



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, Maryland 20910
THE DIRECTOR

JUL 18 2013



Mr. Christopher M. Moore
Executive Director
Mid-Atlantic Fishery Management Council
800 North State Street, Suite 201
Dover, DE 19901

Dear Mr. Moore:

This letter is to inform you of the final action (RIN 0648-AW62) to amend guidelines for National Standard 2 (NS2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) regarding scientific information.

This action provides guidance on the use of best scientific information available for the effective conservation and management of fisheries managed by federal Fishery Management Plans. It establishes minimum standards for scientific peer review to ensure the reliability, credibility, and integrity of the scientific information used in fishery conservation and management measures. This action also adds new language to the NS2 guidelines regarding the advisory role of the Scientific and Statistical Committees (SSCs) of the Regional Fishery Management Councils (Councils) and the relationship of SSCs to the peer-review process. Lastly, the revised NS2 guidelines also clarify the content and purpose of the Stock Assessment and Fishery Evaluation Report and related documents.

The MSA establishes that each Council and the Secretary may establish a peer-review process, and these NS2 guidelines address the protocols for such a process. Each Council and its associated NOAA Fisheries Science Center has developed and is using a peer review process (e.g., SEDAR in Southeast, SAW-SARC in Northeast, and comparable processes elsewhere) that may broadly meet the NS2 guidelines, but some modifications may improve those processes. To ensure that current and planned peer-review processes meet the NS2 guidelines, I would request that you, in conjunction with your Science Center and Regional Office, review the terms of reference for current peer-review processes and, if necessary, make appropriate adjustments with regard to these final National Standard 2 guidelines.

The intended effect of these revisions to the NS2 guidelines is to ensure that scientific information, including its collection and analysis, has been validated through peer review, as appropriate; is transparent to the public; and is used appropriately by SSCs, Councils, and NOAA Fisheries in the conservation and management of marine fisheries. These guidelines are designed to provide quality standards for the collection and provision of biological, ecological, economic, and sociological information to the Councils, while recognizing regional differences between the Councils' organization, practices, and procedures.



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THE ASSISTANT ADMINISTRATOR
FOR FISHERIES



This final action is minimally revised from the proposed action published on December 11, 2009 (74 FR 65724). Changes were made only to clarify the guidelines, as recommended by public comments.

I want to commend the Councils and your Scientific and Statistical Committees for the strong scientific review and transparency processes already in place. This final rule will build upon that great progress and further strengthen the reliability and credibility of scientific information used by NOAA Fisheries.

Sincerely,

A handwritten signature in black ink, appearing to read "Samuel D. Rauch III". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

Samuel D. Rauch III
Deputy Assistant Administrator
for Regulatory Programs,
performing the functions and duties of the
Assistant Administrator for Fisheries

cc: Mr. Richard B. Robins, Jr., Chair

NOAA Fisheries Seeking Input on Measures to Reduce Whale Serious Injuries and Mortalities

<http://nero.noaa.gov/stories/2013/WhaleMeasures.html>

Under the Marine Mammal Protection Act, the number of deaths or serious injuries due to commercial fishing activities must not affect a species' ability to reach or maintain its optimum sustainable population. At present, 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.

NOAA Fisheries, in consultation with [a team](#) of fishermen, conservationists, state managers, scientists and gear experts first developed its [Atlantic Large Whale Take Reduction Plan](#) in 1997. The intent was to reduce the level of serious injury and mortality of three endangered stocks of large whales (North Atlantic right, humpback and fin whales). Enacted measures were also intended to benefit minke whales, which are not endangered, but are also caught incidentally in gillnet and trap/pot gear.

As we learn more about how whales become entangled and how fishing practices can be modified to prevent or reduce injuries and deaths due to entanglements, we make revisions to the management plan. Currently, the plan includes a combination of [broad-based gear modifications](#), time-area closures, disentanglement measures, research and outreach.

Despite these efforts, serious injuries and mortalities due to entanglements in vertical lines in trap/pot and gillnet gear continue to occur. Therefore, additional modifications to the plan are needed.

Proposed measures include a number of alternatives that were derived from proposals submitted by Take Reduction Team members and from comments received during the public scoping meeting process.

We plan to hold 16 public hearings in ME, MA, RI, NH, VA, NJ, NC, SC, GA, and FL to gather public input on the newly proposed measures. Public comments will be accepted through September 13. Details about the times and locations of the [public hearings](#) are available on our website. For more information on the Atlantic Large Whale Take Reduction Plan [please click here](#).

Specific Requirements under the Marine Mammal Protection Act

Through the 1994 Amendments to the Marine Mammal Protection Act, Congress made a number of changes in the regulations governing the incidental take of marine mammals in commercial fishing operations. Under these changes to the act, we are required to develop and implement take reduction plans when the number of serious injuries or mortalities of a species exceeds a level that the population can support while continuing to recover or remaining healthy (optimum sustainable population).

The Act set an immediate goal:

Within six months of a specific plan's implementation, incidental mortality or serious injury of marine mammals accidentally taken in commercial fishing operations had to be at levels less than the populations' Potential Biological Removal level. Potential Biological Removal level is the maximum number of animals which may be removed from a marine mammal stock by human actions, without preventing the stock from reaching or maintaining its optimum sustainable population.

And a long term goal:

Within five years of its implementation of a plan, the incidental mortality or serious injury of marine mammals had to be reduced to insignificant levels approaching a zero mortality and serious injury rate what was termed, the Zero Mortality Rate Goal. The Zero Mortality Rate Goal is defined as 10% of a marine mammal stock's Potential Biological Removal level.

What Prompted this Action?

Annual injuries and mortalities for right whales should be below 0.9, but it is currently around 1.6 for U.S. Fisheries. For humpback whales the rate of occurrence of serious injuries and mortalities should be below 2.7 but right now the rate attributed to U.S. fisheries is around 5.2. To provide some sense of what this means in terms of actual number of whales being impacted, from 1997-2008 there were 364 large whale entanglement events. In 2012 there were 42 entanglements, 5 right whales were entangled and 27 humpback whales. While these numbers may seem low, for a vulnerable species like the North Atlantic right whale, where fewer than 450 animals may exist, even low numbers of serious injuries and whale deaths are cause for concern. Even for humpbacks, a species that is well on its way to recovery, Federal Law only allows for a small number of animals to be subject to serious injury or mortality from commercial fishing.

Steps Taken to Reduce Serious Injuries and Mortalities due to Fishing Gear

At its 2003 meeting, the Take Reduction Team agreed to manage entanglement risk by first reducing the risk associated with groundlines (fishing line that runs along the bottom between lobster and fish traps or nets). Over the next several years a variety of broad-area measures were developed and instituted. Among these measures was a new requirement for fishermen to use sinking line to reduce the presence of fishing line in the water column and minimize the chances of whales getting entangled in free floating fishing line. Another requirement was that fishermen use weak links in their gear so that it more easily breaks when whales become entangled.

Since that time, the Take Reduction Team has been focused on reducing coast-wide entanglements in vertical lines (lines that connect surface buoys to gear on the seafloor) from lobster trap/pot and other trap/pot fisheries. NOAA Fisheries accepted proposals outlining vertical line risk reduction strategies tailored to specific areas and fisheries. Five proposals were submitted from state agencies, the scientific/academic community and non-government organizations. Each proposal was analyzed. Key measures considered – did the proposal effectively reduce the number of vertical lines in the water column and was it focused on areas with the highest concentration of both fishing gear and whales in the Northeast and coast-wide.

Given very limited data on exactly where, how and when large whales get entangled in commercial fishing gear, the Take Reduction Team decided to support development of a model to look at relative densities of vertical lines, whale presence, and the co-occurrence of vertical lines and whales. Use of this model allowed the Take Reduction Team to focus on areas and seasons where the risk of entanglement may be the greatest.

Proposed Measures to Address Vertical Line Entanglements

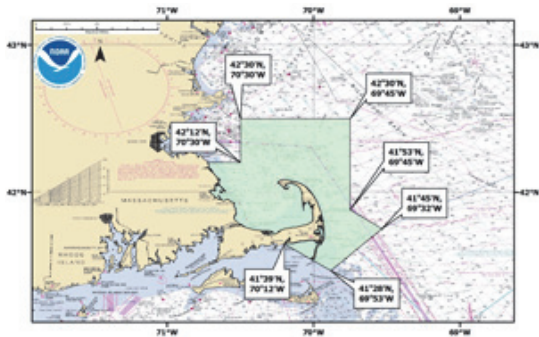
In the Northeast Region, we are proposing to require an increase in the minimum number of traps per trawl based on area fished and miles fished from shore to reduce the number of vertical lines in the water column. We are also proposing several seasonal closures alternatives for all trap/pot fisheries: Jordan's Basin (Nov 1 to Jan 31); Jeffreys Ledge (Oct 1 to Jan 31); Cape Cod Bay (Feb 1 to April 30); Massachusetts Restricted Area #1: Cape Cod Bay, Outer Cape to Great South Channel (Jan 1 to April 30); and Massachusetts Restricted Area #2: Cape Cod Bay and Outer Cape (Jan 1 to April 30). We are also proposing to increase the size and frequency of the current gear marking scheme for both trap/pot and gillnet fisheries.

To reduce interactions in the Southeast Region, we are proposing to use an existing management area, the *Southeast Restricted Area North* to establish gear setting requirements for vertical line breaking strength and reducing the weak link strength in trap/pot fisheries; require all vertical lines to be made of sinking rope and object free in trap/pot fisheries; require a single trap per buoy line; and in federal waters require that trap/pot gear be brought back to shore at the end of each trip. We are also proposing to increase the size and frequency of the current gear marking scheme for both trap/pot and gillnet fisheries.

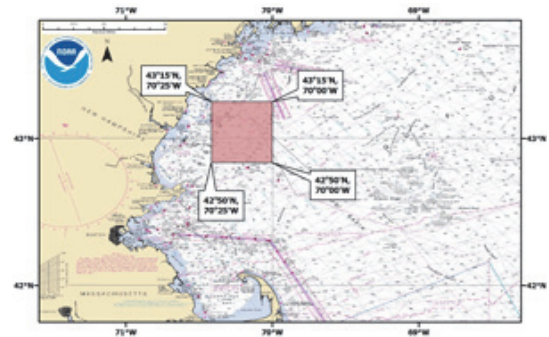
The specific fisheries that would be affected by these proposed measures include: Northeast/Mid-Atlantic American lobster trap/pot; Atlantic blue crab trap/pot; Atlantic mixed species trap/pot which includes, but is not limited to: crab (red, Jonah, and rock), hagfish, finfish (black sea bass, scup, tautog, cod, haddock, pollock, redfish

(ocean perch), and white hake), conch/whelk, and shrimp; Northeast sink gillnet; Northeast anchored float gillnet; Northeast drift gillnet; Mid-Atlantic gillnet; Southeastern US Atlantic shark gillnet; and Southeast Atlantic gillnet.

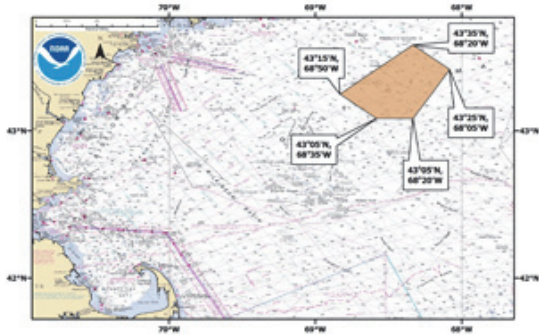
[Click here](#) to view the Draft Environmental Impact Statement which contains more about these proposed measures and their impacts.



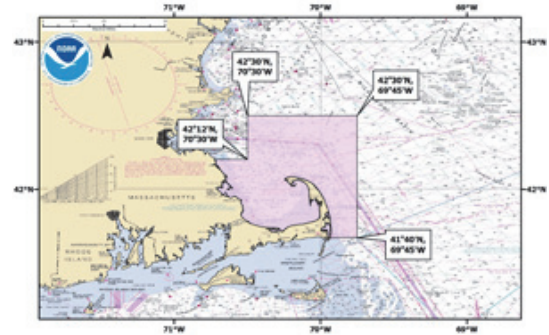
MA Restricted Area 1 (Preferred Alternative) (Jan 1-Apr 30)



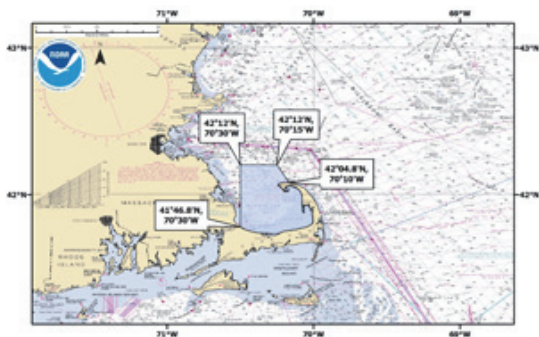
Jeffreys Ledge (Preferred Alternative) (Oct 1-Jan 31)



Jordan Basin (Preferred Alternative) (Nov 1-Jan 31)



MA Restricted Area 2 (Jan 1-Apr 30)



Cape Cod Bay Restricted Area (Feb 1-Apr 30)