



MARINE MAMMAL COMMISSION

29 October 2018

Mr. Michael Pentony, Regional Administrator
National Marine Fisheries Service
55 Great Republic Drive
Gloucester, Massachusetts 01930

Dear Mr. Pentony:

The Marine Mammal Commission (the Commission), in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the National Marine Fisheries Service's (NMFS) 28 September 2018 advance notice of proposed rulemaking (83 Fed. Reg. 49046). NMFS is soliciting comments on possible modifications to the Atlantic Large Whale Take Reduction Plan's Massachusetts Trap/Pot Restricted Area and the Great South Channel Trap/Pot Restricted Area to allow pot/trap fishing that does not use vertical buoy lines, often referred to as fishing with ropeless gear.

The Commission agrees with NMFS's recent characterization of the North Atlantic right whale's status, recent decline in abundance, and assessment of threats (Hayes et al. 2018). The Commission is convinced, based on published research, presentations at its Annual Meeting in Falmouth, MA in 2017, and communications with North Atlantic right whale experts regarding relevant unpublished information, that entanglement in pot/trap lines (primarily vertical lines) poses the greatest immediate threat to the species. Entanglement in this gear kills whales, causes chronically poor health, and reduces reproductive success. The experience to date indicates that the most effective way to reduce the risk of entanglement is to move rapidly away from the use of vertical lines in NARW habitat and toward the use of ropeless gear. The Commission acknowledges that ropeless technology is still being developed and tested, and that its full, effective deployment in fixed-gear fisheries that currently use vertical lines is years away. Therefore, the Commission recommends that NMFS make every possible effort to stimulate, support, expedite and fund the development and testing of ropeless gear systems, ideally through cooperative research with industry and other partners.

Some fishermen are interested in testing experimental gear, despite potential impacts on profitability. Because ropeless technology is in its infancy, fishermen using prototypes are unlikely to achieve their usual degree of fishing efficiency and catch rates. Therefore, providing incentives to such fishermen is important. The rulemaking NMFS is contemplating would provide an economic incentive by allowing interested fishermen to obtain Exempted Fishing Permits to fish with ropeless gear in the Massachusetts Trap/Pot Restricted Area, and/or in the Great South Channel Trap/Pot Restricted Area, during periods when those areas otherwise would be closed under the Atlantic Large Whale Take Reduction Plan and its implementing regulations. The Commission believes that this could create a sufficient incentive for some pot/trap fishermen to participate in cooperative research with NMFS, and/or state fisheries agencies, to develop, test, adapt and assess the operational feasibility of switching to ropeless gear. Therefore, the Commission recommends that NMFS proceed with the envisioned rulemaking, and that any EFPs include conditions on opening these otherwise closed areas necessary to ensure the protection of North Atlantic right and other

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large whales. The Commission is concerned about the large numbers of right whales that can be present in the restricted areas during the closure periods being at risk of entanglement in bottom gear or haul lines. Therefore, among other things, the proposed rule should consider measures that require the use of sinking ground line and minimize the possibility that haul lines would be released and become hazardous to whales when gear is unattended.

Please contact me if you have questions concerning the Commission's recommendation.

Sincerely,



Peter O. Thomas, Ph.D.
Executive Director

References

Hayes, S.A., S. Gardiner, L. Garrison, A. Henry, and L. Leandro. 2018. North Atlantic right whales – evaluating their recovery challenges in 2018. NOAA Technical Memorandum NMFS-NE-247. 30pp.