guydangelo@yahoo.com
Phone: 6318782912

General Comment

On behalf of the protection of Right Whales (Eubalaena glacialis) I urge the support of Alternative #5. Right whales, owing to their small surviving members need maximum protection from any threat from injury or death caused by human activity.
Guy D'Angelo, Charter Member: Society for Marine Mammalogy

PUBLIC SUBMISSION

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Comments Due: September 16, 2013
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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0131
Comment from Danielle Herubin

Submitter Information

Name: Danielle Herubin
Address:
1774 Harborside Circle
Wellington, 33414
Email: beastwise@yahoo.com
Phone: 561-578-7982

General Comment

Dear NOAA,

I am a former award-winning journalist who now writes books. After two decades on reporting on most major issues, and covering The White House, Congress, federal agencies, business, and world events (and even Mickey Mouse), I believe I have a great grasp of what is really going on in this world. As an older person, I might even have some perspective.

What you do will be known to the world. For all time.

As a book writer, I will be writing books on this subject, perhaps both fiction and nonfiction. You might be in those books. Please don't make me have to lie just to say nice things about you. Because I might not lie. And the history books won't sugar coat it at all. They might even name each of you, those future generations. Your descendants might be embarrassed of you. Each of you are not some invisible bureaucrat. You are each individuals who have some very, very hard choices to make. You can be heroes or you can be cowards forever.

I believe as go the whales, so goes our planet. When this planet can't sustain these ocean beings, we won't be far behind, will we? You have to look at what role the whales play in our ecosystems. Not enough food for whales means there isn't enough plankton and fish, which is a major part of what feeds the world. When whales are sick from pollution, it means there won't be food for us, either. We would get sick from eating what is left in the oceans.

Should we add everyday slaughter to their environmental deaths that we started in the first place? The horrible deaths of these gentle giants, sometimes with their babies or loved family members

screaming in anguish for them, is too much to bear for any good person. You should listen to some recordings of this before you make your decisions. You know, I eat fish and shellfish all the time. I'm pretty sure a tuna doesn't cry out for its mother or beloved mate or baby as it is dying in a net. Nor does a shark. How can you live with the whales' sentient screams?

To make this worse, our Creator has given whales the right to live on this planet. If we are so foolish as to look the other way, or take part in the whales' tragic and heinous deaths, then we deserve the fate that awaits us.

I also love the whales on this planet and believe killing them is murder. If you can sleep at night knowing you are taking part in that mass murder, I would be surprised.

Here are some more specific thoughts:

I prefer Alternative 5
I do not want Maine or New Hampshire waters exempted.
I want gill nets to be included.

You need to protect the right whales and the humpback whales. Your own research shows these horrible fishing practices can't even meet our pathetically low government standards. I mean, should we set tolerable limits on the murder of children in New York? Would 300 a year be OK with you? Anything beyond that and maybe we'll do something? Are you really so heartless?

Allowable limits on murder is a falsity of conscience.

Sincerely,

Danielle Herubin

PUBLIC SUBMISSION

As of: August 29, 2013
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Tracking No. 1jx-87ar-9who
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Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0130
Comment from Jay Rymer

Submitter Information

Name: Jay Rymer

General Comment

Whales and other marine dwelling creatures have been assaulted by gill nets and other industry debris. Here are some ways to help prevent more deaths, by supporting 'Alternative #5' would help end fatal entaglements. Also making sure that the waters of Maine and New Hampshire are included in the regulations and policy. Finally, if gillnets were incorperated in entanglement reduction strategies and increasing the management efforts in the mid-Atlantic region would help rectify the mass die off of ocean life.

With your help and the right plans put into place we will be able to keep whales and other animals alive and out of hrams way.

Thank you,

Jay Rymer

PUBLIC SUBMISSION

As of: August 29, 2013
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Tracking No. 1jx-87ar-2adc
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0129
Comment from Bill Roseberry

Submitter Information

Name: Bill Roseberry
Address:
2151 Lincoln Hwy Apt G10
Levittown, PA, 19056
Email: wlroseberry@yahoo.com

General Comment

We must develop new standards for fishing practices that reduce dramatically the entanglement of whales and dolphins during commercial fishing runs. This destructive and cruel practice cannot continue. America also is in need of a comprehensive scalable fishing plan for our national waters and needs to bring this program to the international fishing nations.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0125
Comment from Annah Gardner

Submitter Information

Name: Annah Gardner
Address:
1906 1st Ave S
Minneapolis, MN, 55403

General Comment

We need to protect whales. I support Alternative #5 and believe that the waters of Maine and New Hampshire should be included in the regulations and policy. Also, gillnets should be included in the entanglement reduction strategies and there should be increased management efforts in the mid-Atlantic region. thank you

PUBLIC SUBMISSION

As of: August 29, 2013
Received: August 28, 2013
Status: Pending_Post
Tracking No. 1jx-87ar-opa4
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0123
Comment from KARLI MORTON

Submitter Information

Name: KARLI MORTON
Address: United States,

General Comment

PLEASE TAKE ACTION TO SAVE THE MAGNIFICENT WHALES FROM BEING CAUGHT IN THE GILL NETS.

PUBLIC SUBMISSION

As of: August 29, 2013
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Tracking No. 1jx-87aq-omb8
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0119
Comment from Desiree Darden

Submitter Information

Name: Desiree Darden
Address:
31506 West Nine Dr
Laguna Niguel, CA, 92677
Email: desirdeartes@gmail.com
Phone: 9492188413

General Comment

To Whom it Concerns at NOAA.

I am writing because I am an ocean lover and I have a unique opportunity to work in the marine advocacy world on a daily basis, educating the public from around the world about what is going on, and what lay people can do to support what is important to them about the oceans, namely the protection and preservation of our beloved marine mammal species. I would like to be able to stand in support of NOAA and am writing to ask NOAA to please use your authority to help significantly reduce whale entanglements.

I write in support of 'Alternative #5' - And I ask that you ensure that Maine and New Hampshire are not exempt. And also, please, include gillnets in entanglement reduction strategies, as well as increase management in the mid-Atlantic.

Your own research shows that the number of serious injuries and mortalities for right and humpback whales is nearly double the sustainable limits. Please be a responsible force for the preservation of our whale species.

Thank you,
Desiree Darden
31506 West Nine Dr
Laguna Niguel, CA
92677

PUBLIC SUBMISSION

As of: August 29, 2013
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Tracking No. 1jx-87aq-zu5w
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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0118
Comment from Julie Slater-Giglioli

Submitter Information

Name: Julie Slater-Giglioli
Address: United States,

General Comment

I SUPPORT ALTERNATIVE NO. 5, NO FURTHER ENTANGLING THESE LOVELY CREATURES, AND NO ONE NOR BUSINESS NOR CORPORATION SHOULD EVER DO ANYTHING TO REDUCE THE NUMBER OF THESE VALUABLE CREATURES IN OUR OCEANS!!!!!!

PUBLIC SUBMISSION

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Tracking No. 1jx-87aq-7i96
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Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0117
Comment from Jennifer Stotlar

Submitter Information

Name: Jennifer Stotlar
Address: United States,

General Comment

To Whom It May Concern,

I am an elementary teacher, a mom, and a lover of our oceans. I am very concerned about the number of wildlife fatalities occuring in gill nets and other entanglements. I want the majestic right whales, along with all other species of whales, to be around for generations to come. I support Alternative #5. I support any and all measures that can help to protect these wonderful creatures and keep our oceans safe for marine life!

Sincerely,
Jennifer Stotlar

PUBLIC SUBMISSION

As of: August 29, 2013
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Status: Pending_Post
Tracking No. 1jx-87ap-zxbp
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0116
Comment from Evelyn Rorick

Submitter Information

Name: Evelyn Rorick
Address: United States,

General Comment

NOAA is proposing to restrict the use of risk-prone lines that go from the lobster and crab pots to the surface buoys but more gear types need to be included with a more comprehensive marking strategy to identify the kind of gear and where it was set. We need regulations that decrease entanglements of all large whales.

PUBLIC SUBMISSION

As of: August 29, 2013
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Tracking No. 1jx-87ap-9nxk
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Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0115
Comment from Joseph Kotlinski

Submitter Information

Name: Joseph Kotlinski
Address:
9828 Melrose
Livonia, MI, 48150
Email: kotlin@ameritech.net

General Comment

I am an advocate for whale protection. I want gilnets banned. And no part of the US waters should be exempted from protection of whales. And finally I prefer Alternative #5 as being the best line of action.

Joe Kotlinski

PUBLIC SUBMISSION

As of: August 29, 2013
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Status: Pending_Post
Tracking No. 1jx-87ay-n7jm
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0144
Comment from gaile carr

Submitter Information

Name: gaile carr
Address:
1821 eddy dr
mount shasta, CA, 96067
Email: bgcarr@finestplanet.com
Phone: 530 926-4923

General Comment

Make the ship strike rule permanent. please select option 5.

PUBLIC SUBMISSION

As of: August 29, 2013
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Tracking No. 1jx-87ax-o0ui
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0143
Comment from Prudence Brooks

Submitter Information

Name: Prudence Brooks
Address:
6238 N 63rd Ave #103
Glendale, AZ, 85301

General Comment

I support Alternate Number 5.

Reduction of the structure, form and function of 80 mile gilnets needs attention. I believe that needs both innovation and alternation.

Policing of the waters with regard to saving endangered species will become necessary.

PUBLIC SUBMISSION

As of: August 29, 2013
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Status: Pending_Post
Tracking No. 1jx-87at-q0c9
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0141
Comment from Scott Heinze

Submitter Information

Name: Scott Heinze
Address:
1420 Grand Concourse #2M
Bronx, 10456-1121
Email: nycthirdwatch@aol.com
Phone: 917-453-6050

General Comment

I prefer alternative 5 and I do not want any exemptions and gillnets should be included. I love whale watching and will pay good money to see these amazing animals in the wild as would many other people. Therefore whale conservation is not not just a question of morals but also economics and your own research has found that the injuries and deaths caused by these methods is not sustainable.

PUBLIC SUBMISSION

As of: August 29, 2013
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Tracking No. 1jx-87at-7tq3
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0140
Comment from Holly Hall

Submitter Information

Name: Holly Hall
Address:
31621 Corte Rosario
Temecula, CA, 92592-6484
Email: hahall51@verizon.net
Phone: (951) 699-2591

General Comment

Alternative #5 is a preferred way to protect large whales-right whales and humpback whales. We need to include gill nets that are trapping whales and are a danger to them, too. We need to protect all the waters where these mighty beings inhabit, including the waters off New Hampshire and Maine.

I am a teacher who tries to instill a respect for all earthly life-even the species that are maligned like wolves, bats and bees. Especially we care for all water mammals who live in families as we do, nurse their young, and grieve when family members are killed or captured. We want to help these species and we are boycotting Sea World because of its unethical means of obtaining new whales and dolphins.
Your own research has shown that they cannot sustain their numbers if the deaths continue unchecked.
We need your help passing Alternative #5 to save these species.

PUBLIC SUBMISSION

As of: September 03, 2013
Received: August 29, 2013
Status: Pending_Post
Tracking No. 1jx-87b6-hq6g
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0163
Comment from Nicole Vinet

Submitter Information

Name: Nicole Vinet
Address:
5 Mastin Drive
Newmarket, NH, 03857
Email: nrvinet@gmail.com

General Comment

I am a native of the New Hampshire and southern Maine seacoast. I have grown up on the waters of the Atlantic and love the area and the wildlife. My family and I are boaters and often travel to the Isles of Shoals, Boon Island and Jeffery's Ledge off of the NH and ME seacoasts to view wildlife and enjoy nature. I care about our oceans and the safety of the wildlife, especially majectic whales and dolphins. I want to see my children grow up with the same passion and love for the ocean and its residents. The only way for that to happen is if we do our best to preserve and protect. Per NOAA's own research, the number of mortatilies is nearly double sustainable limits for right whales and more than double for humpback whales. It would be a travesty to all of us if we knew we could stop something so detrimental and did not.

I support "Alternative 5" to help reduce whale entaglements. I also want to ensure that this proposed plan includes the area that I so enjoy and love, the coast of New Hampsire and Maine. Further, I want gillnets to be included in the proposed plan.

PUBLIC SUBMISSION

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Comments Due: September 16, 2013
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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0162
Comment from Dianne Douglas

Submitter Information

Name: Dianne Douglas
Address:
Phoenix, AZ,

General Comment

I want to REDUCE whale entanglements by:

1. Supporting 'Alternative #5' - the preferred proposed plan to reduce fatal entanglements
2. Ensuring that the waters of Maine and New Hampshire are included in the regulations and policy
3. Including gillnets in entanglement reduction strategies
4. Increasing the management efforts in the mid-Atlantic region

I am a supporter of animal and environmental rights. I believe every life has a purpose. All animals are individuals and they have feelings and thoughts and they suffer the pain and the joy that we do. They are entitled and they deserve an opportunity to live.

"The greatness of a nation and its moral progress can be judged by the way its animals are treated." Mahatma Gandhi

Your own research shows that the number of serious infuries and mortalities for right whales is nearly double sustainable limits and more than double the sustanable limits for humpback whales.

PUBLIC SUBMISSION

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Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0161
Comment from Renee Vincent

Submitter Information

Name: Renee Vincent
Address:
931 E Oak Street
PO Box 173
Sequim, WA, 98382
Email: white_wolf@att.net
Phone: 360-797-1563

General Comment

Hello,
My name is Renee Vincent, a VERY concerned member of the human species. I LOVE ALL non-human Animals on this planet, including Whales. I live around the waters of the Pacific Northwest.

To begin with, there is ABSOLUTELY no reason humans cannot act, behave AND fish responsibly. WE are NOT the only one's making a living on this Planet. I am sick and tired of OUR arrogance and callous disregard. If humans want to be the "superior" species we LOVE to tell ourselves we are, then WE NEED to ACT IT. This total disregard about anything or anybody but OURSELVES needs to stop. This is NOT the behavior of a "superior" species.

That said, we need to reduce Marine Mammal entanglement from fishing lines AND gillnets. These entanglements are Fatal to the Whale or other Marine Mammal that becomes the victim of human indifference. I support Alternative #5 as the preferred proposed plan to reduce fatal entanglements (Gillnets most definitely Included).

We need to ensure ALL states are included in the regulations and policy. To exclude specific states such as Maine and New Hampshire is ludicrous. Marine Mammals do not know state boundaries that are human created. Marine Mammals enter waters of Maine and New Hampshire, therefore both states need be Included.

To ensure regulation and policy is adhered to I urge that management efforts in the mid-Atlanic region be increased. This is unfortunate, but humans left to their own devices never choose to do what is right, but what is easy for them. It is sad that the human mentality is based on greed,

exploitation and self serving actions instead of appreciation and respect for all life. Quite embarrassing to be human really. While we have evolved technologically in the last 2,000 years, we have not evolved as a species. Perhaps with all the challenges humans face on this Planet, it's time we do.

Thank you for taking my comments into consideration.
Sincerely,
Renee Vincent

PUBLIC SUBMISSION

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Comments Due: September 16, 2013
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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0159
Comment from Mr. Michael C. Ford and Dr. Richard B. Marks

Submitter Information

Name: Mr. Michael C. Ford and Dr. Richard B. Marks
Address: United States,

General Comment

On this issue, we urge you to effect Alternative 5 and there should be no exceptions, including none for Maine and New Hampshire. Also, gillnets should be included.

We live in a coastal area, right by the Monterey Bay Marine Sanctuary and the whales, dolphins, and sea otters are an important part of our local environment and even our economy. Many tourists come to this area because of the sanctuary and what it means to the local marine wildlife. We have taken friends and visitors from other areas and from other countries whale watching, an important local tourist industry. We got as much out of it as they did, especially as we saw several species of dolphins and porpoises playing in schools.

The world's oceans are being degraded at an alarming rate and we need to do all we can to protect them and the creatures who live in them. Scientific studies, including your own, show that whales are being injured and killed in numbers that are causing their decline. We need to stop that to the best of our ability.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0156
Comment from Nancy Lowell

Submitter Information

Name: Nancy Lowell
Address: United States,

General Comment

I am writing to let you know that I wholeheartedly support 'Alternative #5' - the preferred proposed plan to reduce fatal entanglements of whales. NOAA is the only authority that can make a difference, and it is hugely important that the agency acts. Aside from the fact that whales in general are endangered, and most sane and rational people are disgusted by the everyday loss of whole species from the world biome, the oceans cover 75% of our globe, and the whales and dolphins are an integral part of the ocean ecosystem.

We must reduce whale entanglements and Alternative 5 is a good start, but please include gillnets in entanglement reduction strategies, and extend the regulations and policy to the waters of Maine and New Hampshire. Increasing the management efforts in the mid-Atlantic region would also better protect the large cetaceans.

I understand that NOAA is proposing to restrict the use of risk-prone lines that go from the lobster and crab pots to the surface buoys but more gear types need to be included and a more comprehensive marking strategy set up to identify the kind of gear and where it was set. I am really pleased that these actions are being seriously considered, and hope that all of these rules will be promulgated. They will certainly help reduce entanglements of right whales and will also benefit humpback whales as well.

Though I did not work as an environmental scientist I was educated and worked as a research scientist. I am very distressed in general by what I see happening to our planet, and to all of the creatures that live here with us. Any effort to prevent human destruction of our world is welcome. Please act on Alternative 5, and rigorously enforce it.

PUBLIC SUBMISSION

As of: September 03, 2013
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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0154
Comment from Lynne Davies

Submitter Information

Name: Lynne Davies
Address:
327 Caselli AVE
San Francisco, CA, 94114
Email: lynne.davies3@gmail.com

General Comment

As a supporter of WDC I care about the oceans and I want right whales to be protected. For that reason I prefer alternate 5, I want gill nets to be included and I don't want Maine or New Hampshire waters to be exempted. Your own research shows that the number of serious injuries and mortalities for right whales is nearly double sustainable limits and more than double the sustainable limits for humpback whales.

PUBLIC SUBMISSION

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Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0152
Comment from Kathy Nix

Submitter Information

Name: Kathy Nix
Address: United States,

General Comment

Please help reduce entanglements of right whales. This regulation will also benefit humpback whales as well! Join us in letting NOAA know that we need them to protect large whales! NOAA is proposing to restrict the use of risk-prone lines that go from the lobster and crab pots to the surface buoys but they need to include more gear types and a more comprehensive marking strategy to identify the kind of gear and where it was set.

PUBLIC SUBMISSION

As of: September 03, 2013
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Tracking No. 1jx-87b2-7e0y
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0151
Comment from Gail Camhi

Submitter Information

Name: Gail Camhi
Address:
4 Fallen Leaf Way
Novato, 94949
Email: gailcamhia24@aol.com
Phone: 415-884-2875

General Comment

• Alternative 5 is preferred~!
• Maine and New Hampshire waters should NOT be exempted.
• Include gill nets~!

Hello~

Though I'm a New England transplant to California, please know I still adore East Coast whales.
I support Whale and Dolphin Conservation, and ask that management efforts be increased in the mid-Atlantic region.
Entanglements of whales and other ocean critters must be halted 100%. Please see to this ASAP, as it is a huge embarrassment to one and all.

Thank you kindly.

Gail Camhi
4 Fallen Leaf Way
Novato, CA 94949
415-884-2875

PUBLIC SUBMISSION

As of: September 03, 2013
Received: August 29, 2013
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Tracking No. 1jx-87b1-yjh0
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0149
Comment from susan hawkins

Submitter Information

Name: susan hawkins
Address: United States,

General Comment

I am writing to ask that the Proposed Rule: Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan, be passed. There needs to be things done, like mammals being caught up and entangled in fishing nets, and they horribly die from drowning. There is no excuse for this to continue any longer. No more mammals should have to die out of needless poor use of fishing, and it needs to stop now. Please hear my plea, and thank you for listening. Bless the innocent marine mammals that are wounded and killed, and protect them please. Blessed Be.)O(Susan.

PUBLIC SUBMISSION

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Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0148
Comment from Christie Spriggs

Submitter Information

Name: Christie Spriggs
Address: United States,

General Comment

To Whom it May Concern,
I am a teacher, boater, and supporter of WDC and would like to voice my opinion to strongly support 'Alternative #5'. We need to protect the ocean's marine life, in particular and especially our large whales. Please do not exclude Maine & New Hampshire from this decision as they are home to many right whales and humpbacks! Please also include gillnets in this consideration.

It is important that we try to protect all animals to ensure survival for each species. As a teacher I am writing this letter because I want to show my students that caring for our environment in various different ways effects all animals and living things. It is important for our own species to say something that may help those who can't speak for themselves.

Thank you for your consideration!

Sincerely,
Christie Spriggs
Balirstown, NJ
United States of America

PUBLIC SUBMISSION

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Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0194
Comment from Jorge De Cecco

Submitter Information

Name: Jorge De Cecco
Address:
705 North State Street # 268
Ukiah, CA, 95482
Email: bndass@yahoo.com

General Comment

This is in support of Alternative 5, with no exclusion for gillnets, and no exemption for Maine and New Hampshire.

PUBLIC SUBMISSION

As of: September 03, 2013
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Tracking No. 1jx-87ck-zqu9
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0193
Comment from Lara Metrione

Submitter Information

Name: Lara Metrione
Address: United States,

General Comment

I am writing in support of 'Alternative #5' - the proposed plan to reduce fatal entanglements. It is critical that the waters of Maine and New Hampshire are included in the regulations and policy. Gillnets must be included in entanglement reduction strategies, and there must be an increase in the management efforts focused in the mid-Atlantic region. Thank you.

PUBLIC SUBMISSION

As of: September 03, 2013
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Status: Pending_Post
Tracking No. 1jx-87cg-tj6u
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0191
Comment from Jane Rigney

Submitter Information

Name: Jane Rigney
Address:
139 East Shore Lake Owassa
Newton, NJ, 07860
Email: Jane.Rigney139@aol.com
Phone: 973-948-2561

General Comment

I am a longtime supporter of numerous organizations that protect marine animals, among them the Marine Mammal Center, the Wildlife Conservation Society, Whale and Dolphin Conservation, Greenpeace, the Cousteau Society, the Ocean Futures Society and many more. I am writing to express my strong support of regulations to safeguard right whales. I want to REDUCE whale entanglements in fishing nets by:

1. Supporting Alternative Number 5 -- the preferred proposed plan to reduce fatal whale entanglements.

2. Ensuring that the waters of Maine and New Hampshire are included in regulations and policy. Those states must not be exempted.

3. Including gillnets in whale-entanglement-reduction strategies.

4. Increasing management efforts in the mid-Atlantic region.

It is urgent that the National Oceanic and Atmospheric Administration reduce entanglements of large whales, especially right whales. A regulation to that effect will benefit humpback whales as well.

I understand that NOAA is proposing to restrict the use of risk-prone lines that go from the lobster and crab pots to the surface buoys. That sounds good, but NOAA also needs to include more gear types and a more comprehensive marking strategy to identify kinds of gear and where each was situated.

Thank you for reading my message and considering my views.

PUBLIC SUBMISSION

As of: September 03, 2013
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Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0190
Comment from Jessica Willmert

Submitter Information

Name: Jessica Willmert
Address:
3611 85th ST NW #30
Oronoco, MN, 55960
Email: jrv.81@hotmail.com

General Comment

I prefer alternative #5, to include gillnets, and I do not want Maine or New Hampshire to be exempt.

PUBLIC SUBMISSION

As of: September 03, 2013
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Tracking No. 1jx-87c4-ufg3
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0188
Comment from Cheryl Fergeson

Submitter Information

Name: Cheryl Fergeson
Address: United States,

General Comment

I am asking NOAA to please reduce entanglements and protect large whales such as the right whales and the humpback whales. I support Alternative #5, and I don't want Maine and New Hampshire waters to be exempted. I also want gillnets to be included. Protecting the oceans and its wildlife is crucial to the future of life on this planet. If the oceans ecosystems die, so will everything else on earth, including people. Please protect these majestic large whales, as well as all the life in the oceans, so that the environment can be healthy and safe for the future. I hope that NOAA will reduce the number of vertical lines in the water and keep the whales protected!

PUBLIC SUBMISSION

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Tracking No. 1jx-87c3-vtkd
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0187
Comment from Jim Brown

Submitter Information

Name: Jim Brown
Address: United States,

General Comment

The killing of whales and dolphins by fishing net and equipment MUST be eliminated. Fishing net must be made to eliminate the entanglement of marine mammals by design, regulations and technology such as devices that will allow whales and dolphins to avoid nets with sonar devices.
It is imperative to protect marine mammels.
Jim Brown

PUBLIC SUBMISSION

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Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0179
Comment from Barbara Hegedus

Submitter Information

Name: Barbara Hegedus
Address:
404 Fox Trl.
Parkesburg, PA, 19365-9198
Email: hpixel@peoplepc.com

General Comment

Please SUPPORT ALTERNATIVE #5, to reduce fatal entanglements. Humans should be protecting other members of the animal kingdom - not dooming them, one by one, to torture and death for our benefit.

Please make the ethical - and moral - decision, not the quick or political one.

PUBLIC SUBMISSION

As of: September 03, 2013
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Tracking No. 1jx-87bt-lnwc
Comments Due: September 16, 2013
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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0178
Comment from Kira Schabram

Submitter Information

Name: Kira Schabram
Address: United States,

General Comment

As a concerned citizen, I support 'Alternative #5' - the preferred proposed plan to reduce fatal entanglements. Thank you for your consideration.

PUBLIC SUBMISSION

As of: September 03, 2013
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Tracking No. 1jx-87bh-891n
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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0175
Comment from Eric Campbell

Submitter Information

Name: Eric Campbell
Address:
Ann Arbor, MI, 48103

General Comment

Protecting whales is vital for the future health our our oceans. I do not want my children to grow up without ever seeing these creatures. I support alternative #5 and gillnets should most definitely be included. Please listen to science and not those out to make short-term profits at the expense of our only home.

PUBLIC SUBMISSION

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Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0174
Comment from Terry Travis

Submitter Information

Name: Terry Travis
Address:
91-999 La'aulu St.
Ewa Beach, HI, 96706
Email: terrytravis@hawaiiantel.net

General Comment

I strongly support alternative 5 and I do not want any exemptions. Gillnets should be banned. Living in Hawaii, I love whale watching. And whale watching is a good tourist attraction which helps our economy - people pay good money to see these amazing mammals in the wild. Whale conservation is not not just a question of environmental concern but also economics and your own research has found that the injuries and deaths caused by these methods makes whale survival questionable.

PUBLIC SUBMISSION

As of: September 03, 2013
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Tracking No. 1jx-87bd-b5lb
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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0173
Comment from s. w.

Submitter Information

Name: s. w.
Address: United States,

General Comment

Please support "Alternative #5" and help reduce entanglements of right whales. You are proposing to restrict the use of risk-prone lines that go from the lobster and crab pots to the surface buoys but they need to include more gear types and a more comprehensive marking strategy to identify the kind of gear and where it was set. We need to ensure that the waters of Maine and New Hampshire are included in the regulations and policy, that includes gillnets in entanglement reduction strartegies, and increasing the management efforts in the mid-Atlantic region.

Remember, your own research shows that the number of injuries and mortalities for right whales is nearly double sustainable limits and more than double the sustainable limits for himback whales. Protecting these whales will not only help them surviive but the rest of the marine ecosystem(s) thrive.

As someone who cares deeply about whales, and life in general, I want to help ensure their safety. Who dosen't want to SAVE THE WHALES!

PUBLIC SUBMISSION

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Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0210
Comment from Julie Jensen

Submitter Information

Name: Julie Jensen
Address:
562 West End Avenue
New York, 10024

General Comment

Please help reduce entanglements of right whales. This regulation will also benefit humpback whales as well! We need the the NOAA to protect large whales!

Please include more gear types and a more comprehensive marking strategy to identify the kind of gear in the proposal to restrict the use of risk-prone lines that go from the lobster and crab pots to the surface buoys.

Thank you so much for helping Marine Mammals!!

PUBLIC SUBMISSION

As of: September 03, 2013
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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0209
Comment from Evgeniia Romakhova

Submitter Information

Name: Evgeniia Romakhova
Address: United States,

General Comment

Dear Decision Maker!
I support "Alternative #5" and I want to be sure that the waters of Maine and New Hampshire are included in the regulations and policy.
I am a life-long animal advocate and for me the number of fatal entanglements of marine life is shocking. According to NOAA research the number of serious injuries and mortalities in right whales is nearly double the sustainable limits, and more than double the sustainable limits for humpback whales.
Please find a way to reduce the speed of extinction of the larger whales!
Cordially,
Evgeniia Romakhova.

PUBLIC SUBMISSION

As of: September 03, 2013
Received: September 02, 2013
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Tracking No. 1jx-87ds-em6g
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0206
Comment from Jeffrey Nosbaum

Submitter Information

Name: Jeffrey Nosbaum
Address:
Seattle, WA, 98121-1190

General Comment

Hello,
I am writing to ask you to choose "Alternative #5" as the preferred plan to reduce fatal entanglements. I believe the NOAA should also ensure that the waters of Maine and New Hampshire are included in the regulations and policy, as well as including gillnets in entanglement reduction strategies generally. I would also ask that the NOAA increase its management efforts in the mid-Atlantic region.

We must improve and expand our efforts to reduce fatal entanglements of whales. Thank you very much for your time and consideration.

Best regards,
Jeff Nosbaum

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0205
Comment from Jim Clouse

Submitter Information

Name: Jim Clouse
Address:
270 Highland Ave.
Apt 21
Somerville, MA, 02143
Email: clousejim@gmail.com
Phone: 805-558-8201

General Comment

The proposed changes documented here are encouraging for the future of endangered whales species, particularly the NA right whale. The thorough research backing these changes is impressive and it is encouraging that the NMFS is suggesting an approach that differs per region based on the specific needs of whales in those regions. It is also encouraging and important that the NMFS is proposing alterations based on recent scientific findings of high density whale locations, as these locations are sure to change over time. I hope that NOAA understands this and weighs this as part of their decision.

While these proposed changes will surely affect certain fisherman and their families, an entire species of whale depends on this change.

I also strongly urge the task force to continually re-evaluate these areas and promptly suggest the re-opening of fishing areas that whales move away from, as this will help to foster trust, support, and collaboration with the New England and Florida fishing industries.

I strongly urge NOAA to enact these well researched and science-based proposals.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0204
Comment from Nancy Gathing

Submitter Information

Name: Nancy Gathing
Address:
3701 Tulane Ave.
Madison, WI, 53714
Email: nancygathing@yahoo.com
Phone: 608-241-4746

General Comment

I endorse the enactment of Alternative 5 to greatly reduce the frequently fatal entanglements of large whales, especially highly endangered right whales and humpback whales. NOAA is proposing to restrict the use of risk-prone lines that go from the lobster and crab pots to the surface buoys, but more gear types, including gillnets, must be restricted and with a more comprehensive marking strategy to identify the kind of gear and where it was set. The waters of Maine and New Hampshire must not be exempted from the restriction. Like so many others, I find whales a fascinating work of art which must not be lost, nor can their significant impact upon tourism be disregarded.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0203
Comment from Linda Mooney

Submitter Information

Name: Linda Mooney
Address: United States,

General Comment

I support alternative 5. I want gillnets to be included and do not want Maine and New Hampshire waters exempted.

PUBLIC SUBMISSION

As of: September 03, 2013
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Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0201
Comment from Judith Ferrell

Submitter Information

Name: Judith Ferrell
Address: United States,

General Comment

Please take any measures (Alternative 5) that will stop or lessen entanglement that have such damaging and fatal effects upon right whales and other whales. Right whales in particularly are endangered and we have a responsibility to try to reverse the situation for the betterment of the oceans. Thank you for your time.

PUBLIC SUBMISSION

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0199
Comment from Kathleen Geist

Submitter Information

Name: Kathleen Geist
Address: United States,

General Comment

Right Whales are a critically endangered species, and need all the help/protection possible for their recovery.

I'm a member of WDC (Whale & Dolphin Conservation), and have adopted a Humpback Whale ("Cat's Paw") for several years. I use info from WDC, and about "my" whale in my Life Science classroom. My students and I would be heartbroken if Cat's Paw or any of her extended family were injured/killed by being entangled in fishing gear.

We are in favor of:
* Supporting 'Alternative #5' - the preferred proposed plan to reduce fatal entanglements
* Ensuring that the waters of Maine and New Hampshire are included in the regulations and policy
* Including gillnets in entanglement reduction strategies
* Increasing the management efforts in the mid-Atlantic region

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0227
Comment from Eugene Cahill

Submitter Information

Name: Eugene Cahill

General Comment

Thank you for allowing comments on this important issue. I am someone who cares deeply about wildlife, and certainly ocean wildlife, and we need to save this species.

I prefer alternative 5, and please please do not allow Maine and New Hampshire waters to be exempted! Also, it is vitally important that gillnets be included!

As per the NOAA's own research; the injuries and deaths are far above sustainable limits. As someone who cares about whales, I think that says it all.

Thank you!

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0226
Comment from Susan Von Struensee

Submitter Information

Name: Susan Von Struensee
Address:
7730 Willow Point Drive
Falls Church, VA, 22042
Email: Susan.vonstruensee@gmail.com

General Comment

Our beautiful whales need protection from man made injury and death due to entanglement in fishing gear.
This proposed rule to reduce the impact from vertical lines running from surface buoys down to traps and pots at the ocean bottom is the next step to reduce this risk.

To reduce entanglements of right and humpback whales we need NOAA's proposal to restrict the use of risk-prone lines that go from the lobster and crab pots to the surface buoys to include more gear types and a more comprehensive marking strategy to identify the kind of gear and where it was set.

As whales dive down to feed, fishing lines (thick ropes), nets or other gear can get caught in their mouths, on their flippers or around their tails resulting in entanglement that can lead to extensive injuries or a slow, painful death. Whales that encounter fishing gear often panic and spin in an attempt to free themselves, a response that only entangles them further. In some cases the weight and strength of the gear can be too much to overcome, anchoring the whale to the bottom causing it to drown.

I was shocked and horrified when I first saw images of entanglement injuries and cannot imagine the pain these animals have suffered. With chronic entanglements the rope can end up cutting through skin and bone. In juveniles the rope has even become embedded in their body as they continue to grow.

This threat is particularly acute for North Atlantic right whales, whose population is estimated at only about 500 individuals. North Atlantic right whales, sometimes called the urban whale, migrate close to shore and tend to frequent areas close to ports. Sadly this puts them directly in the path of

passing boats and means they tend to concentrate in the same areas with the greatest amount of fishing effort. Nearly three quarters of all right whales show scarring and other signs of entanglement.

In 2004, the Massachusetts (MA) Lobstermen's Association and the National Fish and Wildlife Foundation supported a successful pilot project to subsidize the voluntary replacement of floating groundline with whale safer sinking groundline. Groundline is the fishing line that runs along the ocean bottom between traps, pots or gillnets or to the anchors on the end of these lines. Replacing floating line with heavy line that sinks means fewer whales get entangled in the line when diving down to feed. In 2008 this program was expanded to include the entire east coast, after consideration and development of recommendations by the Atlantic Large Whale Take Reduction Team (ALWTRT). This team composed of fishermen, state fisheries representatives, conservation groups, scientists and NOAA Fisheries Service helps inform the rules implemented to reduce injury and death of large whales (right, humpback, fin and minke) from incidental entanglement in fishing gear.

However the current rate of injuries and deaths due to entanglement still exceeds the amount prescribed to support recovery and protection of these whales. So a new rule is in development to address the additional risk from vertical lines that run from buoys at the surface down to the traps and pots on the bottom. NOAA's draft rule outlines a set of proposed alternatives. While each alternative has strengths and weaknesses I am supportive of NOAA's preferred alternative, Alternative 5. This alternative presents a positive, practical solution that incorporates proposals from NOAA, the states, conservation groups and scientists alike, and is expected to achieve the greatest reduction in risk to whales through reduction in total number of vertical lines, and inclusion of fishing closures in key areas with high co-occurrence of whales and fishing effort.

This matter is extremely important. The survival of North Atlantic right whales may very well depend on the actions that NOAA takes in the coming years, with this rule being the next vital step.

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0225
Comment from Adele Henkel

Submitter Information

Name: Adele Henkel
Address: United States,

General Comment

We need to REDUCE whale entanglements by:

- Supporting 'Alternative #5' - the preferred proposed plan to reduce fatal entanglements
- Ensuring that the waters of Maine and New Hampshire are included in the regulations and policy
- Including gillnets in entanglement reduction strategies
- Increasing the management efforts in the mid-Atlantic region

Please help reduce entanglements of right whales, and then, the same regulation will also benefit humpback whales!

I know you're proposing to restrict the use of risk-prone lines that go from the lobster and crab pots to the surface buoys but they need to include more gear types and a more comprehensive marking strategy to identify the kind of gear and where it was set.

Just as I respect a right to (a good) life for every person living on earth, I love the oceans and all of the cetaceans living there too--they are fellows in the sea. Let's all take on as much responsibility for their well being as we can until the day that our political and economic protocols, and use of technology mature--so as to not threaten their existence.

I've experienced free-swimming dolphins and whales in open ocean. I KNOW, they are like...us!

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0223
Comment from Diane Kent

Submitter Information

Name: Diane Kent
Address: United States,

General Comment

I prefer alternative 5 and I do not want any exemptions and gillnets should be included. I love whale watching and will pay good money to see these amzing animals in the wild as would many other people. Therefore whale conservation is not not just a question of morals but also economics and your own research has found that the injuries and deaths caused by these methods is not sustainable.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0221
Comment from Norma Campbell

Submitter Information

Name: Norma Campbell
Address:
37 Decorah Lane
Campbell, CA, 95008-2424
Email: Sqrrlady@hotmail.com
Phone: 408-559-7379
Fax: 408-559-7379

General Comment

NOAA must strive to reduce by at least 90% the incidental take af any whale or cetacean in commercial fishing operations.

One way to do that is to reduce the number and type of nets used. New must not be allowed close to the whales normal feeding, breeding or resting waters or normal routes. If these routes are changed by the whales or other cetaceans then the commercial nets must also be moved out of the way of the whales whereever they go. This is to include all net types, gills included.....

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Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0220
Comment from Norma Campbell

Submitter Information

Name: Norma Campbell
Address:
37 Decorah lane
Campbell, CA, 95008-2424
Email: Sqrrlady@hotmail.com
Phone: 408-559-7379
Fax: 408-559-7379

General Comment

I am totally in favor of reducing Whale and other cetaceans entanglements in fishing nets, gill nets included. These nets are totally indescriminate and should be banned anywhere near whale routes. If the route changes due to season then the net areas should change in accordance to the whale route. I understand that proposal #5 would give the best protection against entanlement and that is the Proposal that I wish to see enacted.

However it must be spelled out that this applies to all nets, gill, seine,nets that go from the lobster beds to the surface, entanglements in these must be reduced. No whales can be allowed to be caught. It is important that the waters off the States of Maine, New Hampshire are included in the proposals.

Every management effort should be put to the best and strongest use in this matter in the Mid-Atlantic Ocean. We as a Nation must protect all Whales.

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0219
Comment from Radko Vacek

Submitter Information

Name: Radko Vacek
Address:
1024 E. Broadway St.
Toledo, OH, 43605
Email: mystarlink@yahoo.com

General Comment

Samuel Rauch
Acting Assistant Administrator for NOAA Fisheries
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Dear Mr. Rauch:

I know of no better way to start than to quote one of the greatest authorities of modern times, Albert Einstein: "Our task must be to free ourselves... by widening our circle of compassion to embrace all living creatures and the whole of nature and its beauty."

What better representation of eternity can there be than the ocean? Our little lives are but mere drops to join the water of the vastness of the sea! Compared to the profundity of the whole of nature, materialistic concerns, including the endless quest for profit, are petty indeed. The point of Einstein's statement is that the development of human potential is at least as much a matter of the awakening of the spirit as of the sharpening of the mind. As Anatole France, 1921 Nobel Prize in literature Laureate put it, "Until one has loved an animal, a part of one's soul remains unawakened."

What is life without causes to defend? Certainly, nothing inspires more religious awe than the ocean and the wonder of her creatures. In this troubled world there are many causes; yet, none is more worthy of our utmost efforts than to expand the critically needed protections of the North Atlantic right whale.

Regulations restricting the speed of marine vessels in certain areas at certain times of year were put in place to guard against this threat in 2008. However the "sunset" provision allows endangered species protections to be removed simply because an arbitrary date has been reached. Your agency must act now to ensure that these creatures continue to receive protections which are essential to their survival.

Not only does current information show a continued justification for the existing rule, but also demonstrates the need for expanded protective measures to reduce the risk of ship strikes for the remaining North Atlantic right whale population:

1) Each year, endangered NA right whales become entangled in commercial fishing gear. Entanglement makes it harder for them to swim, feed and reproduce and it can cause a chronic infection or even drowning. NMFS has cited entanglements in commercial fishing gear as one of the most significant threats to the right whale's survival and recovery. Yet, almost every year since 2002, at least one entangled right whale has been found dead or so gravely injured that death is deemed likely. Reducing the amount of vertical line in the water column will significantly reduce this threat but the proposed timeline set out by NMFS is prolonged and must be expedited.

2) As outlined in the proposal forwarded by the Conservation Community in February 2013 the, waters currently exempted from the Plan should be reconsidered; year round gear marking should be required, additional measures in the Southeast Region, for gillnet fisheries, and for monitoring and enforcement must be included. Most importantly, the release of a rule must be expedited.

Scientific data accumulated over the 15 years since the original Critical Habitat designation have more directly tied the presence of right whales to the physical and biological constituent elements that make these habitats so important for the species, and which may require special management considerations or protection. The expansion of critical habitat will provide an important layer of protection that has so far been lacking for much of the right whale's essential habitat. Amending the right whale's critical habitat designation to include the waters off the Northeast United States to include the Gulf of Maine and its associated Bays, the coastal waters from the shore out to 35 nautical miles off the coasts of South Carolina, Georgia and Florida as well as all waters along the migratory corridor of the mid-Atlantic from the shore out to 30 nautical miles, between the northern border of South Carolina northward to the southeastern corner of Cape Cod, Massachusetts will provide protection for habitats essential to the species' reproduction, feeding, sheltering, growth, and normal behavior.

The remaining population of North Atlantic right whales resides almost exclusively in US waters, but this species belongs to the world. The way this legislation and its enforcement are handled will indeed make a statement about our nation to the whole world! Hardly can any of us argue with someone of the stature of Mahatma Gandhi: "The greatness of a nation and its moral progress can be judged by the way its animals are treated."

It is the duty of the National Marine Fisheries Service to protect these whales and ensure their future for generations to come. I ask you to consider these comments as the Agency moves forward with rule development to reduce the threats of ship strikes and fishing gear entanglements and increases Critical Habitat for this species.

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0217
Comment from Douglas Perrine

Submitter Information

Name: Douglas Perrine
Address: United States,

General Comment

I support the Atlantic Large Whale Take Reduction Plan. The North Atlantic right whale is Critically Endangered, with entanglement in fishing gear as one of the two leading causes of mortality. This plan will attempt to reduce that mortality without placing excessive burdens on fishers. We need to take action to prevent this species from declining into extinction.

PUBLIC SUBMISSION

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0216
Comment from adam mills

Submitter Information

Name: adam mills
Address: United States,

General Comment

I prefer alternative 5. I don't want Maine and New Hampshire waters exempted. I want gillnets included.

PUBLIC SUBMISSION

As of: September 09, 2013
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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0214
Comment from Barbara Beierl

Submitter Information

Name: Barbara Beierl
Address: United States,

General Comment

Whale entanglements must be reduced, and they will be if Alternative #5 is enacted. Please make sure that the waters of Maine and New Hampshire are included. Additionally, the use of lines that go from the lobster and crab pots to the surface buoys. Including more gear types and a more comprehensive marking strategy to identify the kind of gear and location, need restriction as well. Both right and humpback whales will be protected if these steps are taken. Thank you for your attention.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0213
Comment from Rachel Krucoff

Submitter Information

Name: Rachel Krucoff
Address:
Chicago, IL, 60615
Email: rkru@att.net

General Comment

As someone who cares deeply about our oceans and the incredible species they support, I am writing to urge you to choose proposed Alternative 5 to reduce whale entanglements and subsequent fatalities. It is truly heartbreaking to me that these majestic creatures should suffer so greatly. It is our responsibility to protect them, and yet your own research shows that the number of serious injuries and deaths among both right whales and humpback whales far exceeds sustainable limits.

It is also crucially important that you include the management of gill nets in any entanglement reduction plan. The kind of harm caused by these nets can be gruesome for whales. Beyond even the recorded fatalities, whales that survive an entanglement in a gill net may still carry gear related to that entanglement causing them to slowly die of starvation. How can we continue to allow this? One solution might include switching to lighter line that would break if it caught anything so large as a whale. Another possibility I've read would be to use a less buoyant line that runs along the sea floor instead of floating suspended in the water.

Lastly, I urge you include the waters of New Hampshire and Maine in any proposed regulations.

Thank you so much for your time and consideration.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0235
Comment from Dana Richardson

Submitter Information

Name: Dana Richardson
Address: United States,

General Comment

I prefer alternative 5 to please protect these remaining right whales.

PUBLIC SUBMISSION

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0232
Comment from Doug Perrine

Submitter Information

Name: Doug Perrine
Address: United States,

General Comment

Please enact the preferred alternative (alternative #5)

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0231
Comment from Bridgett Heinly

Submitter Information

Name: Bridgett Heinly
Address:
4440 Brindisi St
San Diego, CA, 92107
Email: kbmdogs@att.net

General Comment

I am asking NOAA to protect whales and prefer Alternative 5 as a way to reduce unnecessary deaths. As a yacht club member, I spend a lot of time at the ocean and I want to have protections in place for these magnificent animals. I would hate to see them disappear from our oceans.

I would also like to remind NOAA that research has shown that the number of serious injuries and deaths for right whales is almost double the sustainable limit and more than double the sustainable limit for humpback whales. Choosing Alternative 5 will help protect these whales.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0230
Comment from Nathan Roche

Submitter Information

Name: Nathan Roche
Address: United States,

General Comment

I am a supported of Whale and the Dolphin Conservation Society, currently living in the UK but have been employed at US universities in the past, and I have gone on a number of very successful whale-watching trips, including from northern Massachusetts and California. Had terrific views of the Humpbacks. Did not see the Right Whales but I later saw some from South Africa. Whales and dolphins are, I believe as intelligent and important as human beings and of course I don't want to see them killed by entanglements or ship strikes. We have caused so much harm to whales in the past. It is now in our interest to protect them and their habitats, for tourism, science and our spiritual benefit. We should take care that they not be harmed by shipping etc. just as we should not risk human life. Furthermore many cetaceans are still endangered, even critically so, especially the rare Northern Right Whale. It is not acceptable for even one individual to be killed. Fishing should be reduced anyway to safeguard the marine ecology and I am even more concerned about the potentially lethal impacts of overfishing and entanglements on cetaceans, pinnipeds and seabirds.

Therefore I support maximum protection measures for the whales, your Alternative 5, with the additional measures (i) The waters off New Hampshire and Maine should NOT be exempted. (ii) Additional gear marking strategies must be included to differentiate gear types and regions.
(iii) Gillnets should not be exempted from entanglement reduction strategies.
(iv) A seasonal closure for black sea bass traps in the Southeast Restricted Area must be implemented to protect newborn critically endangered right whales.

PUBLIC SUBMISSION

As of: September 19, 2013
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Tracking No. 1jx-87l8-rd0q
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0259
Comment from Dianne Douglas

Submitter Information

Name: Dianne Douglas
Address:
Phoenix, AZ,

General Comment

We need to protect large whales! I prefer alternative #5. I do not want Maine or New Hampshire waters exempted and want gillnets to be included. I love nature and am a whale watcher when I get the opportunity to get to the coast.

NOAA is proposing to restrict the use of risk-prone lines that connect lobster and crab pots to surface buoys, but they need to include more gear types and a more comprehensive marking strategy to identify the type of gear and where it was originally set.

NOAA own research shows tht the number of serious injuries and mortalities for right whates is nearly doubled sustainable limits and more than double the sustainable liits for humpback whales or that protecting them will help them survive.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0249
Comment from Gail Jacobson

Submitter Information

Name: Gail Jacobson
Address: United States,

General Comment

I prefer alternative 5. I want gillnets to be included and do not want Maine and New Hampshire waters exempted.

PUBLIC SUBMISSION

As of: September 19, 2013
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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0248
Comment from Julia Moyse

Submitter Information

Name: Julia Moyse
Address: United States,

General Comment

As a lover of whales and dolphins I as you to stop using vertical lines that entangle them. Your research shows that the number of injuries and fatalities is nearly double sustainable levels. We cannot lose these beautiful right whales. I support alternative 5 and want Maine and New Hampshire waters to be included and gillinets to be included.
Thank you for your help.

PUBLIC SUBMISSION

As of: September 19, 2013
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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0247
Comment from Melissa Baldey

Submitter Information

Name: Melissa Baldey
Address: United States,

General Comment

I prefer alternative 5 and I do not want any exemptions and gillnets should be included. I love whale watching and will pay good money to see these amazing animals in the wild as would many other people. Therefore whale conservation is not not just a question of morals but also economics and your own research has found that the injuries and deaths caused by these methods is not sustainable.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0244
Comment from Peter Seminara

Submitter Information

Name: Peter Seminara
Address: United States,

General Comment

To Whom it may concern:

I am a commercial lobsterman in Gloucester MA and would like to comment on the proposed actions by the ALWTRT to amend the ALWTRP to one of the alternatives proposed by non-fisherman stakeholders, i.e. Alternative 5. Alternative 5 calls for increased markings of all endlines, trawling up in co-occurrence areas, and a closure of some of the most productive local lobstering grounds during the most productive time of the season.

The closure is mainly what I would like to comment on. The proposed Alternative calls for the closure of Jeffrey's Ledge from October 1 to January 31. Jeffery's Ledge is a historically productive lobstering ground and much of the federally permitted fleet depends on this area to make their year's income during these months. By utilizing Alternative 5 as the amendment to the ALWTRP a significant portion of the lobster fleet will be displaced. This not only will be harmful to the local lobstering industry but also to the numerous shoreside industries that depend on the lobster industry.

The research by the conservation stakeholders that led to the proposal of this closed area is faulty at best. The statistical data presented to support this alternative has been summed up by one peer review of this plan as:

"The model structure is rather awkward and very dependent on empirical data inputs for both fishing gear and whales...I was surprised that the authors of the model did not describe any attempts to validate their results. This is especially important given that the model outputs are intended to be used to guide management decisions that will have important effects on fishermen and whales...Thus, it is my opinion that other model approaches might have been preferrable and that this version of model is not ready to be used in a management application until its performance has been validated or compared with other approaches."

(http://www.nero.noaa.gov/protected/whaletrp/eis2013/reviewer_1_redacted.pdf) pg. 2

In short, any closure is a hasty and unproven method of protecting both the large whales that face a risk of entanglement as well as the local lobstering industry, the second most lucrative fishery in the Commonwealth.

I urge you to reconsider putting Alternative 5 into action until better research can gather more sound data. As of now, Alternative 5 is a knee-jerk reaction to a problem that can be solved with less of a financial burden on the commercial lobster fishery.

Thank you

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0242
Comment from Bro Cote

Submitter Information

Name: Bro Cote

General Comment

These are my comments on Atlantic Large Whale DEIS and the proposed rule;
Provision 1
minimum of 20 traps per trawl
I have no problem with this provision in how it would or would not effect area 3 lobster fishing

Provision 2
Increase vertical line markings
We presently mark our end gear with one marking on the bouy line. More markings at sea are impractical and a burden with the already burdensome sinking groundline rules which are both problematic and extremely costly. Remarking endlines with more markings is just a witch hunt that will become another burden on industry.

Provision 3
Seasonal closure NOV-Jan encompassing Jordan Basin
I am opposed to this provision. Never discussed in depth at TRT and was not justified in the NOAA documents. The data presented did not show a high level of co-occurence of gear and lobsters in that area. The data is very limited and who can verify its accuracy? Fishing levels were in accurate for the Jordan Basin area. Area 3 continues to decrease our trap numbers with anotherr 25% reduction in traps levels over the next 5 years. Trap reductions continue to be the most effective way of limiting interaction and protecting whales.

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0240
Comment from Matt Accardi

Submitter Information

Name: Matt Accardi
Address: United States,

General Comment

Environmental Law Society
Vermont Law School
164 Chelsea Street, PO Box 96
South Royalton, VT 05068

September 11, 2013

submitted electronically at: http://www.regulations.gov

Re: NOAA-NMFS-2013-0095

To whom it may concern:

Thank you for the opportunity to provide comment on the Draft Environmental Impact Statement and the Proposed Rule for the Atlantic Large Whale Take Reduction Plan revisions. A tremendous amount of time and effort is required whenever an agency accepts public comments and we commend you for your dedication to the process.

This letter has been prepared by members of the Environmental Law Society at Vermont Law School. Our connections to the Atlantic Large Whale Take Reduction Plan revisions vary. We are concerned for the health and wellbeing of the Atlantic whales these revisions will impact. These species greatly influence our fisheries and their wellbeing will undoubtedly impact the recreational and economic value of our oceans. And for these reasons we offer our comments in hopes of protecting the Atlantic whale populations. (This comment was prepared by individual students and should not be taken as a position, opinion, or endorsement by Vermont Law School.)

After reviewing the Draft Environmental Impact Statement, we agree that Alternative 5, as specified

throughout the document as the preferred alternative, is in fact the best alternative proposed thus far. However, we believe Alternative 5 can be improved.

NOAA's own research shows that the number of injuries and mortalities attributed to commercial fishing are above sustainable levels. Yet, the National Marine Fisheries Service proposes to exempt both Maine and New Hampshire from complying with risk reduction measures. Since we cannot control the migration of the concerned species, compliance with risk reduction measures must be implemented in all coastal states. It is no secret that fisheries are shifting north due to the impacts of global climate change. Given this scenario, it is imperative that the two most northern Atlantic coastal states risk reductions measures are enforced. In addition, absent the enforcement of risk reduction measures in Maine and New Hampshire, additional species, specifically sea turtles, become susceptible to the dangers brought on my long line fishing practices.

Our fisheries must be protected. Maintaining the natural balance of species in our waters is essential to protecting our fisheries. Unsustainable fishing practices must be regulated to the fullest extent possible. Enforcement of the risk reduction measures provided in the Atlantic Large Whale Take Reduction Plan must be inclusive of all gear types and categories. Application of the revised plan should not be limited to only some states as migrating marine species do not conform to our state boundaries.

Sincerely,

/s/Matt Accardi

Matt Accardi
Chair, Environmental Law Society at Vermont Law School

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0239
Comment from Janice McLaughlin

Submitter Information

Name: Janice McLaughlin
Address: United States,

General Comment

Please not only reduce, but *prevent* fatal entanglements. I support Alternative#5 with no state exemptions.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0280
Comment from Margaret Champion

Submitter Information

Name: Margaret Champion
Address:
6902 Moorfield Drive
Cincinnati, OH, 45230
Email: Margaret@Championdiver.com
Phone: 5132324633

General Comment

I am a SCUBA diver and care about the ocean and all creatures in it. I have had the rare privilege of seeing magnificent animals such as whale sharks and whales in their natural habitat. I have also witnessed horrible things due to human actions such as trash in the oceans and, especially, fishing nets entangling sea life such as turtles.

As whales become increasingly scarce, I believe it is crucial that we do all we can to reduce entanglements of all whales. They need our protection. Please make the proposed protections more comprehensive of gear types with comprehensive marking of gear and locations.

I prefer Alternative 5 for protection and urge that Maine and New Hampshire ocean waters NOT be exempted. Please also include gillnets which have proven to be so devastating. Your own research has shown that without major efforts, the mortality rate for these whales is unsustainable for species survival.

We are all part of the web of life, including sea life. Although commercial fishing is important, there is more to life than money. As a 19th century Cree Indian once said, "Only when the last tree has died and the last river has been poisoned and the last fish has been caught, will we realize that we cannot eat money." Please don't allow the last whales to be caught by avoidable entanglements.

Thank you for your consideration,

Margaret Champion
Professional Association of Dive Instructors
#191219

PUBLIC SUBMISSION

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0265
Comment from Jan Weisel

Submitter Information

Name: Jan Weisel
Address: United States,

General Comment

Please help reduce entanglements of right and humpback whales by supporting 'Alternative #5' - the preferred proposed plan to reduce fatal entanglements.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0309
Comment from Sharlene White

Submitter Information

Name: Sharlene White
Address:
Oceanside, CA,

General Comment

I love whales and dolphins and believe they should be protected. They are the most intelligent creatures on our planet and are extremely important for our ecology. I am very upset that these precious resources are being harmed. I would prefer NOAA's alternative 5 and I definitely do not want gillnets to be included nor Maine and New Hampshire waters exempted.

PUBLIC SUBMISSION

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Comments Due: September 16, 2013
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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0308
Comment from Virginia Bennett

Submitter Information

Name: Virginia Bennett
Address:
1201 Wilder Ave.
#1704
Honolulu, HI, 96822
Email: vbennett@hawaii.edu
Phone: 808-956-4165

General Comment

I would like to express my support for the NOAA's proposed rule pertaining to the "large whale take reduction plan". Actually, If I had my "druthers", I'd like to see large-scale commercial fishing abolished all together!! Soon all of our oceans will be depleted beyond repair/comeback!!

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0306
Comment from Izabella Dabrowski

Submitter Information

Name: Izabella Dabrowski
Address:
11805 Eubank Dr
Austin, TX, 78758
Email: izka_d@yahoo.com
Phone: 512-363-5502

General Comment

Dear Sirs,

I am an avid Whale and Dolphin watcher and photographer and have taken many trips just for viewing these majestic creatures. I believe it is very important that they be protected from human endangerment, especially something so easily preventable as entanglements in lobster and crabbing lines.

I support 'Alternative #5', including gillnets as a way to prevent fatal entanglements. I also do not believe in allowing the waters of Maine and New Hampshire to be exempted. I feel this is the only way to ensure some needed protection for these animals from unfortunate human interference in their lives.

Thank you for allowing me a voice in this matter.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0305
Comment from Susanne Hesse & Doug Dyer

Submitter Information

Name: Susanne Hesse & Doug Dyer
Address:
Alachua, FL,

General Comment

Please support alternative #5 the preferred proposed plan to reduce net entanglements, including gillnets while not allowing the waters of Maine & New Hampshire to be exempted. We need to do more to protect large whales.

PUBLIC SUBMISSION

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0302
Comment from Beverly Foster

Submitter Information

Name: Beverly Foster
Address:
Wayne, PA, 19087

General Comment

I am a very serious respecter of all nonhumans and, though I prefer Alternative 5, it is totally inadequate. Our species has extinguished thousands of nonhuman species in a very short time, species who took millions of years to evolve.

Please DO NOT exclude Maine and NH waters from this regulation. Include ALL waters off the Atlantic coast and definitely INCLUDE gillnets. Gillnets should be outlawed period.

This is a moral imperative: SAVE all cetaceans. Blue whales are already beyond our help. We have extinguished the largest mammal ever to evolve on earth. Let's save the others in the oceans.

PUBLIC SUBMISSION

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0300
Comment from Bill Roseberry

Submitter Information

Name: Bill Roseberry
Address:
2151 Lincoln Hwy Apt G10
Levittown, PA, 19056
Email: wlroseberry@yahoo.com

General Comment

I ask that the NOAA protect the whales. I fully support Alternative #5. Maine and New Hampshire waters absolutely should not be exempted. Gillnets should also included. Whales and other sea creatures should have the rights and protections that would keep them safe for future generations to love. Whale conservation is not not just a question of morals but also economics and your own research has found that the injuries and deaths caused by these methods is not sustainable. Many people derive great pleasure and a connection to the world through their exposure to whales, dolphins and porpoises playing in their natural habitat. This is what needs to be sustained. Thank you.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0293
Comment from Donna Doherty

Submitter Information

Name: Donna Doherty
Address:
9 Proctor St.
Ashburnham, MA, 01430

General Comment

I am an animal lover and love all species including marine life. Whales are so special to me. They have proven that they have deep feelings and are such special creatures. I prefer alternative #5. I don't want Maine and New Hampshire waters to be exempt and I want gillnets included. I care about the oceans and I want to help protect this species. Your own research shows that the number of serious injuries and mortalities for right whales is nearly double sustainable limits and more than double for humpback whales. Please help protect them!

PUBLIC SUBMISSION

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Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0290
Comment from Barbara Orr

Submitter Information

Name: Barbara Orr
Address: United States,

General Comment

I prefer alternative 5 and I do not want any exemptions. Gillnets must be included. These animals are being killed because of improper fishing methods that endanger larger mammals. It is morally wrong to allow these deaths and injuries to continue because of human lack of caring. Profit and greed seem to lead our decisions and it is destroying our planet. Please consider implementing strict rules and regulations for all commercial fishing operations. Environmental balance is essential, and we must do a much better job of reigning in commercial fishing operations before it is too late.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0332
Comment from Dave and Rita Cross

Submitter Information

Name: Dave and Rita Cross
Address:
116 Schooner Dr.
Lakeway, TX, 78738
Email: rexellen08@yahoo.com
Phone: 512-755-1578

General Comment

Dear Decision Makers,

We respect and love our whales and support the work of Whale and Dolphin Conservation! These right and humpback whales get entangled in fishing nets and are injured and often die because of it! Such a needless tragedy!

We believe that there should be restrictions placed on more gear types, not just the risk-prone lines that connect lobster and crab pots to surface buoys and a more complete marking strategy to identify the types of gear and where they were set originally. We do prefer Alternative 5 and want gillnets included. Maine and New Hamshire should follow the same regualtions as other areas!

We truly care about our oceans and their many species! We just cannot allow any of these animals to suffer, die or become extinct! The mortality of these whales has gotten out of hand; it is a dangerous situation which demands protections very soon!

We urge you to do the right thing for these animals and institute serious protections to keep them with us now and into the future!

Kind regards,

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0328
Comment from George Homanich

Submitter Information

Name: George Homanich
Address: United States,

General Comment

I support alternative#5. No exemptions for Maine or New Hampshire. No gillnets.

PUBLIC SUBMISSION

As of: September 19, 2013
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Status: Pending_Post
Tracking No. 1jx-87la-bmrk
Comments Due: September 16, 2013
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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0327
Comment from Saran Kirschbaum

Submitter Information

Name: Saran Kirschbaum
Address:
1710 Bagley Ave.
Los Angeles, CA, 9005
Email: sarank@mac.com

General Comment

Gill nets need to be banned because they kill marine life unnecessarily. Unfortunately, even after they sink to the ocean floor, they continue to kill. This is the 21st century, previous ways of doing things are no longer viable. Marine life is being affected by warmer waters, acidification of oceans, and a variety of many actions taken for profits sake. Nature cares about balance, doesn't play politics and will no longer be ignored much to our dismay. Alternative 5 needs to include Maine and New Hampshire waters too.

I learned to care about whales in San Ignacio, where they have no fear of humans and even bring their young to have their backs scratched. Please protect all whale species so they may survive as they have for millions of years.

PUBLIC SUBMISSION

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0325
Comment from Georgia Brewer

Submitter Information

Name: Georgia Brewer
Address:
5518 Ventura Canyon Avenue
Sherman Oaks, 91401-5228
Email: georgiabrewer@gmail.com

General Comment

I am a US Citizen and taxpayer, and I support 'Alternative #5' to reduce fatal entanglements

Further, I oppose any plan to exempt the waters of Maine and New Hampshire.

Lastly, I want gillnets included in entanglement reduction strategies.

I care very deeply about preserving marine mammals and am sick and tired of commercial fishing operations' sloppy and greedy thoughtlessness.

Thank you.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0323
Comment from Nicole Weber

Submitter Information

Name: Nicole Weber
Address: United States,

General Comment

I am a supported of whales and other sea mammals and I prefer alternative #5.

PUBLIC SUBMISSION

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Tracking No. 1jx-87la-7x33
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0322
Comment from Paul Lerman

Submitter Information

Name: Paul Lerman
Address: United States,

General Comment

Alternative 5 is the better choice - gillnets should be included and PLEASE do not exempt Maine and New Hampshire waters.

PUBLIC SUBMISSION

As of: September 19, 2013
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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0315
Comment from danielle arfin

Submitter Information

Name: danielle arfin
Address: United States,

General Comment

As an animal lover, I am writing to let you know that I prefer Alternative 5, that I do not want Maine or New Hampshire waters exempted, and that I want gillnets to be included. This rule is important to me because I want to protect right whales, I care about the oceans, and I want to help save this species. Your own research shows that the number of serious injuries and mortalities for right whales is nearly double sustainable limits and more than double the sustainable limits for humpback whales. Protecting them will help them survive.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0351
Comment from Sarah Hafer

Submitter Information

Name: Sarah Hafer

General Comment

Please consider to keep waters non-exempted, please consider Alternative 5 plan, and include gillnets.

I am a huge nature lover for ocean as well as land pieces as i am always amazed at how nature could really support our living and they give out so much beauty. I appreciate the nature profoundly thus we should really minimize any damage to them.

Please remember that your own research shows that the number of serious injuires and mortalities for right whales is nearly double sustainable limits and more than double the sustainable limits for humpback whales. Please realize that it is simple common for us to need to protect our living species on Earth.

Sarah Hafer
Sacramento, CA

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0348
Comment from Kelly O'Donnell

Submitter Information

Name: Kelly O'Donnell
Address: United States,

General Comment

I am writing to express support for Alternative 5. Please do not exempt Maine or New Hampshire waters. Finally, please include gillnets. It is critical to these magnificent creatures' survival that we reduce entanglement.
Thank you for your time.

PUBLIC SUBMISSION

As of: September 19, 2013
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Tracking No. 1jx-87lc-haou
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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0347
Comment from Heather Murphy

Submitter Information

Name: Heather Murphy
Address:
2623 Waterview Dr.
Eustis, 32726
Email: HMurphy@finsandfluke.org
Phone: 352-455-9134

General Comment

I have been a whale lover all my life and I'm a board member of Fins and Fluke, an NPO that works for the betterment of our oceans. I am very concerned about the human impact that continues to devastate the population of large whales, particularly the Right Whale population. Right Whales are already endangered and there needs to be continued strict laws in place to help protect them before they are gone for good.

I am requesting continued support of "Alternative #5" to reduce fatal entanglements. I'm also asking that you include the waters of Maine and New Hampshire in the ruling. Gillnets need to be included in the entanglement reduction strategies as well. These are a few of the many things that could protect these vulnerable whale populations from further endangered status. Without protection put into place, the large whale species are not able to reproduce at a rate to continue it's current population or expand to numbers more stable.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0382
Comment from Patricia Amadio

Submitter Information

Name: Patricia Amadio
Address: United States,

General Comment

I am a physician and a person who thinks that marine mammals are beautiful, intelligent, and should be protected.
I want to tell the NOAA that vertical lines in the water, which entangle whales such as pilot whales and humpback whales,
should be prohibited, including in the waters of Maine and New Hampshire. Gill nets should also be prohibited, as they entrap and drown cetaceans. NOAA research has shown that there are more injuries being sustained by these species than are sustainable.
This is particularly significant and important to me because of our 12 year old daughter. She wants to be a marine biologist, and because of her passion for these creatures, our family has gone on whale watches and seen these amazing whales up close. Please protect them to help these species survive.

PUBLIC SUBMISSION

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Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0379
Comment from jeffrey sanders

Submitter Information

Name: jeffrey sanders
Address:
1577 winnetka rd
glenview, IL, 60025
Email: yellowstart5@yahoo.com

General Comment

I prefer alternative 5 and no exemptions for maine and new Hampshire.
also, gillnets should be included.

Jeffrey Sanders

PUBLIC SUBMISSION

As of: September 19, 2013
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Tracking No. 1jx-87lf-lj80
Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0378
Comment from Barbara Smith

Submitter Information

Name: Barbara Smith
Address: United States,

General Comment

I support plan #5, which would prevent entanglement and potential death of Right Whales.

PUBLIC SUBMISSION

As of: September 19, 2013
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Comments Due: September 16, 2013
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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0412
Comment from Dianne Douglas

Submitter Information

Name: Dianne Douglas
Address:
Phoenix, AZ,

General Comment

We need to protect large whales! I prefer alternative #5. I do not want Maine or New Hampshire waters exempted and want gillnets to be included. I love nature and am a whale watcher when I get the opportunity to get to the coast.

NOAA is proposing to restrict the use of risk-prone lines that connect lobster and crab pots to surface buoys, but they need to include more gear types and a more comprehensive marking strategy to identify the type of gear and where it was originally set.

NOAA own research shows tht the number of serious injuries and mortalities for right whates is nearly doubled sustainable limits and more than double the sustainable liits for humpback whales or that protecting them will help them survive.

PUBLIC SUBMISSION

As of: September 19, 2013
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Tracking No. 1jx-87lq-ye0q
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Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0398
Comment from Eileen Hennessy

Submitter Information

Name: Eileen Hennessy
Address:
Melrose, MA,

General Comment

As an American citizen and an advocate for the protection of endangered whales in our oceans, I am submitting my comments for NOAA's proposed rule on Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan.

As whales are endangered, I feel it is vital to take any steps necessary to ensure their survival for future generations. To this end, it is absolutely essential to reduce entanglements of North Atlantic right and humpback whales. I strongly support the proposal to restrict the harmful use of vertical fishing lines in the ocean. According to NOAA's own research, the incidents of serious injuries for right whales is nearly double sustainable limits and more than double the sustainable limits for humpback whales. These statistics should be a red flag that more needs to be done to protect these gentle giants from anything that will further endanger their already precarious status. Along with the reduction of vertical lines, gillnets should also be included and Maine and New Hampshire waters must not be exempted from this proposal. For these reasons, I prefer Alternative 5.

Sound science and a sincere determination to preserve and protect our oceans' struggling whale species is of paramount importance, if these magnificent creatures are to have a chance to survive into the future. This issue matters greatly to me as someday I wish the experience of viewing these awesome beings in their natural habitat for myself and my children and this can only happen with the vigilant protection of endangered whales from dangerous, life-threatening fishing lines.

Thank you for your serious consideration of my comments on this most urgent issue.

PUBLIC SUBMISSION

As of: September 19, 2013
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Tracking No. 1jx-87lo-yyvk
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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0396
Comment from Karen Ziomek Vayda

Submitter Information

Name: Karen Ziomek Vayda
Address:
4 Donna Marie Way
Southampton, MA, 01073
Email: kziovay@yahoo.com
Phone: 4135277795

General Comment

To Whom It May Concern:

I email you today as very concerned citizen and resident of Massachusetts. Please support Alternative 5, the proposed plan to reduce deadly entanglements of marine mammals. Please include more gear types and a more comprehensive marking strategy to identify the type of gear and where it was originally set. Gillnets should be included in an entanglement reduction strategy. Finally the waters of Maine and New Hampshire should absolutely be included in the plan!

Particularly concerning to me is the number of hits on right whales which research shows are not reproducing fast enough to sustain them. Let's take serious action to do something about this before it is too late!
Please help reduce entanglements of all right and humpback whales!
Thank you for your attention to this very important matter.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0423
Comment from John Burridge

Submitter Information

Name: John Burridge
Address:
PO Box 14444
East Providence, RI, 02914
Email: burridge@cox.net

General Comment

I wish to see the strictest possible regulations against any taking of marine mammals incidental to commercial fishing operations, especially protections for any whales, and, as a resident, including all New England states

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0421
Comment from Evan Craig

Submitter Information

Name: Evan Craig
Address:
116 Hamilton Place
Vernon Hills, IL, 60061
Email: evan.craig@illinois.sierraclub.org

General Comment

I am a wildlife enthusiast and recreational sailor. I have boated and snorkeled on both the Atlantic and Pacific oceans, and have not yet seen a whale. I hope to someday, and I am writing to you to ask you to protect them so that they can recover so that there will be plenty for a long-term viable population, and plenty for people to see for generations to come.

I prefer alternative 5, to reduce entanglements of right and humpback whales with buoy lines. But please go beyond this, and write measures to protect these whales from all gear left in the water, and initiate a marking policy so that gear that kills whales can be traced back to its source.

Whales can't read, so they won't know to stay away from exempted waters until it's too late, and they die from more entanglements. So please do not exempt the waters of Maine or New Hampshire.

But you don't need me to tell you. Your own data shows that the injury and mortality of these species caused by entanglements is double the sustainable limits. We are an advanced society because we put science to work, not by ignoring it. I've always thought that the real definition of sin is to know the right thing to do to protect others, but choose to do the wrong thing out of selfishness and for short term gain. Let's do the right thing, and protect these magnificent, intelligent, gentle creatures for future generations.

Alternative 1 is the status quo, which, knowing that lines and entanglements occur together, is irresponsible.

Alternative 2, with more traps per trawl, will kill more bottom life. That sounds bad.

Alternative 3 does too.

Alternative 4 is more of the same. We can fuel an airplane in midflight. Can't we figure out a way to pick up lobster pots without lines to the surface that act as snares for whales?

Alternative 5 seems to combine the best of 2,3 and 4, but includes exemptions that are unwise.

Alternative 6 sounds less protective than 5, with fewer closures. Let’s protect the whales with closures until we find a better way.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0416
Comment from Drew Martin

Submitter Information

Name: Drew Martin
Address: United States,

General Comment

I am writing to state that I prefer alternative 5. It is important that you do not exclude Maine or New Hampshire waters. They need to be included. I wish to see gill nets included in the regulation.

I enjoy seeing whales in the wild. Part of my travel budget is to visit places where whales are prevalent. I am very concerned that fishing gear is resulting in a number of deaths of Right Whales. Gill nets can cause whales to die. Fishing methods need to be established and used in ways that do not harm whales.

Current damage and death to both Right Whales and Humpback Whales is beyond sustainable limits. We need to protect these species.

Please establish strong protections for all species from fishing gear, in particular whales. I am also concerned about damage to sea turtles and dolphins. Fishing practises need to be done in a sustainable manner so that future generations may enjoy the same wild animals that we enjoy today.

To sum up. I support alternative 5 and do not support the exclusion of Main or New Hampshire Waters. I support the inclusion of gill nets in the regulation.

Thank you

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0462
Comment from Edward Dorson

Submitter Information

Name: Edward Dorson
Address: United States,

General Comment

Duplicate comment submitted by multiple people

Comment to the National Oceanic and Atmospheric Administration's (NOAA's) Proposed Rule: Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

I'm an advocate for the strict implementation of the mandates set forth in the U.S. Marine Mammal Protection Act, free of the increasing exemptions that are eroding this benchmark legislation.

The intent of the U.S. Marine Mammal Protection Act sould include preventing endangered right whale and threatened humpback whale populations from deadly line and net entanglements.

I support Alternative No. 5, the proposed plan to reduce cetacean entanglements. I do not support allowing the waters of Maine and New Hampshire to be exempted, including the use of gillnets.

I urge NOAA to take all necessary measures to reduce the risk of entanglement to these whale species from vertical line, to include additional areas and gear types not currently considered and to develop a viable monitoring and enforcement plan.

Thank you for your consideration.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0454
Comment from Sheri Terry

Submitter Information

Name: Sheri Terry
Address:
104 NW Delaware
Bend, OR, 97701
Email: haleiwasheri@gmail.com
Phone: 458-206-9929

General Comment

My name is Sheri Terry and I prefer alternative 5. I do not want marine or New Hampshire waters exempt, and gillnets have to be included. I love and value all marine life, whales, dolphins coral reefs and I support WDC, Surf Rider foundation, SAS & the American Reef Coalition. I surf, sail and snorkel. The beaches and oceans should be protected and valued for our future generations.

Your own research shows that sonar is very dangerous the ocean life, whales, dolphins and all other oceanic mammals. You've indicated a number of serious injuries and mass beaching's and deaths.

PUBLIC SUBMISSION

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Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0449
Comment from Emily Ryane Moss

Submitter Information

Name: Emily Ryane Moss
Address: United States,

General Comment

I work in the marine conservation field and recognize the complexities of creating and implementing policies regarding animal welfare when there is a potential negative impact for human industry. I feel strongly there is a compromise to be found and I believe in this case Alternative 5 is the best option.

As the North Atlantic right whale is critically endangered and receives consideration under the ESA and MMPA I disagree with any exceptions in Maine and New Hampshire waters; right whales are known to migrate and feed in these areas and will continue to be at risk for fatal injury if these regulations are not implemented in those states.

Additionally, a thorough gear marking strategy should be put in place to better track and manage entanglement issues and help create more specific, effective policies in the future. This will benefit conservation efforts as well as preventing widespread and unnecessary regulations on commercial fisheries.

Perhaps the most important factor that is not currently included in the proposed rule is the regulation of gillnets. This type of gear is known to be harmful to many species of marine animals (whales, dolphins, sharks and seals) and should not be omitted from regulation measures.

Thank you for your consideration and your continued efforts to preserve a healthy marine ecosystem,
Emily Ryane Moss

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0447
Comment from David Orr

Submitter Information

Name: David Orr
Address:
1564 W Cedar St
Fayetteville, AR, 72703

General Comment

Hello,

My name is David Orr and I am a biology teacher. Protecting whales is important to me because I gain a lot of satisfaction knowing that we are saving these creatures from careless injury and death at the hands of careless humans. My students find whales interesting and compelling. Students become motivated to study biology by learning about charismatic species like whales.

I strongly support Alternative 5, as the most protective of the alternatives proposed by NOAA. I oppose exemption for any state, as I understand Maine and New Hampshire are requesting such exemption. Finally, I request that gillnets be included in any entanglement reduction strategy adopted.

Thank you.

David Orr
1564 W Cedar St
Fayetteville AR

PUBLIC SUBMISSION

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Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0445
Comment from Timothy Schacht

Submitter Information

Name: Timothy Schacht
Address:
1330 Whittier Road
Grosse Pointe Park, 48230
Email: drtim@speakeasy.net

General Comment

Re: Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan.

I am a veterinarian who has been working to preserve cetaceans for more than 40 years. Even without widespread commercial whaling, the impact of human behavior on whales is considerable. NOAA studies show that right and humpback whale populations are injured or killed a twice the sustainable rate. Therefore, I support Alternative 5 to restrict the use of risk-prone lines that go from the lobster and crab pots to the surface buoys but they need to include more gear types (e.g., gill nets) and a more comprehensive marking strategy to identify the kind of gear and where it was set. I oppose the exemption of the waters of the States of Maine and New Hampshire from these rules.

PUBLIC SUBMISSION

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Comments Due: September 16, 2013
Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0439
Comment from Marilyn Berling

Submitter Information

Name: Marilyn Berling
Address:
9114 Woodbridge Court
Indianapolis, IN, 46260
Email: mberling@sbcglobal.net

General Comment

We prefer Alternative #5. We definitely believe that New Hampshire and Maine waters must not be excluded. Gillnets should be included.
We are supporters of WDC and we have worked on animal rights all our lives.
Diversity of species is critically important to all of us. Most informed persons know this very well. The protection of Right Whales and the oceans is a number one concern and issue for us.
We have learned that the NOAA research demonstrates the high number of mortalities for Right Whales, mortalities which almost double the sustainable limits, and more than double the sustainable limits for Humpback Whales.
It is very confusing to us why there is any question as to choosing Alternative #5.

If more citizens were aware of this issue, you would receive hundreds of comments expressing our same views.
This issue has had very little publicity. Regrettable.

PUBLIC SUBMISSION

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Submission Type: Web

Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0468
Comment from Lori Caron

Submitter Information

Name: Lori Caron

General Comment

Please save the whales AND respect the fisherman. The Massachusetts Lobsterman has made a great effort to date to reengineer their gear to minimize whale entanglements and has shown a willingness to support the dis-entanglement efforts should the need arise. We have visibly seen a double in size of the right whale population. Science used here seems flawed. Please consider Alternative 1"Status Quo" as the only option and validate current measurements and science for accuracy.

PUBLIC SUBMISSION

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Docket: NOAA-NMFS-2013-0095
Amendment to the Atlantic Large Whale Take Reduction Plan

Comment On: NOAA-NMFS-2013-0095-0001
Taking of Marine Mammals Incidental to Commercial Fishing Operations: Atlantic Large Whale Take Reduction Plan

Document: NOAA-NMFS-2013-0095-DRAFT-0465
Comment from Jacqueline Bort

Submitter Information

Name: Jacqueline Bort

General Comment

I am writing as a concerned citizen with a background in marine mammal biology to show my support for Alternative 5 regarding the taking of marine mammals incidental to commercial fishing operations: Atlantic Large Whale Take Reduction Plan. I believe that the waters of Maine and New Hampshire should not be exempt, and I believe gillnets should be included. I also highly support the closing of Jordan Basin area from November 1 through January 31, as my masters research has shown that a high number of right whales and humpback whales frequent that area during those months.