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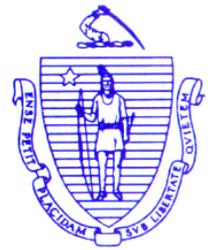
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April 26, 2012

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

Dear Ms. Colligan,

In anticipation of the proposed rule and Draft Environmental Impact Statement (DEIS) for the federal vertical line reduction strategy, the Massachusetts Division of Marine Fisheries (*MarineFisheries*) offers the following comments on the analysis of vertical line reduction proposals.

MarineFisheries reiterates our position that the National Marine Fisheries Service (NMFS) should attempt to manage risk primarily in areas of right whale co-occurrence with fixed fishing gear. Given uncertainties with the data used in the co-occurrence model, the unknown impact of the proposed strategy on entanglement rate, and the impending humpback whale status review, we do not support a strategy for combined right whale/humpback co-occurrence that would drastically alter fishing practices across the northeast. Rather we support an approach that reduces the risk of entanglement to right whales by targeting times and areas where right whale abundance is highest.

We continue to support an alternative strategy to that proposed by NMFS which includes a winter/early spring prohibition on all fixed gear in the Cape Cod Bay Critical Habitat. Industrial Economics' analysis of this proposal showed a percentage change in right whale co-occurrence that was equal to, and in some seasons greater than, the NMFS Northeast proposal. Our proposal will thus provide an equal or greater reduction in the risk of right whale entanglement.

For many months, *MarineFisheries* has urged NMFS to reconsider the management strategy being pursued by the agency. While we concede the Take Reduction Team came to consensus that a buoy line risk reduction strategy was warranted after the sinking groundline rule was accomplished, we have not and cannot support a management strategy with no specific goals.

In essence, the NMFS strategy is to eliminate the single trap fishery by forcing state waters fishermen to fish multiple pot trawls, and create minimum trawl lengths for vessels already fishing trawls. While the elimination of the single trap fishery results in fewer buoy lines, the projected risk reduction is inflated; the actual risk reduction will be far less than the models suggest because 1) nearly all the single trap fishing in Massachusetts is conducted by small-scale (skiff) fishing operations very close to shore where whales are unlikely to occur, and 2) future entanglements in trawls will undoubtedly increase in complexity, causing more serious injury. As noted in previous correspondence, the disentanglement records have many cases of successful disentanglements from single trap/buoy line gear.

NMFS' approach based solely on restricting trawl length and prohibiting single trap fishing fails to account for latent effort. An increase in fishing effort would compromise whatever buoy line reduction was accomplished by the proposed rule. A more intelligent and achievable strategy would be to create a legitimate target for vertical line reduction and allow the jurisdictions to achieve that through other means such as effort reduction. However, this process cannot even begin until NMFS discloses the target for risk reduction.

If NMFS pursues its current strategy, fishermen in small-scale vessels will be placed in jeopardy by the rule because their vessels cannot accommodate gear fished at this level of complexity. We urge NMFS to consult marine safety experts on this matter when developing the EIS.

Marine Fisheries also has concluded that there is insufficient evidence to warrant a drastic buoy line strategy given the rash of entanglements in other gear components. Entanglement records show an unexplained, yet stark, increase in gillnet entanglements for right whales over the past few years. Moreover, floating groundline appears to still be a problem for right whales as evidenced by the 2011 death of right whale #3911 in that gear type. The evidence of increased entanglements and deaths attributable to these other gear components weakens the case for solely focusing on buoy lines.

NMFS should examine how the spatiotemporal pattern of gillnet effort overlaps with right whale distribution. In New England, gillnet effort has changed considerably since the switch to sector management in 2010. While there is no evidence that they originated in New England, there were seven new cases of right whale entanglement in gillnet gear from 2010 to present, a marked increase over observations in years past.

We are confident that if you proceed with the plans to restrict trawl length and prohibit single traps you will find there will be unfair and uneven impacts across the fleet with small-scale operations suffering the largest impacts and creating an unsafe work environment for these fishermen. These findings and the lack of a clear goal for risk reduction targets will likely make the plan and its implementation highly arbitrary, indefensible, and grossly unpopular in the coastal communities.

Thank you for considering *Marine Fisheries*' position.

Sincerely,



Daniel J. McKiernan, *Deputy Director*

cc: E. Burke (DMF)
Massachusetts Marine Fisheries Advisory Commission