



MARINE MAMMAL COMMISSION

5 March 2010

Patricia A. Kurkul, Regional Administrator
Northeast Regional Office
National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930-2298

Dear Ms. Kurkul:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the National Marine Fisheries Service's 18 February 2009 *Federal Register* notice (75 Fed. Reg. 7227) requesting comments regarding issuance of an exempted fishing permit under provisions of the Atlantic Coastal Fisheries Cooperative Management Act. The permit would allow testing of fixed fishing gear with no vertical lines on the northern edge of Jeffrey's Ledge in the Gulf of Maine. The Marine Mammal Commission supports the proposed permit and offers the following recommendations and rationale.

RECOMMENDATIONS

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

- issue the requested experimental fishing permit;
- require the applicant to carry an independent, National Marine Fisheries Service-approved observer to help record data and verify its accuracy and completeness;
- modify the approved data sheet for this project to include a field for describing the performance of lineless buoy systems; and
- continue to seek funding and take other steps to develop and test alternative fishing gear and practices intended to reduce the risks from conflicts between marine mammals and fishing gear.

RATIONALE

The Atlantic Coastal Fisheries Cooperative Management Act authorizes the use of vertical lines in fixed-gear fisheries. Vertical lines pose an entanglement risk to large whales and can lead to their serious injury or death. The National Marine Fisheries Service, the Marine Mammal Commission, the Atlantic Large Whale Take Reduction Team, and numerous stakeholders involved in this issue all seek fishing practices that will reduce or even eliminate this risk of entanglement by minimizing the number of lines in the water column. The Atlantic Large Whale Take Reduction Team, in particular, is charged with reducing the mortality or serious injury of marine mammals taken incidentally in commercial fishing operations to insignificant levels approaching a zero mortality and serious injury rate. The surest way to meet this goal is by minimizing the number of lines, particularly vertical lines, in the water column.

To reduce entanglement risks, the Pemaquid Fishermen's Cooperative Association has applied for an experimental fishing permit to test the efficacy of lobster traps that have no vertical lines. Under the proposed experiment, one fisherman would set and haul a sample of fishing traps, half with no vertical buoy lines (experimental group) and half with lines (control). The permit would require at least 420 sets and hauls. The association would then evaluate the feasibility and effects of using fixed gear without vertical lines by comparing various parameters (e.g., haul times, set times, gear conflicts, catch) of the experimental and control hauls. The permit would not authorize use of any additional trap gear, and the Service does not anticipate adverse effects on protected resources or habitat as a result of the experiment.

The Commission supports this effort because it squarely addresses the need to reduce entanglement of large whales. Therefore, the Marine Mammal Commission recommends that the National Marine Fisheries Service issue the requested experimental fishing permit.

The *Federal Register* notice states that "there would be no observers or researchers onboard the participating vessel," but it does not address the reason for excluding them. The experimental design would require the fisherman to collect and record data on at least 14 different variables as he sets and hauls hundreds of traps. Given the demands of fishing operations under normal conditions, the Commission questions whether data can be collected and recorded accurately as the involved fisherman attempts to carry out the experiment. As is the case for any experiment of this type, the experimental methods must include means to verify the accuracy of the data so that any sources of error or bias are identified and corrected. Given those considerations and the great interest in the potential for using fishing gear without vertical lines, the Marine Mammal Commission recommends that the National Marine Fisheries Service require the applicant to carry an independent, National Marine Fisheries Service-approved observer to help record data and verify its accuracy and completeness.

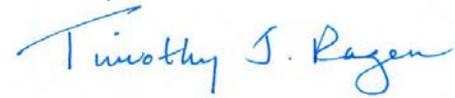
The performance of the equipment is a particularly important element of this experiment. Documenting equipment performance, and recording any malfunctions or other issues that arise, should be seen as an essential aspect of the experiment. To ensure that performance is well documented, the Marine Mammal Commission recommends that the National Marine Fisheries Service modify the approved data sheet for this project to include a field for describing the performance of lineless buoy systems.

Experimental efforts like this should be encouraged. In addition to issuance of experimental fishing permits, the Service has a vital role to play in supporting grants, workshops, cooperative research, and other efforts aimed at reducing the incidental take of marine mammals in fishing gear. The Marine Mammal Commission recommends that the National Marine Fisheries Service continue to seek funding and take other steps to develop and test alternative fishing gear and practices intended to reduce the risks from conflicts between marine mammals and fishing gear.

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Please contact me if you have questions about our recommendations and rationale.

Sincerely,

A handwritten signature in blue ink that reads "Timothy J. Ragen". The signature is written in a cursive style with a prominent upward stroke on the 'T'.

Timothy J. Ragen, Ph.D.
Executive Director