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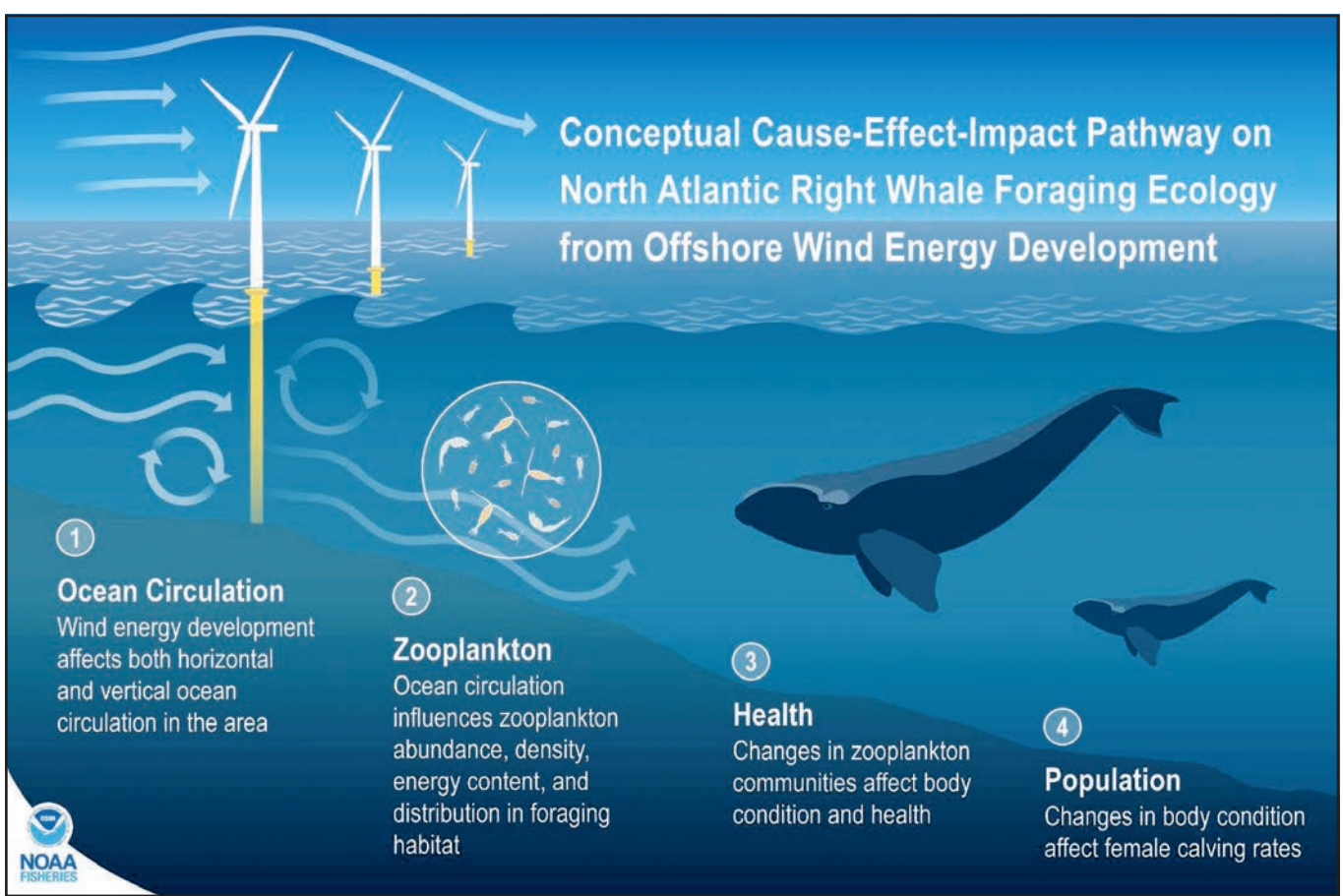
NOVEMBER 2022 NEWSPAPER • WWW.LOBSTERMEN.COM

BOEM and NOAA Fisheries North Atlantic Right Whale and Offshore Wind Strategy

In late October the Bureau of Ocean Energy Management announced the release of a joint strategy to protect and promote the recovery of North Atlantic right whales while responsibly developing offshore wind energy. The draft strategy identifies three main goals: mitigation and decision support tools, research and monitoring, collaboration, communication, and outreach.

The October 21, 2022 announcement stated; "To support the Biden-Harris Administration's goals of advancing offshore wind energy production while protecting biodiversity and promoting ocean co-use, the Bureau of Ocean Energy Management (BOEM) and the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NOAA Fisheries) developed a joint Draft North Atlantic Right Whale and Offshore Wind Strategy to protect and promote the recovery of endangered North Atlantic right whales while responsibly developing offshore wind energy.

The strategy identifies three main goals (Mitigation and Decision-Support Tools; Research



and Monitoring; and Collaboration, Communication and Outreach) and focuses on improving the science and integrating past, present, and future efforts related to North Atlantic right whales and offshore wind devel-

opment. The draft strategy identifies approaches to mitigate and monitor offshore wind development impacts on North Atlantic right whales, which will help guide industry during the permitting process.

The strategy also establishes the agencies' plans to engage stakeholders, partners and other ocean users on these issues. Following review of public comments, the strategy will be



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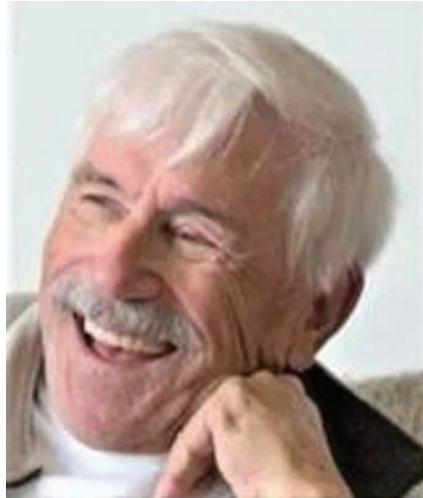
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IN MEMORIAL**Michael Antony Belanich**

JAN. 10, 1934 -SEPT. 3, 2022

It is with heavy heart that we must tell you lifelong MLA member, Michael Antony Belanich died September 3. He was 88.

He was formerly of Poughkeepsie, New York, and had spent his retirement in Palm Coast, Florida. He had lived previously in Dennis and Yarmouthport. Originally from North Tarrytown (now Sleepy Hollow), New York, he was the son of Marco and Margherita (Gerolimich) Belanich. He married Ann McLoughlin in 1954; she preceded him in death in 2014. Mr. Belanich graduated from Sleepy Hollow High School in 1953. He went on to own and operate A&M Printing in North Tarrytown until 1975, when he moved to Cape Cod.

He worked at several print shops on the Cape and eventually owned Sho-Card Press in Harwichport. His dream—and his reason for moving to Cape Cod—was to become a commercial lobsterman. He was eventually able to buy a lobster boat, Sleepy Hollow, and operate it out of Sesuit Harbor in Dennis. He was a member of the Massachusetts Lobstermen's Association. When his Parkinson's disease made it too difficult to haul in the lobster traps, he retired and moved to Florida.

Survivors include his children, Paula Johnson (Robert), of Poughkeepsie, NY, Michael Belanich, of Montgomery, NY, Nancy Schauwecker (Daniel), of West Yarmouth, MA, Susan Belanich, of Westford, MA and Alan Belanich, of Mashpee, MA; his sister, Elvira Belanich, of Palm Coast, FL; eleven grandchildren; and nine great-grandchildren. In addition to his wife and parents, he was predeceased by his sister, Clara Esteban. May he forever sail on calm seas.

IN MEMORIAL**Charles P. "Chuck" Holler**

It is with heavy heart that we must tell you lifelong MLA members, Charles P. "Chuck" Holler, of Quincy, died October 3, 2022, he was 72. A proud US Navy Seal. The beloved husband of the late Carolyn (Bousquet) Holler. Father of the late Sarah B. Holler. Brother of Philip "Pat" Holler and the late Norman, Frederick and Henry Holler. Chuck is also survived by many nieces and nephews.

Chuck served in the United States Navy during the Vietnam War. He was one of the elite members of the military force. Navy Seals handled all the special operations, Chuck was very proud of the time her served his country. His second career was a lobsterman. One of the toughest professions, Chuck had a strong work ethic and worked for more than 45 years at his profession. He is a legend to the lobster community. May your pots be forever full; you will be missed.

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As the HAULER TURNS

The Massachusetts Lobstermen's Association would like to welcome the following new members to the Association. Your Association will continue its efforts on your behalf to conserve the resource, protect your livelihood, keep you informed, promote the industry and provide you with increasing benefits as they are developed. MLA stands ready to help you in anyway, at anytime — just let us know how! Safe on the water and good fishing!

NEW MLA MEMBERS:

TIMOTHY MCGRAIL

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November is the month of giving thanks and this year there are several reasons to be thankful for living where we do and what we have, even in the darkest times we're still light years ahead of most of the world. After last month's whirlwind of whale and offshore wind meetings, the commercial fishing industry on the East Coast will be challenged yet again to do more. More risk reduction measures, more business adjustments, more, more, more..... When will it stop??

As frustrating and maddening the world of commercial lobstering can be with all of the various issues coming down the ramp, you are decades ahead of the rest of the region and you are well educated on these issues. Knowing and understanding what is coming allows everyone to have input on how best to mitigate and maneuver through these choppy waters as these issues are amassing at a rapid pace.

Thank you, to all of you that commented on the *NMFS, Notice of Intent To Prepare and Environmental Impact Statement on Modifications to the Atlantic Large Whale Take Reductions Plan To Reduce Mortality and Serious Injury of Large Whales in Commercial Trap/Pot and*

Gillnet Fisheries Along the U.S. East Coast. The MLA and our Attorney also submitted comments on this proposal as did the MADMF. Take the time to read these comments so you can see that collectively we are all fighting for you. There will be more opportunity to comment on this issue and a slew of public hearings this winter.

Thank you, to all of you that also submitted comments to *BOEM on the Commercial Leasing for Wind Energy Development on the Gulf of Maine Outer Continental Shelf.* The MLA and MA Office of Energy and Environmental Affairs also submitted comments. There will be several more opportunities to comment on this process as this is the first step in a multi-year process in developing the Wind Energy Area slated for the Gulf of Maine.

Whales and wind issues are not going anywhere and the more we know how to move forward, one click at a time, the better off we will all be. We're holding our course with dedication and resolve, steady we go. After you have read the pleather of information in this newspaper you will now have a P.H.D. in whales and wind; Perseverance, Hardihood, Determination to keep fishing.



As 2022 is winding down the MLA is winding up its efforts on all these fronts to ensure your concerns and comments are heard. Once you have digested all of this information in this paper and you many have many question afterwards, pick up the phone and call me, 508.738.1245, and I will be happy to talk to you. Many of you do call and I truly appreciate the conversations and input you bring as I keep saying, I work for you and if I don't hear from you, how can I help you.

My sincerest wish for you and your family is a Happy Thanksgiving!

Safe on the water,
Beth Casoni

Director

MLA Comments on BOEM Request for Information

September 28, 2022

Bureau of Ocean Energy Management

Office of Renewable Energy Programs

45600 Woodland Road Mailstop: VAM-OREP Sterling, VA 20166

Via email to renewableenergy@boem.gov

Re: BOEM 2022-0040

On behalf of its 1800 members, the Massachusetts Lobstermen's Association (MLA) respectfully submits this letter of great concern to the Bureau of Ocean Energy Management (BOEM) regarding the Request for Interest (RFI) in the Commercial Leasing for Wind Energy Development on the Gulf of Maine Outer Continental Shelf (BOEM 2022-0040).

The MLA's list of concerns about the installation of floating offshore wind turbines in the Gulf of Maine (GOM) range from: How many square miles will the Wind Energy Area (WEA) be?, the displacement of the commercial lobster fleet, the lack of high resolution spatial data on the commercial lobster fleet, impacts to the benthic habitat, North Atlantic Right Whale (NARW) and, the increased vessel traffic.

Established in 1963, the MLA is a member-driven organization that accepts and supports the interdependence of species conservation and the members' collective economic interests. The membership is comprised of fishermen from North Carolina to Canada and encompasses a wide variety of gear types from fixed gear and mobile gear alike. The MLA continues to work conscientiously through the management processes with the MA Division of Marine Fisheries, Atlantic States Marine Fisheries, New England Fisheries Manage-

ment Council, Northeast Regional Ocean Council, MA Coastal Zone Management and, the Bureau of Ocean and Energy Management processes to ensure the continued sustainability and profitability of the resources in, which our fishermen are engaged in as well as their concerns and recommendations about OSW are heard.

The RFI area in the GOM consists of 13,713,825 acres located off the coasts of Massachusetts, New Hampshire, and Maine and the Lobster Management Area 1 (LMA1) encompasses many of those square miles. How big will the WEA be in the GOM as the commercial lobster industry collectively utilizes the entire area to earn a living. BOEM needs to do an analysis on the WEA and the displacement of the lobster fleet from the WEA as there is only so much room for the commercial lobstermen to go and once the WEA is defined and developed commercial lobstermen will be displaced. This is unacceptable as these commercial lobstermen have been fishing these waters for hundreds of years.

Unlike the scallop and mobile gear fleet, in LMA 1 commercial lobster fishery there are thousands of commercial lobstermen in the GOM that do not have a concrete and readily accessible data footprint on where they are fishing. While the new 10-minute square data can be used to give a

weak footprint in the GOM.

Now more than ever BOEM needs to hold off on creating the WEA in the GOM until the commercial lobster fleet has had several years of concrete fishing effort data collected as the federally permitted commercial lobstermen will be required to have vessel tracking devices on the vessels by January 2023. The lack of this concrete effort data will have an impact on where the wind energy area will land.

The MLA is extremely concerned about the impacts of OSW on the GOM benthic habitat and the lobster resource collectively. There needs to be a robust series on studies done in the GOM to get a true baseline on the benthic habitat and lobster resource alike. The GOM is not like the WEA in Southern New England as there is a lot rockier bottom that is home to the young of the year lobsters that become the futures lobster catch. The impacts of OSW in the GOM are unknown and the commercial lobster industry cannot weather anymore negative impacts on the habitat.

The GOM is also an important feeding habitat for the North Atlantic Right Whale (NARW) that use the GOM for feeding. While the commercial lobster and fixed gear industries are continually constrained because of potential and future interactions with these animals, there is not enough



known about the impacts of OSW construction, electromagnetic fields and noise impacts on the NARW to date. More research is undeniably needed in the GOM so that the commercial fleet does not further endure any more baseless constraints.

With the development of a WEA there comes a lot more vessels into the waters of the GOM adding even more risk to the NARW. There needs to be a limit on the number of vessels that are allowed to be in the WEA in the GOM at a given time to reduce ANY interactions with the NARW. The MLA is greatly concerned about this increased risk potential as the commercial lobster industry collectively is still being asked to reduce risk and BOEM is proposing to increase risk. Where is the logic in this?

We would like to thank BOEM for their continued efforts to engage the commercial fishing industry stakeholders throughout this lengthy process and are encouraged that they will do their due diligence when vetting and engaging any industry representative. Should there be any further questions or comments please feel free to call me at 781-545-6984.

Kind regards,

Beth Casoni

Director



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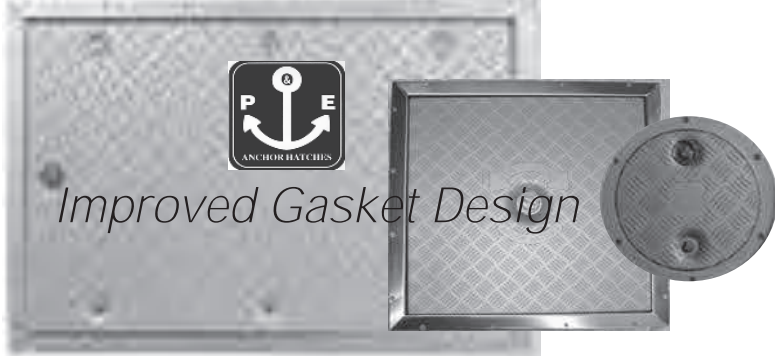


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October 3, 2022
Zachary Jylkka
Bureau of Ocean Energy
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Office of Renewable Energy
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45600 Woodland Road Mailstop:
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Dear Mr. Jylkka:

The Massachusetts Executive Office of Energy and Environmental Affairs (EEA) respectfully submits these comments to the Bureau of Ocean Energy Management (BOEM) in response to the Request for Information (RFI) and Request for Competitive Interest (RFCI) to inform the ongoing planning and leasing for offshore wind in the Gulf of Maine. These comments support the overall goal of balancing the management of vital economic and natural resources in coastal and ocean waters of the shared Gulf of Maine with the introduction of a new ocean use: offshore wind. Ensuring the continuity of maritime commerce, recreation, and commercial fishing are priorities for the Commonwealth along with avoiding and minimizing impacts to existing maritime habitats and species as BOEM commences the planning process for potential commercial leasing of offshore wind in the Gulf of Maine.

In 2008 EEA formed two working groups, a Fisheries Working Group,¹ which includes fishing industry representatives, agencies, and interested non-

governmental organizations and a Habitat Working Group,² which involves representatives from state and federal agencies, the offshore wind industry, and interested non-governmental organizations. Discussions within the work groups helped to inform the planning for the Massachusetts/Rhode Island (MA/RI) Wind Energy Areas (WEAs) and will also inform the planning for offshore wind in the Gulf of Maine. We solicited input from these working groups in preparation of this comment letter.

Reducing carbon emissions through the development of renewable energy, including offshore wind energy, is critical to combatting the global climate crisis. The Commonwealth strongly supports the Biden-Harris Administration's ambitious goals to achieve 30 gigawatts (GW) of offshore wind by 2030, 15 GW of floating offshore wind by 2035, and commercial leasing in the Gulf of Maine in 2024. We applaud the federal government's legislative actions in support of this goal, including the Bipartisan Infrastructure Law and the Inflation Reduction Act. The goals of the Commonwealth align closely with those of the Biden-Harris Administration. Since 2016, with the signing of the Act Relative to Energy Diversity, Massachusetts has been a national leader in offshore wind policy and market development and will host the first-in-the-nation commercial-scale offshore wind project in federal

waters, the 800 MW Vineyard Wind 1 project. We have committed to renewable energy targets including a statutory authorization of 5.6 GW, 3.2 GW of offshore wind projects under contract to date and currently under development,³ a schedule of future offshore wind procurements to ensure timely delivery of offshore wind to Massachusetts ratepayers, and a goal to achieve net zero emissions by 2050. Offshore wind leasing in the Gulf of Maine is critical for Massachusetts to meet its legislatively mandated offshore wind energy goals.

Modeling conducted for the Massachusetts 2050 Decarbonization Roadmap⁴ indicates that offshore wind will be a significant component of the Commonwealth's and the region's electricity generation, requiring over 15 GW for Massachusetts alone by 2050, and approximately 30 GW for New England to achieve the region's renewable or clean energy targets. With nearly 7 GW currently under contract to Massachusetts, Rhode Island, Connecticut, and New York for projects in the existing lease areas off Southern New England, existing offshore wind procurement authorities and goals in the Northeast are expected to utilize the capacity of the existing lease areas over the next few years. To meet the states' long-term energy and decarbonization goals, new offshore wind areas will be needed. The commencement of the comprehensive planning and

analysis process for commercial leasing in the Gulf of Maine is an important step, and the Commonwealth is committed to supporting BOEM through our role on the Intergovernmental Renewable Energy Task Force and in other capacities.

Request for Information

As we look to the Gulf of Maine as the next region to support offshore wind, it is important to consider how the siting of new lease areas can drive advancements in technology, competitive energy pricing, and efficient use of existing transmission infrastructure. As with the southern New England areas, the identification of multiple wind energy areas in the Gulf of Maine would support the offshore wind goals of the northeastern states, increase competition between offshore wind developers, support the industry's growth, and put downward pressure on costs for ratepayers. In the MA/RI WEAs, seven lease areas held by five different developers/leaseholders has led to a relatively competitive offshore wind market in the Northeast and resulted in cost-effective pricing for ratepayers in state procurements and robust commitments to economic and workforce development.

With that experience, to maximize the economic benefits, WEAs in the Gulf of Maine should also be geographically distributed, with sufficient WEAs to maximize

1 <https://www.mass.gov/service-details/fisheries-working-group-on-offshore-wind-energy>

2 <https://www.mass.gov/service-details/habitat-working-group-on-offshore-wind-energy>

3 Current Massachusetts offshore wind procurements totaling 3,204 megawatts (MW) are comprised of Vineyard Wind 1 (800 MW), Mayflower Wind (804 + 400 MW), and Commonwealth Wind (1,200 MW).

4 <https://www.mass.gov/info-details/ma-decarbonization-roadmap>

competition among offshore wind developers, which in turn encourages competition and diversity in developers' strategies for siting and use of innovative floating wind technologies. In addition, ensuring a wide geographic distribution of WEAs would allow for multiple offshore transmission routes to access onshore interconnection points that would allow for cost-effective integration of renewable energy into the onshore power grid.

Finally, WEAs in the Gulf of Maine should be sized to allow developers to take advantage of economies of scale, which can help reduce costs for ratepayers and minimize siting impacts to existing maritime uses such as fishing as well as marine habitats and species. Recent offshore wind projects contracted by states have been sized at around 1,200 MW, which can allow for efficient use of highvoltage direct current (HVDC) cable technology that can reduce siting impacts from offshore cabling and maximize use of onshore grid interconnection points.

The Commonwealth supports the delineation of the RFI planning area for the Gulf of Maine which excludes areas from further consideration for the siting of offshore wind. Specifically, we agree with BOEM's determination that the following areas are incompatible with offshore wind development: areas within 3 nautical miles (nm) from shore and those beyond 200 nm from shore; National Parks, National Wildlife Refuges, National Marine Sanctuaries, or any National Monuments; Existing Traffic Separation Schemes (TSS), fairways, or other internationally recognized navigation measures; existing BOEM lease areas; and unsolicited lease request areas that are the subject of a separate request for competitive interest (e.g., State of Maine's requested research lease). In addition, with these comments, we recommend: 1) additional areas that should be excluded from further consideration for leasing by BOEM; and 2) areas that require

further data gathering, analysis, and discussion with stakeholders to determine whether they are suitable for the siting of offshore wind in the Gulf of Maine. Below are more details related to these two topics.

While Massachusetts legislation sets out ambitious offshore wind goals, it also requires offshore wind developers exporting electricity to Massachusetts to site wind turbine generators (WTG) at least 10 miles from any inhabited shore.⁵ Areas within 10 miles from the Massachusetts coastline should be excluded from further consideration for the siting of offshore wind. Additionally, we recommend an extended shoreline buffer of an additional 10 nm along the entire Gulf of Maine shoreline to account for the increase in WTG size since 2016 and the potential for even greater increases in WTG size due to technological advancements and increasing efficiency in energy generation. This additional buffer will reduce potential visual impacts along the Gulf of Maine coastline. Further, we acknowledge that nearshore waters tend to exhibit higher concentrations of maritime uses such as recreational boating and day boat commercial fishing. Other maritime activities located closer to shore include offshore disposal sites, pilot boarding areas, port-related vessel traffic, and identified danger zones. Thus, we support BOEM investigating the implementation of an additional 10 nm shoreline buffer to a total of 20 nm to avoid and significantly minimize the potential for conflicts with these existing maritime uses and reduce visual impacts (see attached map).

In addition to a shoreline buffer, we recommend that BOEM exclude offshore wind development from areas designated by the National Oceanic and Atmospheric Administration (NOAA) as Habitat Management Areas (HMA). Fishing by bottom tending mobile gear is prohibited in HMAs due to the

areas' importance in supporting various fish populations. These areas include the Western Gulf of Maine HMA, the Fippennies Ledge HMA, the Cashes Ledge HMA, the Ammen Rock HMA, the Jeffreys Bank HMA, and the Eastern Maine HMA (see attached map). Further, we recommend regions of significant seafloor ledges which are known to support diverse populations of marine species, including marine mammals, be assessed for exclusion from siting of offshore wind. These areas may include areas encompassing and adjacent to Georges Bank, Jeffreys Ledge, Fippennies Ledge, Cashes Bank, and Platts Bank.

To reduce potential conflict between future wind development areas and offshore commercial fishing, we recommend that BOEM, with input from fishing industry representatives, advance efforts to accurately represent where fishing activity occurs and identify areas of high priority, value, and density to commercial fishing. Areas known to be highly productive fishing grounds for mobile fishing should be excluded from further consideration for offshore wind.

Highly productive areas should also be identified for the offshore lobster industry where geospatial data are limited but represent the single most commercially valuable wild-harvested species in the northeastern United States. Although geospatial data for the lobster fishery are incomplete, conclusions regarding the general distribution of lobster fishing activity across the Gulf of Maine relative to distance from shore and the federal Lobster Management Areas (LMAs) (see attached map) should inform the selection of areas for further consideration for the siting of offshore wind. Lobster trap densities are expected to be highest in inshore (0-3 miles) and nearshore (3-12 miles) waters where vessels of all sizes, including small open boats make day trips and return to port every day. The largest vessels

in the lobster fleet make multi-day trips and frequent waters beyond 12 miles out to the limits of the Exclusive Economic Zone (EEZ). A separate Lobster Management Area (LMA 3) was created for these larger multi-day trip lobster vessels because this fleet is unique in its scale of operation (i.e., vessel size, crew size, trip length, and distance fished from shore). Since 1999, participation in the LMA 3 fishery has been limited and reduced by NOAA National Marine Fisheries Service (NMFS) through a limited entry system and individual, vessel-specific trap limits that are based on the vessel's fishing history. In subsequent years, trap allocations have also been reduced in LMA 3 for conservation purposes by 25% on a per-permit basis. As a result of these management actions, the amount of fishing in LMA 3 is comparatively low and has been substantially reduced with no potential for increases. In total, 123 permit holders and approximately 108,000 traps are allocated for LMA 3 that extends from the Canadian Border south to waters off Virginia. Further, LMA 1 has more dense lobster fishery activity—the trap density in LMA 1 is approximately 122 traps/mile² while the trap density in LMA 3 is 8 traps/mile². Lobster fishing decreases with distance from shore and specifically within LMA 3. Potential conflict with the lobster industry would be reduced if WEAs were sited in the easternmost portions of LMA 1, east of the Western Gulf of Maine HMA, and within LMA 3 (refer to attached map). BOEM should consider this pattern of lobster fishing activity as the planning and leasing process continues.

Although marine spatial data for the Gulf of Maine are robust, there are maritime uses and species for which a reliable and data-driven understanding of their spatial footprints requires further development and analysis. Some work is already underway to fill known data gaps. Vessel tracking

⁵ <https://malegislature.gov/Laws/SessionLaws/Acts/2016/Chapter188>

on lobster vessels will be required for all federal permit holders by the end of 2023 (MA will require the same beginning in May 2023); additional aerial surveys targeted at North Atlantic right whales have begun in the Gulf of Maine RFI area; seafloor mapping to 24 nm is nearing completion; and tracking of avian species across the Gulf of Maine is ongoing. We recommend that BOEM continue to coordinate with states, federal agencies, and other stakeholders to gather and analyze data to incorporate into the planning and leasing for offshore wind. Further, with these and other data and supplemented by expert input, we suggest that BOEM identify and avoid the following areas in the siting of offshore wind in the Gulf of Maine.

- Areas of high-density fishing activity and value across fishing sectors and inclusive of all state fishing fleets
- Areas of dense concentrations of large whales, especially the North Atlantic right whale and other endangered whales⁶
- Priority migration corridors and nesting, staging and foraging areas for federal and state endangered and threatened avian species

As a new technology, there is some uncertainty surrounding the implementation of floating offshore wind technology and compatibility with existing maritime uses including fixed and mobile fishing gear as well as marine habitats and species including large mammals. We recommend that BOEM solicit information from developers and industry leaders on the emerging technology and lessons learned from Europe and Asia where demonstration and early commercial stage floating wind projects have been deployed. Specifically, information relating to the potential interactions between floating wind platforms and cables with fishing activity; offshore floating array orientation, spacing and configuration to minimize

impacts on maritime navigation and fishing activity; and the implementation of floating platform substructure designs, tethering, and cabling to minimize impacts to seafloor habitats while advancing opportunities to enhance habitats.

The offshore wind developers and their equipment suppliers are likely to have the best available information about the evolution of technologies and implementation techniques associated with floating wind energy projects. Thus, we suggest that BOEM seek information from offshore wind developers relating to the placement of WEAs relative to distance from shore and proximity to ports and interconnection points.

Given that information regarding the location of some existing resources and uses is still under development (e.g., aerial whale sightings, avian migration corridors and foraging areas, lobster fishery activity) and given the vital importance of the Gulf of Maine to the coastal economies of surrounding states, we recommend that BOEM commit to a data-driven Ecosystem Based Management (EBM) approach to identify areas within the Gulf of Maine with the least conflict with proposed floating offshore wind activities. Such an EBM approach would clearly define the data used to winnow the RFI area, how these layers are considered in relative importance in the geospatial analyses, how priorities are determined, how the interactions between maritime uses is incorporated and would include robust stakeholder involvement from maritime uses and state and federal agencies. Specifically, my agencies have a wealth of knowledge and experience in marine spatial planning in Massachusetts waters and within the Gulf of Maine and should be directly engaged in the development of any such EBM approach.

Request for Competitive Interest

The Commonwealth supports

the state of Maine's application to develop a floating wind research array in the Gulf of Maine. The research grant represents an important opportunity to test designs and methods, understand impacts and opportunities, and develop technologies for the emerging floating offshore wind industry. The research grant can be used to support a broad range of research interests from regional and national stakeholders and institutions, which in turn will help advance the floating offshore wind in the United States. We support ensuring that the timeline for the research array would closely align with that for commercial leasing in the Gulf of Maine. However, we suggest that BOEM ensures that commercial leasing would not be delayed due to any anticipated or unanticipated timeline or pending research schedules associated with the Maine research array. As with commercial projects, the research array should minimize potential impacts to marine resources, habitats, and users.

The planning for commercial leasing of offshore wind in the Gulf of Maine will require input and participation from those representing the many existing maritime uses, habitats, and species in this incredibly diverse and unique ecosystem. Massachusetts is committed to continuing to work with our stakeholders, ranging from offshore wind technology developers, environmental nongovernmental organizations, commercial and recreational fishing industry representatives, scientists, and others to gather the best available data and information to inform BOEM's planning for the Gulf of Maine. We also commit to working across the Gulf of Maine to consider and incorporate interstate perspectives and interests.

Further, Massachusetts sincerely appreciates the ongoing collaborative efforts among the states of Maine, New Hampshire, and Massachusetts regarding

shared interests in planning for offshore wind in the Gulf of Maine and we look forward to continuing our joint efforts in supporting BOEM as the process moves forward. We also appreciate the joint efforts of the six New England states and federal agencies in developing a joint transmission development framework that will support the long-term goals to advance the integration of necessary clean energy, including offshore wind. That effort will be a necessary component in the successful deployment of offshore wind.

Thank you for the opportunity to provide comments to BOEM on the RFI/RFCI for offshore wind development in the Gulf of Maine. The Commonwealth appreciates BOEM for its expertise in siting energy on the continental shelf and working with the various agencies and entities with an interest in Gulf of Maine resources and uses. My agencies and offices look forward to continuing to work with BOEM, key stakeholders like our commercial fishing operations, other federal agencies and the states of Maine and New Hampshire as the planning process for siting offshore wind in the Gulf of Maine continues.

Sincerely,



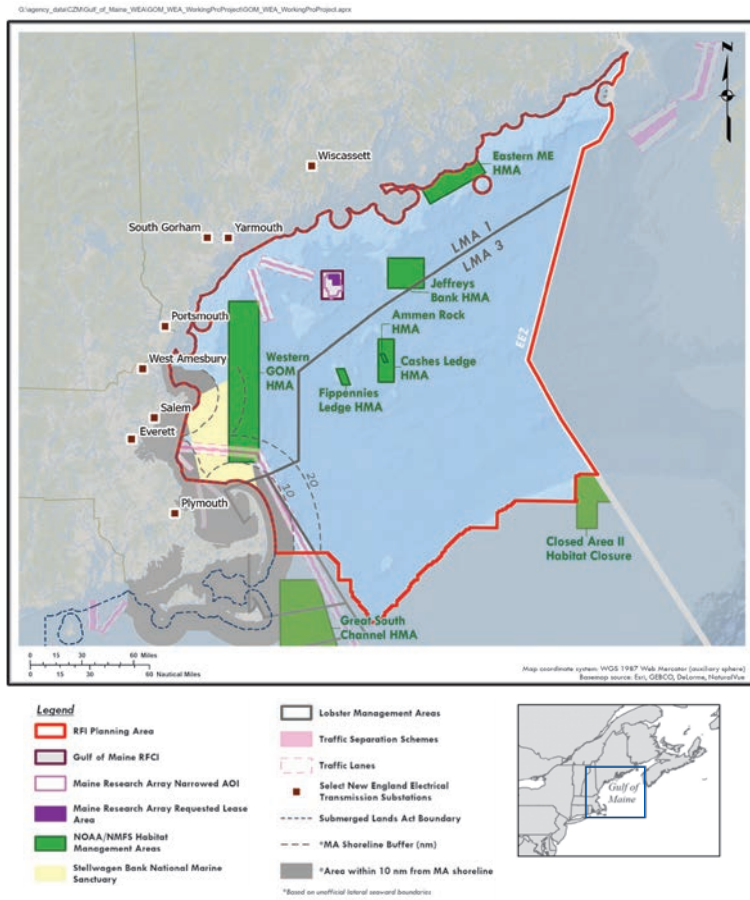
Bethany A. Card
Secretary

Attachment: BOEM Gulf of Maine RFI/RFCI map

cc:

James Bennett, David MacDuffee, Luke Feinberg, Bureau of Ocean Energy Management
Marc Sanborn, NH Department of Environmental Services
Dan Burgess, Maine Governor's Energy Office

⁶ Blue, Fin, Humpback, North Atlantic right, Sei, and Sperm whales are all listed as endangered in Massachusetts.



Massachusetts Office of Coastal Zone Management
Executive Office of Energy & Environmental Affairs
10/3/2022

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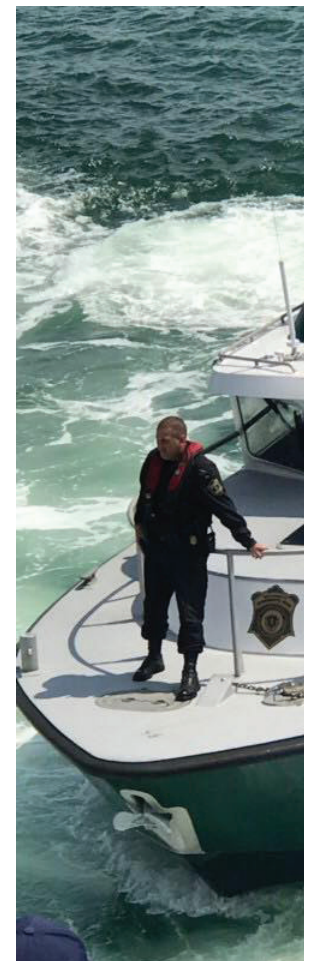
Gloucester, MA



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is to protect the environment and natural resources of the Commonwealth of Massachusetts through enforcement, education, and public outreach.

If a violation is currently in progress, please call the Massachusetts Environmental Police Dispatch office at 1-800-632-8075.



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VINEYARD WIND

OFFSHORE CABLE LAYING OPERATIONS

OFFSHORE WIND MARINER UPDATE NO. 69

On or about the 24th of October the Cable Laying Vessel CABLE ENTERPRISE will begin conducting cable laying operations in the vicinity of 41° 13' 8.4" N, -70° 25' 59.2" W and continuing South toward the OCS-A 0501 Lease Area. Supporting the cable laying operations will be the Tugs NICOLE FOSS & NORNE that will be performing anchor handling for the operations. Prior to commencing Cable installation, the Tug NICOLE FOSS will perform a pre-lay grapnel run (PLGR) along the Offshore Cable Corridor to ensure no new debris has fallen on the site since the clearing operations in the late summer. The PLGR activity involves the Tug NICOLE FOSS towing a grapnel train over the seabed (extending 150m behind the vessel) along each of the proposed cable routes. The speed of the tug towing the grapnel train shall not exceed 1 (one) knot. Upon completion of the offshore PLGR, the tug NICOLE FOSS will travel to the nearshore section beginning just offshore of Covell's Beach, Barnstable and commence the PLGR operation for the nearshore section of the export cable route which runs across Nantucket Sound out to the Cape Poge area.

All Mariners transiting or fishing in the area are requested to give a wide berth to the vessels as they are limited in their ability to maneuver, and the CABLE ENTERPRISE will have gear out 1500m ahead of the vessel and 500 meters behind the vessel. Vessels in the vicinity of the operations are requested to operate in a manner as to not endanger the vessel or associated equipment. Passing arrangement can be made via VHF with the vessels.

All vessels will be standing by on VHF channel 13 & 16

DATE(S): On or about the 24th of October and continuing until 21st of November

LOCATION(S): Offshore Activities - Beginning in the vicinity of 41° 13' 8.4" N, -70° 25' 59.2" W and continuing South toward the OCS-A 0501 Lease Area. Nearshore Activities – Beginning just offshore of Covell's Beach and continuing along the cable corridor across Nantucket Sound down to the Cape Poge area.

For the latest information, please contact:

Crista Bank, Fisheries Manager, Cell: 508-525-0421
Email: cbank@vineyardwind.com

Jeannot Smith, Marine Liaison, Cell: 904-613-0134
Email: jsmith@vineyardwind.com

VineyardWind.com • info@vineyardwind.com • 508-717-8964
700 Pleasant Street, Suite 510 • New Bedford, MA 02740



NICOLE FOSS

Flag: USA • Length: 130' • Captain: Tom File / Justin Earl
Bridge Mobile: 206-300-9113 • MMSI#: 367774490



CABLE ENTERPRISE

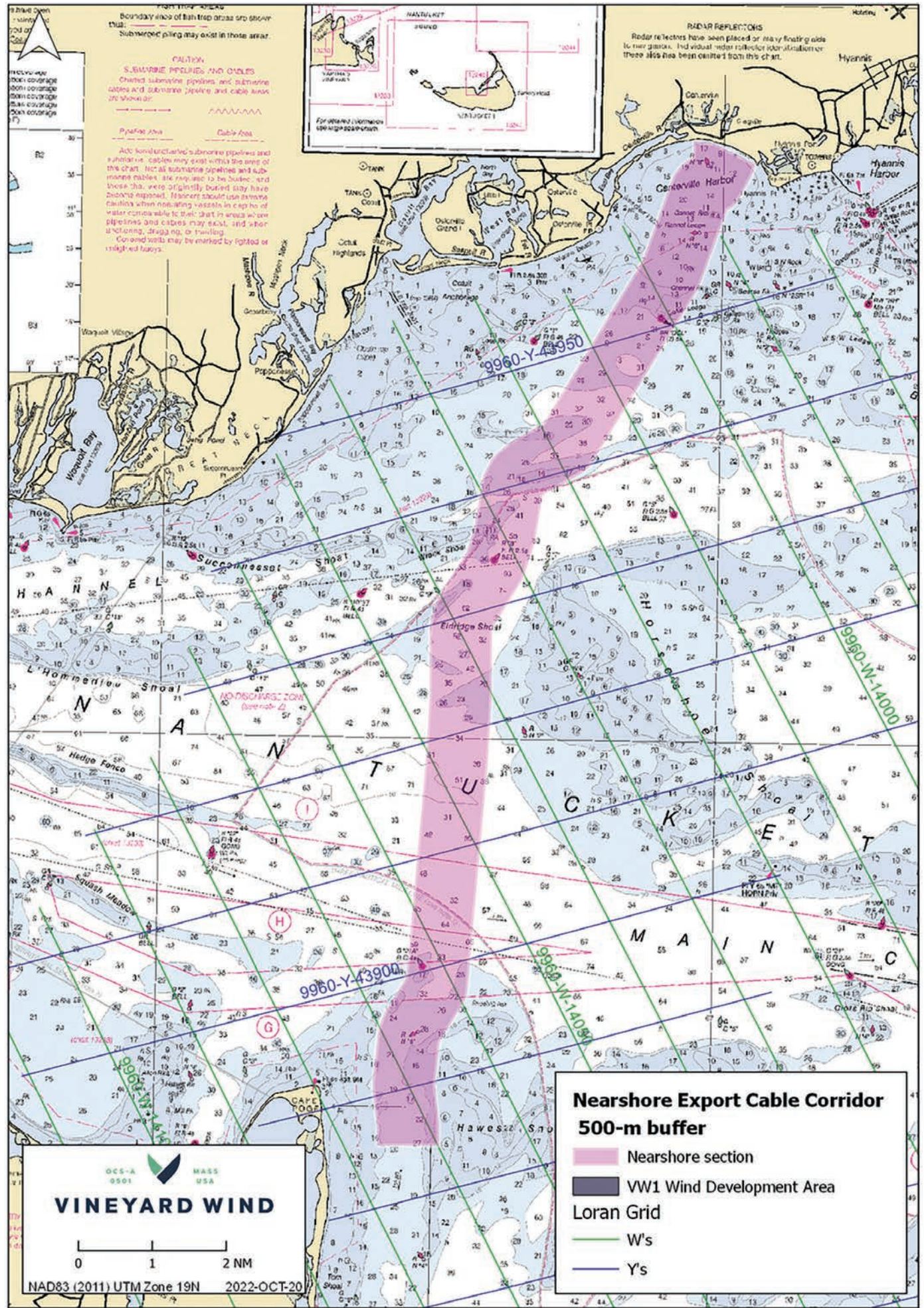
Flag: GB • Length: 408' • Captain(s): O'Regan, Richard / Paturzo, Vincenzo • Bridge Mobile: +44 203 130 9591 • MMSI#: 235093018

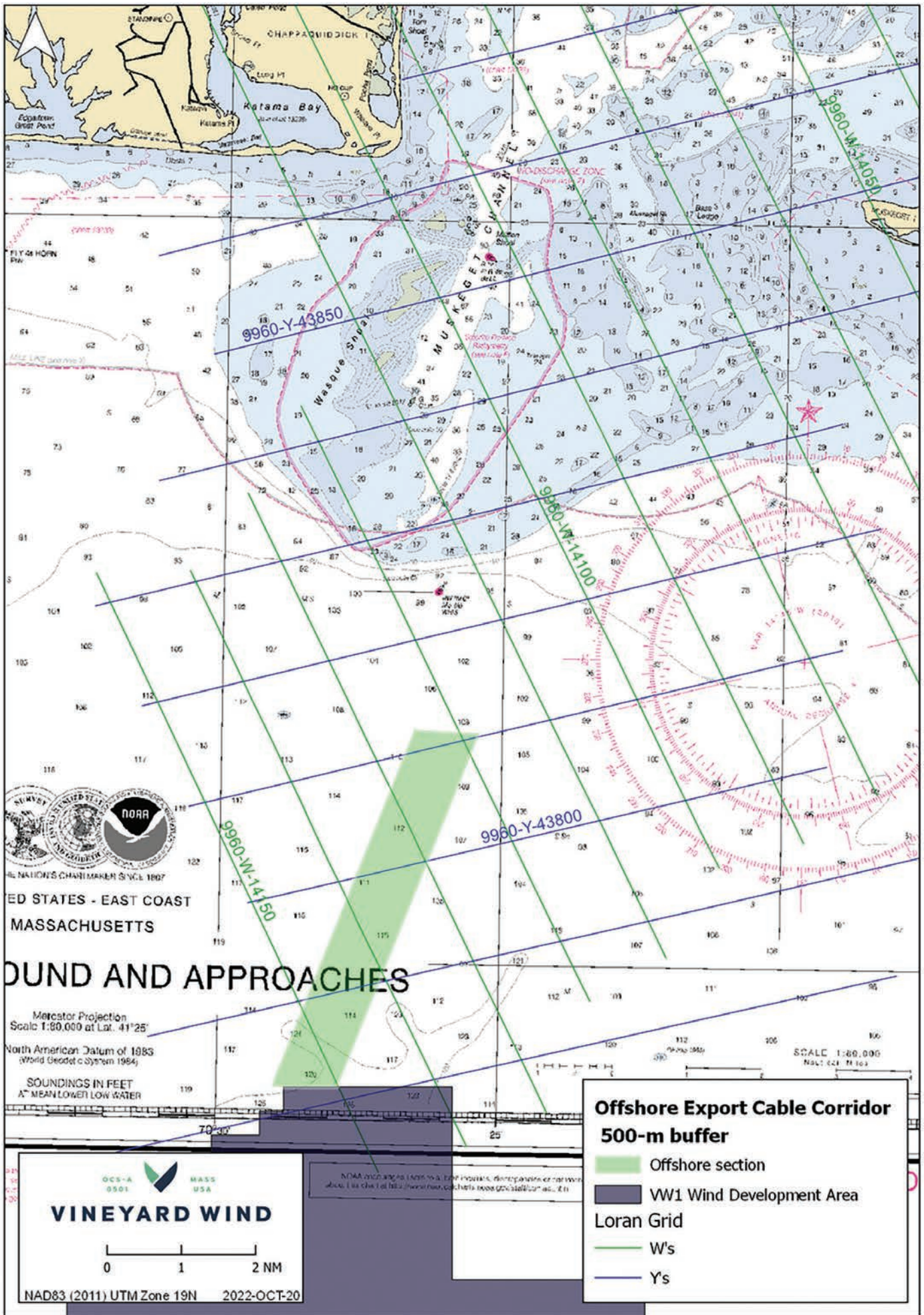


NORNE

Flag: NL • Length: 112' • Captain(s): Jeroen N.J. Schoth / Hannes Gunther • Bridge Mobile: +31 (0)6 83905198 • MMSI#: 245460000
• Onboard Fisheries Liaison: Tom Donovan • Mobile: 401-935-1644

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THE GRIND

At 3 am on the drive to work, the highway is lonely and quiet and dark.

With tired anticipation on what the day will bring, sipping on tea and staying alert.

For that crazy deer, being a jerk.

Arriving at the dock, safe and sound.

Hearing a Diesel engine idling strong.

The tide is low and the ladder long.

I start my descent, with lunch box in hand.

Checking the engine with my one good eye, the oil is warm on the stick, from the evening before.

The engine fires up with a mighty roar and lights all go on and ready for more.

The crew has arrived.. always prepared, we untie the lines without a moment to spare.

We head out in the darkness, busy as hell, autopilot is on and heading for the bell.

Buoy to buoy, the captain knows the way... Years of doing this, comes naturally of course.

The mouth of the harbor brings darkness and wind, it's no surprise, no longer is summer and

Soon the winter winds will begin.

I steady the course while the crew works the deck, preparing the bait for the day ahead.

Over time we arrive, to the lobster grounds.

It is still dark and the spot light shines, there is the buoy... it's time to begin.

The story doesn't end here, but it will for now.

I'm too busy hauling and loving the sea.

Mike Tufts
f/v Degelyse

Strategy

FROM PAGE 1

regularly evaluated and updated as new information becomes available. The strategy does not define new policy or regulatory actions; rather, it recognizes efforts to date and identifies areas where BOEM and NOAA Fisheries will work together alongside our industry partners in an effort to focus on the information and science needed to responsibly develop offshore wind energy while protecting and recovering the North Atlantic Right Whale.

Offshore wind energy development plays an important role in U.S. efforts to combat the climate crisis and build a clean energy economy. The Biden-Harris Administration has set a goal of significantly increasing the nation's offshore wind energy capacity to 30 gigawatts by 2030. BOEM is the lead federal agency responsible for managing offshore energy exploration and development in the United States, while NOAA Fisheries is responsible for the stewardship of the nation's ocean resources and their habitat.

BOEM and NOAA Fisheries are soliciting public comment on the Draft North Atlantic Right Whale and Offshore Wind Strategy (see Supporting Documents in this Docket BOEM-2022- 0066). The deadline to submit comments to help evaluate and improve this strategy is December 4, 2022.”

Now, more than ever your comments matter as BOEM has started the process in the Gulf of Maine to develop a wind lease area.

<https://www.regulations.gov/commenton/BOEM-2022-0066-0003>

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Apply by Jan. 23 to have coverage that begins Feb. 1.

Massachusetts maintains a mandate for all individuals to have health insurance. Unenrolled residents could pay a tax penalty. Don't risk it - call a Navigator and get covered today!

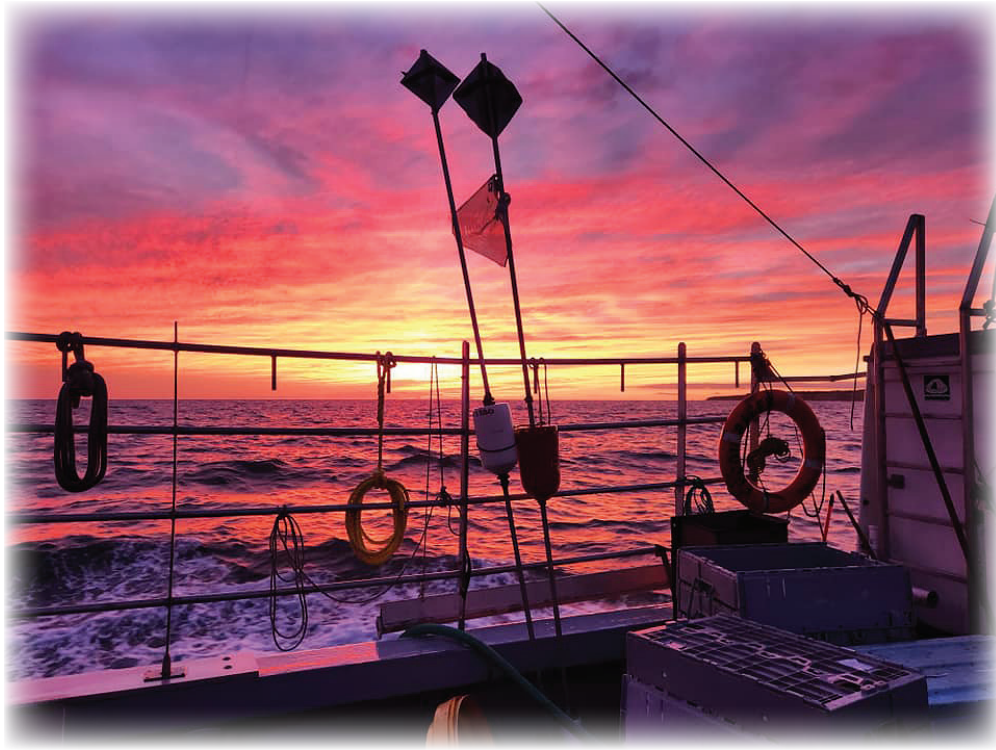
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MLA Comments to NOAA and NMFS

October 10, 2022

Michael Pentony, Regional Administrator
National Marine Fisheries Service,
Greater Atlantic Regional Fisheries Office
55 Great Republic Dr.
Gloucester, MA 01933

RE: NOAA-NMFS-2022-0091

Dear Mr. Pentony,

On behalf of its 1800 members, the Massachusetts Lobstermen's Association (MLA) respectfully submits this letter of comment with great concern and reservation to the National Oceanic Atmospheric and Administration (NOAA) and National Marine Fisheries Service (NMFS) regarding NOAA-NMFS-2022-0091, *Notice of Intent To Prepare and Environmental Impact Statement on Modifications to the Atlantic Large Whale Take Reductions Plan To Reduce Mortality and Serious Injury of Large Whales in Commercial Trap/Pot and Gillnet Fisheries Along the U.S. East Coast.*

Established in 1963, the MLA is a member-driven organization that accepts and supports the interdependence of species conservation and the members' collective economic interests. The MLA continues to work conscientiously through the management process with the MA Division of Marine Fisheries (MADMF), Atlantic States Marine Fisheries, National Marine Fisheries Service, and Atlantic Large Whale Take Reduction Team (ALWTRT) to ensure the continued sustainability and profitability of all the resources in which our members are engaged in.

Massachusetts commercial lobstermen are leading the way in reducing risk to the large whales along the U.S. East Coast. The collaboration put forth by these hardworking men and women, is a testament to their commitment in working together with fisheries managers to find reasonable ways

to reduce the potential risk for the large whales while preserving a viable and historic commercial lobster fishery here in the Commonwealth.

MASSACHUSETTS LARGE WHALE CONSERVATION TIMELINE

1996 - NOAA implements the Large Whale Take Reduction Plan

1997 - MA requirement for "breakaway" features in gillnets and trap/pot buoy lines

Seasonal ban in Cape Cod Bay for gillnets and on use of floating rope between pots

1997 - Dedicated aerial surveys begin in Cape Cod Bay

2000 - Year-round gear marking is implemented

2004 - Year-round ban on floating rope between traps in Cape Cod Bay

2004 - Year-round ban on singles in Southern Cape Cod Bay

2007 - Year-round ban on use of floating rope between traps statewide

2014 - MA Restricted Area is created – A three-month closure Feb-April to 3,071 sq. miles

2015 - 3 month (Feb/Apr) closure to all pots/traps in the MA Restricted Area

2016 - 3 month (Feb/Apr) closure to all pots/traps in the MA Restricted Area

2017 - 3 month (Feb/Apr) closure to all pots/traps in the MA Restricted Area PLUS 4-day extension of the gear closure in Cape Cod Bay

2018 - 3 month (Feb/Apr) closure to all pots/traps in the MA Restricted Area PLUS a 15-day extension of the gear closure and speed restriction (10 mph) for small vessels in Cape Cod Bay

2019 - 3 month (Feb/Apr) closure to all pots/traps in the MA Restricted Area

2020 - 3 month (Feb/Apr) closure to all pots/traps in the MA Restricted Area, MLA

members deploy 700 coils of whale safe 1700lb weak red rope.

2021 - MFAC implements 73.6% risk reduction conservation measures, New North Shore closure

to state waters and weak contrivances every 60' in state waters.

2022 - MA State Waters lobster fishery listed as a CAT II

2021 - MFAC implemented 90% risk reduction conservation measures

2022 - North Shore State Waters closed area (Feb/Apr)

2022 - MA Restricted Area closed Feb.1st until May 16th

MASSACHUSETTS COMMERCIAL LOBSTER EFFORT & EFFORT REDUCTIONS

The MADMF has decades of data to back up the ongoing reduction of the lobster fishery here in Massachusetts with a **100% MANDATORY** reporting. The MADMF can show the downward trend for the MA lobster fleet. Currently, in Massachusetts there are approximately 750 active commercial lobstermen fishing an average of 400 pots and most of them are fishing 5-30 pot trawls, along with an estimated 15-20 permits retiring every year.

Currently, the Massachusetts commercial lobster industry employs thousands of individuals who earn their living on the sea. In 2020, the 661 active MA commercial lobstermen in State Waters (0-3 miles) harvested 9,263,534 lbs. with an ex-vessel value of \$43,298,377 and an overall estimated economic impact to the local economy of 180 million dollars while only fishing approximately 259,368 lobster pots.

Furthermore, there are 65 active

MA commercial lobstermen in Federal waters (3-200 miles) harvesting 7,489,941 lbs. with an ex-vessel value of \$35,008,487 and an overall economic impact to the local economy of 140 million dollars while only fishing 111,639 lobster pots. Based on the 2020 landings data, the estimated economic impact of the collective commercial lobster fleet in Massachusetts is upwards of 320 million dollars to the local economy. There may not be thousands of commercial lobstermen here in the Commonwealth but, they are as equally important to the overall economy.

Massachusetts commercial lobstermen are still reducing effort through the ongoing trap reductions in Lobster Management Area(LMA) 2 and LMA 3 and these real numbers in reduction that need to be quantified and given a conservation credit. Today, there are approximately 70 active lobstermen in MA LMA 2 and approximately 58 active lobstermen in Outer Cape Cod (OCC), how much further can they be reduced in effort to remain whole when they are continually paying a conservation tax every time a tag is transferred. Every transfer in LMA 2, LMA 3 and OCC there is also a 10% conservation trap tax which also equates to even a further reduction in effort equaling even more risk reduction for the large whales.

As the effort in Massachusetts commercial lobster fishery continues to decline, with *NO NEW PERMITS* being issued, we are greatly concerned that the Massachusetts fleet will be gutted beyond repair should NMFS implement any more risk reduction measures. Massa-



chusetts commercial lobstermen are holding on by a very weak end line right now. There needs to be a collective limit on effort, traps, end lines, something has to give as one state cannot carry the risk reduction weight alone.

WEAK ROPES & WEAK CONTRIVANCES

In 2019 and 2021, the Lobster Foundation of Massachusetts (LFoM) was granted the Massachusetts Environmental Trust grants to develop a 1700lb weaker whale safer red rope that was deployed during the 2020 fishing season for field testing. The 2021 grant is to educate lobstermen on the splicing



techniques that were developed by NOAA to incorporate the weak contrivances in the vertical lines.

The ropes 1700lb breaking strength basis came from the New England Aquariums Study *Effects of fishing rope strength on the severity of large whale entanglements* by Amy Knowlton et. al. where they “found entangled in tested rope strengths below 7.56 kN or 1700 lbs., implementation of RBS ropes would likely reduce the probability of mortality and suffering” Kowlton et.al.

We are happy to report that, over 1700 coils of the weak rope have been successfully distributed and deployed by several hundred commercial lobstermen in Massachusetts. MADMF has also distributed 400 plus coils of the weak red rope that will further help the commercial lobster industry here in Massachusetts.

We are pleased to report that; these weak ropes are now being made with a MASS LOBSTER tracer ribbon incorporated throughout the full coil. Earlier this year, this weak rope with the tracer ribbon was tested by NOAA Gear Specialist, Rob Martin, which were found to be within the acceptable breaking strength allowance.

To the right is an image of his

logbook with the test results of his testing earlier this year and are well below the 1700lbs. breaking strength threshold. The MLA is asking NMFS to accept the newest version of the 1700lbs. weak red and candy cane rope with the MASS LOBSTER tracer ribbon as an acceptable weak rope to be used in its entirety or as a weak contrivance.

The collective assortment of weak contrivances that have been developed over the last few years are working. Here in Massachusetts, the commercial lobstermen are mandated to incorporate a weak contrivance every 60’ as the MFAC implemented a more restrictive rule for state waters.

The commercial lobstermen here in the Commonwealth are making these weak contrivances work to reduce risk to the large whales and should be required every 60’ coast wide from 0’ to 50 fathoms to help us get to the 90% risk reduction requirement. This would equate to at least 8 more risk reduction points just within the Gulf of Maine.

To further demonstrate our commitment in reducing risk, the MLA and LFoM remain committed to seek the necessary funding to help our members acquire as much of this weak rope as possible. In early 2024, the MLA and LFoM will be partnering with Net Your Problem and Avangrid on a five-year project that will distribute over 5000 coils of the weak red and candy cane ropes here in Massachusetts. Once the project is up and going we will be happy to share more information on our progress as it becomes available.

MASSACHUSETTS MARINE FISHERIES ADVISORY COMMISSION (MFAC)

The MFAC at their January 28, 2021 voted on and passed an aggressive suite of additional conservation measures for a 73/6% risk reduction for right whale protection will be implemented in Massachusetts by March 5, 2021. These conservation measures are as follows;

COMMERCIAL FIXED GEAR CLOSURES

The MFAC voted to:

1. Expand the existing seasonal state waters commercial trap gear closure in both space and time. The existing closure occurs from February 1 – April 30 within Cape Cod Bay, Stellwagen Bank, and the Outer Cape Cod Lobster Management

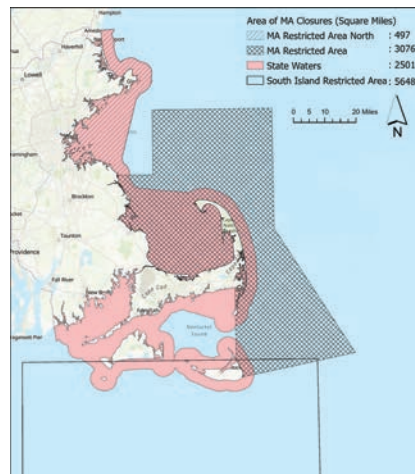
7/5 kN
Candy Cane 3/8 with IO RBS and Red (175)

	Solid	Blank	avg
1) sld		1566.4	147
2) 20% cyclal		1711	192
3) 20% cyclal		1803	156
4) 20% cyclal		1668	12
5) 20% cyclal		1592	12
6) 20% cyclal		1635	5
7) 20% cyclal		1652	145
8) 20% cyclal		1721	157
9) 20% cyclal		1661	15.6
10) 20% cyclal		1881	16
11) 20% cyclal		1798	16

202-813 Average 1692
@ 14w lb → Ripe strength to 1/4 - 5/16

Area. The closure area will extend north in state waters from Scituate Harbor to the New Hampshire maritime border and the closure duration will extend through May 15. However, during the May 1 – May 15 period, the closure will occur on a dynamic basis allowing DMF to lift the closure (or parts thereof) if whales no longer remain in state waters. The closure will not extend into those southern state waters in Lobster Conservation Management Area 2. Geographically expand the existing January 1 – May 15 gillnet closure in Cape Cod Bay to include a discrete area along the South Shore between Plymouth and Scituate.

Massachusetts now has over 11,000 nautical square miles closed to reduce risk for the large whales. There is NO other state or region that has endured this draconian of measures to date. Until other states or regions come up with as much risk reduction to equal Massachusetts, there should be NO MORE



closures implemented or expanded in Massachusetts.

COMMERCIAL TRAP GEAR MODIFICATIONS.

The MFAC voted to:

1. Require commercial trap fishermen to fish buoy lines that break when exposed to 1,700 pounds of tension beginning on May 1, 2021. This may be achieved by fishing specially manufactured buoy lines with a custom 1,700 pound breaking strength or by inserting NOAA Fisheries approved contrivances into the top 75% of the buoy line every 60’. At this time, the only approved contrivance is the so-called “South Shore Sleeve.”

2. Require commercial trap fishermen fish buoy lines with a maximum diameter of 3/8”.

RECREATIONAL LOBSTER AND CRAB TRAP MEASURES.

The MFAC voted to:

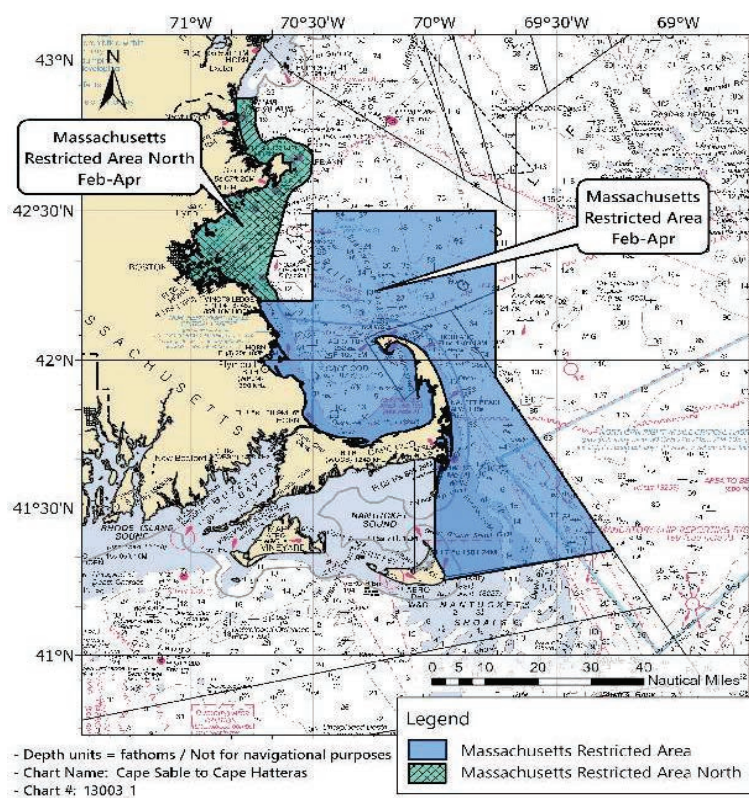
1. Establish a recreational lobster and crab trap haul-out period of November 1 – May 15 (beginning on November 1, 2021) throughout all of state waters. This haul-out period will not apply to unbuoyed recreational lobster trap gear fished in the Cape Cod Canal.

2. Require recreational trap fishermen fish buoy lines with a maximum diameter of 5/16”. https://www.mass.gov/doc/january-28-2021-mfac-meeting-summary/download?utm_medium=email&utm_source=govdelivery

We have been hearing from several of our members over the last couple of years about the vast amount of time they are spending on configuring their end-line. We have heard that some lobstermen are spending upwards of a 100 hours laboring to comply with the weak contrivance regulations. This is two and a half weeks’ extra work that they have to work on their gear just to be compliant with one regulation.

MA RESTRICTED AREA CLOSURE RISK REDUCTION CREDIT

After learning that the 24% MA Restricted Area Closure (2015) credit previously given during Phase 1 was eliminated from the “NEW” model runs because the date now being used is 2017 is disingenuous to the entire commercial lobster fleet here in Massachusetts. The MLA and Massachusetts commercial lob-



stermen alike, are astounded and completely horrified to learn that ZERO risk reduction points will be given as we are trying to reach our goal of now 90% risk reduction. We asked the modelers to run the MA Restricted Area risk reduction credit through the “NEW” model to see what risk reduction credit would be given, points.

Now, that NMFS is using points to measure risk instead of percentages and every risk reduction point matters more than ever. NMFS has taken away 8 very valuable points from the Massachusetts commercial lobstermen and without any notice through due process of redoing the model does not gain any support in continuing in this process. This is a very deceptive process as the Massachusetts commercial lobstermen were told that they were getting credit and now they're not is wrong.

The data in the Decision Support Tool, we were told, contains information from 2010 through 2021 on various metrics to calculate risk and risk reduction etc. There is NO reason why the data from the MA Restricted Area Closure cannot be incorporated in the necessary risk reduction metric in the model so the Massachusetts Commercial lobstermen will be credited with 8 points of risk reduction and validated for their efforts to help reduce risk for the large whales over the

last eight years.

The MA Restricted Area Closure remains one of the most important risk reduction measures implemented to date to protect the large whales and ZERO credit is now being given. This is beyond wrong to the entire commercial lobster fleet here in Massachusetts that has been affected by this closure for over eight years now. NMFS has yet again moved the goal post leaving the commercial lobstermen knowing that no matter what has, is or will be done, the goal post can easily be moved. The MLA is requesting that risk reduction credit be given back for the MA Restricted Area Closure.

REQUEST TO UPDATE THE MORTALITY ESTIMATES TO INCLUDE 2020 AND 2021 DATA

The MLA strongly encourages NOAA Fisheries to update annual mortality estimates to be more inclusive of ALL the available and recent data. NOAA's use of the mortality period for mortality is based on the 2015-2019 average. This outdated data is over-estimating the present average mortality rate the population is undergoing. This outdated data is really influenced by extremely high mortality rates observed between 2015 and 2019. Starting in 2019 the annual observed mortality rates have significantly decreased. Modernizing the five-

year average to include 2020 and 2021 would prospectively reduce the 5-year average mortality rate, as well as reducing the 90% risk reduction goal to attain below PBR levels. Every point is needed to help the US fisheries remain as whole as possible and if the “Best Available” science is available, then NOAA should be using it to give true and accurate depiction on what is truly needed to reduce risk for the large whales. Undoubtedly, if mortality observations in 2020 and 2021 were very high, there would be an outcry and a strong effort to update these mortality rates for immediate inclusion into the data.

FEDERAL WATERS GEAR MARKING

Now, more than ever the federal gear marking scheme needs to be a standalone gear marking in and of itself without state markings anywhere except the 3' mark in the first two fathoms with one, 1' green mark. The current federal gear marking scheme is time consuming and costly as the commercial lobstermen have to spend countless hours adding and removing green markings as they move between state and federal waters.

Some commercial lobstermen have bought enough end line to have two sets of end lines so they can swap them out as needed. This is all well and good until the markings show up in state waters or on a large whale. The State color in federal waters is erroneous and is more detrimental to the states as we are truly trying to demonstrate where the entanglements are occurring. Federal waters need to be a separate color that is not used in any other fishery like gillnetting and it should just be one color.

The MLA is asking NMFS to reconsider how the federal gear is marked and come up with one marking system for federal waters without state waters colors in the bottom of the end line. This would save hundreds of hours and thousands of dollars for many federally permitted commercial lobstermen.

LAW ENFORCEMENT

Over the last couple of weeks, the MLA has been meeting with the DMF and industry members to discuss the 90% risk reduction goal set by NOAA for the East Coast and one thing kept coming up, who is going to enforce any and or all of these “ideas” being discussed. The lack of

law enforcement on the water has become lacking in the commercial lobster industry, especially in federal waters. Several lobstermen noted that if they are boarded, they are never checked for any large whale related regulations and that the primary concerns are looking for permits, short lobsters or V-notched lobsters. Law enforcement needs to be trained in the plethora of risk reduction measures that NOAA has placed on the commercial lobster fishery to ensure compliance. Without compliance these risk reduction measures mean nothing.

FINAL THOUGHTS

As the Massachusetts Lobstermen's Association remains engaged in the efforts to reduce risk to the large whales, we collectively are dismayed, as the Massachusetts commercial lobstermen are repeatedly burdened with economic hardships and the MOST restrictive risk reduction measures in the United States commercial lobster industry. Until other regions step up to the same level of risk reduction measures that are in place in the Commonwealth, the Massachusetts Lobstermen's Associations 1800 members implore National Marine Fisheries Service to stop placing more risk reduction measures on them until that day.

The Massachusetts Lobstermen's Association thanks you for the opportunity to comment and your thoughtful deliberation on our points of concern. Also, we respectfully ask you to please remember, that commercial fishermen are stewards of the sea and without a healthy marine ecosystem, collectively, they would not be able to continue earning a living in the historic and iconic commercial lobster fishery.

Sincerely,

Beth Casoni

MLA, Executive Director

cc.

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Cong. W. Keating, Cong. S. Moulton,
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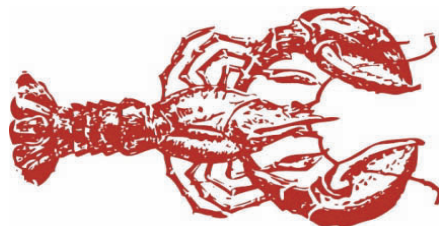
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DANIEL J. MCKIERNAN
Director

To: Marisa Trego, Ph.D. ALWTRT Coordinator

From: Dan McKiernan, Director
Bob Glenn, Deputy Director

Date: October 11, 2022

Re: Comments on NOAA Fisheries Notice of Intent To Prepare an Environmental Impact Statement on Modifications to the Atlantic Large Whale Take Reduction Plan To Reduce Mortality and Serious Injury of Large Whales in Commercial Trap/Pot and Gillnet Fisheries (NOAA-NMFS-2022-0091)

Cc: Colleen Coogan, Mike Pentony, Erin Burke

The Division of Marine Fisheries (DMF) and the fixed gear fishermen of Massachusetts have long been leaders in conservation for the North Atlantic Right Whale (NARW). We have taken this responsibility seriously, offered meaningful management proposals, and adopted measures to reduce entanglement risk to NARW's, often proactively and ahead of jurisdictions in surrounding areas. This conservation has been squarely shouldered by Massachusetts fishermen, who despite weathering the uncertainty of a constantly changing regulatory landscape and the financial stress compounded by changing market conditions and increased operating costs, continue to persevere, and come back to the table in good faith to offer more options to protect NARW's. Their commitment is commendable and should be recognized by NOAA Fisheries and by the whale conservation community.

Last week DMF hosted four in-person scoping meetings for Massachusetts fishermen. More than 75 fishing industry leaders from the lobster, other trap pot, and gillnet fisheries attended these meetings. The focus of these meetings was developing new management measures to further reduce risk of serious injury or mortality caused by entanglement, to an unprecedented level of 90% from historical levels. This is a daunting task, especially when you consider the extensive management already in place in Massachusetts, in both state waters and adjacent federal waters. Despite the challenges Massachusetts fishermen face, highly productive discussions occurred, and once again Massachusetts fishermen have come to the table to offer conservation options for NOAA Fisheries to evaluate and consider. DMF is not endorsing these measures at this time. We first want to see the amount of risk reduction credit they provide and need more time to fully vet them internally and with the fishing industry. These measures are provided as an appendix at the end of this memo. In addition to the management measures, we offer the following comments and requests to NOAA Fisheries.

Full accounting of all measures for all fixed gear fisheries in MA

We request a full and accurate accounting of all management measures in place in Massachusetts state waters to protect NARW's. We specifically ask that the risk reduction be presented as a percentage of the total risk in MA state waters and as percentage of total risk coast wide for all fixed gear fisheries in MA: lobster trap, other trap pot (OTP), and sink gillnet.

These current measures include:

- closure of all MA state waters from Monomoy north to the NH border from February 1 to May 15th with dynamic extension
- closure of all MA state waters gillnet fishing from January 1 to May 15th with dynamic extension
- closure of all OTP fishing from December 15th through April 15th
- mandatory use of 75% weak rope in all lobster and OTP fisheries
- 50% lobster trap allocation reduction in Lobster Management Area 2 (south and west of Cape Cod) implemented between 2016 and 2021

Understanding the risk reduction contributed by each of these measures individually and in concert is critical to understanding the relative effectiveness of each measure and to ensure that credit has been appropriately assigned.

Calculate and provide risk reduction credit for the original Mass Bay Restricted Area

We request that NOAA Fisheries calculate and credit the risk reduction benefit of the original Mass Bay Restricted Area closure that was implemented in 2015. This measure is likely the single most important and effective management measure in place in all of U.S. waters. In 2019, DMF advocated to NOAA Fisheries and the Atlantic Large Whale Take Reduction Team (ALWTRT), that this measure be credited to the MA risk reduction responsibility even though it was implemented prior to the 2017 reference year. There was broad support by the ALWTRT and NOAA Fisheries to credit Massachusetts for this measure. It was DMF's and the MA fishing industries' understanding that credit was going to be given. However, in subsequent rule making NOAA Fisheries decided not to credit Massachusetts for the closure. At the heart of the issue is that NOAA Fisheries selected 2017 as the reference year because this was the year that an Unusual Mortality Event was first declared by NOAA Fisheries. DMF understands the significance of this and recognizes that there was a very substantial mortality event that started in that year.

However, NOAA Fisheries published data demonstrate that NARW population started to decline seven years earlier – beginning in 2010. In fact, due to concern over stock decline, NOAA Fisheries developed and implemented the MBRA in 2015, recognizing that the aggregation of NARW's in Cape Cod Bay is the largest and most important in the world. At the time of implementation NOAA Fisheries did not possess an evaluation tool to calculate risk reduction.

The large mortality event in 2017 largely consisted of entanglements and ship strikes that occurred in the Gulf of St. Lawrence. Notably, there have been no serious injuries or mortalities attributable to fishing gear in MA state waters despite hosting the largest aggregation of NARW in the world. This speaks to the effectiveness of the MBRA. Furthermore, as is common in any model estimates, the model fitted annual abundance and mortality estimates from the NOAA Fisheries state-space population model for NARW's are sensitive to model input values several years prior and after any reference period. Consequently, estimates for the 2017 reference years are influenced by trends in abundance, birth rates, and mortality in 2015 (before and after).

Finally, the currently used mortality estimate which is gauged against Potential Biological Removal (PBR) is the average mortality from 2015 to 2019. This reference period for mortality includes 2015, the year the MBRA was implemented. Clearly, based on the use of a 2015 to 2019 reference period for mortality, NOAA Fisheries recognizes the importance of population trends and management measures in place in 2015. It is our opinion, based on all the previous mentioned reasons, it is critical and completely justified to credit the risk reduction attributable to the original MBRA closure. Not doing so puts MA- based fishermen at a real disadvantage and completely ignores the extremely valuable contribution to conservation they have made.

Update the mortality estimates to include 2020 and 2021 data

We request that NOAA Fisheries update annual mortality estimates to include more recent data. The current reference period for mortality is the 2015-2019 average. This value likely over-estimates the current average mortality rate that the population is experiencing. This average is largely influenced by extremely high mortality rates observed between 2015 and 2019. Since, 2019 the annual observed mortality rates have substantially decreased. Updating the five-year average to include 2020 and 2021 would likely reduce the 5-year average mortality rate and reduce the amount of risk reduction necessary to reduce mortality to below PBR. Even a few less percentage points of necessary risk reduction might provide some fisheries with substantial relief from additional management measures. We understand that updating the mortality estimates is labor intensive and requires a full analysis of all ID photos for the years in question. But given the importance of using the best available science, along with the huge burden that risk reduction poses to the fishing industry, it is NOAA Fisheries' duty to allocate the necessary staff resources to expedite updating these values. We believe that if mortality observations in 2020 and 2021 were very high, there would be a strong effort by the government to update these mortality rates for immediate inclusion in management.

Test DST model's sensitivity to the stanza of years of whale sightings used in the Duke Whale Model

We request that NOAA Fisheries test the DST model's sensitivity to the stanza of years of whale sightings data used in Duke Whale Density Model. The Duke Whale Density Model currently uses NARW sightings from 2010 through 2021. This time periods spans a period when NARW have dramatically changed their seasonal distribution. Using such a long time period to estimate average whale density when there are observed changes in NARW distribution has the potential to bias density estimates in specific areas. It has the potential to overestimate the importance of areas where whales may no longer be present, and to underestimate the importance of areas that NARW's currently use. We suggest that whale density estimates be broken down into 5-year stanzas to more accurately account for changing whale distributions over the last decade. We understand that a longer time series provides more stability in model estimates. However, sacrificing model precision may be warranted to more accurately reflect current whale distribution. It is our opinion that average whale density from a 12-year time series of observations, when there are significant changes in whale distribution, does not accurately reflect current whale distribution and has the potential to misrepresent actual entanglement risk.

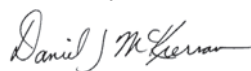
Request that NOAA Fisheries negotiate with court/plaintiffs to delay action until empirical data are collected on effectiveness of weak rope (1,700 lbs. breaking strength) and buoy line marking by jurisdiction to effectively and responsibly reduce risk

Massachusetts fixed gear fishermen have been deploying fully weak buoy lines since May 2021 that are also uniquely marked. Additionally, other states' fishermen deployed some form of weak ropes and gear marking for the first time in 2022. The risk reduction provided by the deployment of weak rope is modeled in the Decision Support Tool. We are hopeful that empirical data on reported and documented entanglements will soon demonstrate the benefits of weak rope are higher than anticipated. Moreover, the buoy line marking scheme is already revealing locations of entanglement events, providing useful information on the potential risk posed by certain jurisdictions. Beginning next year all federally permitted lobstermen will be required to install vessel trackers which will provide unprecedented precision of fixed gear fishing locations. Within one to two years, we will have a more informed understanding of the benefits of weak rope and entanglement locations revealed through gear marking strategies, as well as a complete accounting of lobster trap fishing locations in the EEZ. This will enhance the precision and effectiveness of the DST and promote more effective management of risk.

Conservation measures developed at caucus meetings to be run through the DST model for risk reduction value

DMF conducted four industry caucus meetings across the state the week of October 9, 2022 to elicit feedback from trap and gillnet fishermen about potential risk reduction measures. We worked with Burton Shank from the Northeast Fisheries Science Center and other NOAA staff to develop a list of risk reduction measures to run through the DST for analysis and potential inclusion in a strategy to further reduce risk in state and federal waters portions of our region. They are listed below.

Sincerely,



Daniel J. McKiernan, Director



Robert Glenn, Deputy Director & ALWTRT Member

RISK REDUCTION MEASURES FOR CONSIDERATION

MA & NH state & federal waters, Area 1, Lobster

- Implementation of 100% weak in federal waters of southern LMA1
- Implementation of 75% weak in federal waters of southern LMA1
- Implementation of 75% weak in federal waters of southern LMA1
 - + trawling up 3-6nm min trap/rawl= 15
- Implementation of 75% weak in federal waters of southern LMA1
 - + trawling up 3-6nm min trap/rawl= 15
 - + trawling up 6-12nm min trap/rawl=20
- Implementation of 75% weak in federal waters of southern LMA1
 - + trawling up 3-6nm min trap/rawl= 15
 - + trawling up 6-12nm min trap/rawl=20
 - + permanent closure of the "wedge"/"gap" area for Feb-Apr (also see effect of extending to May 15)
- Implement closure all of stat 514 and Fed waters north to the border of Maine Zone G in January and February (lines out)
- Implement closure all of stat 514 and Fed waters north to the border of Maine Zone G in March and April (lines out)
- Implement closure all of stat 514 and Fed waters north to the border of Maine Zone G in Feb to May 15 (lines out)

MA state & federal waters, Area 1 and OCCLMA, Lobster and OTP

- Implementation of weak in federal waters off southern LMA1 and LMAOCC
- Implementation of 75% weak, federal waters off southern LMA1 and LMAOCC
- permanent closure of the "wedge"/"gap" area for Feb-Apr (also see effect of extending to May 15)
- Implement closure all of stat 514 and Fed waters north to the border of Maine Zone G in January and February (lines out)
- Implement closure all of stat 514 and Fed waters north to the border of Maine Zone G in March and April (lines out)
- Implement closure all of stat 514 and Fed waters north to the border of Maine Zone G in Feb to May 15 (lines out)
- Extended Mass state waters trap closure from January 15th through May 15th
- Close southeastern portion (east of a line from Race Point to Barnstable Harbor) of CCB from December 1st to May 15th
- Ban on fishing single traps December and January in all MA state waters
- LMAOCC closure in December and January (lines out – evaluated separately and in combo)
- 10 pot trawl minimum in all MA state waters December and January

MA & RI state & federal waters, Area 3, Lobster and OTP

- 10% buoy line reduction
 - All year
 - Hot spot months
- 20% buoy line reduction
 - All year
 - Hot spot months
- 30% buoy line reduction
 - All year
 - Hot spot months
- 40% buoy line reduction
 - All year
 - Hot spot months
- 50% buoy line reduction
 - All year
 - Hot spot months
- Total closure of all LMA 2 (MA & RI) in Feb - Apr (lines out)
- Total closure of LMA 2 all year round
- Closure of OTP in MA state waters from Dec 15 – Apr 15
- Closure of OTP in MA state waters from Dec 15 – May 15
- 75% weak rope, all Area 2
- Closure of all LMA2 and extensions into hotspot areas Feb 1 to April 30th
- Endline cap with 50% buoy line reduction in LMA3

MA & RI state & federal waters, Gillnet

- Implement a 10 endline cap for all SNE monkfish/skate sink gillnet fishers
- Incorporate changes in set length since 2017
- Evaluate change in latent permits since 2017
- Panel up to minimum of 20 panels per two buoy lines
- Panel up to minimum of 25 panels per two buoy lines
- Spatial closure (lines out) to gillnets same boundaries as SIRA (plus small wedge of fed waters north of 41° 20") Feb 1 to April 30th
- Spatial closure (lines out this is equivalent to the discussion on closing "north of 43600") to gillnets from Feb 1 – April 30. Boundary as follows:
 - Northern boundary – 41° 20" plus small wedge of federal waters north of 41° 20" to state waters line
 - Southern boundary – 41° 40"
 - Western boundary – 71° 30"
 - Eastern boundary - 70°
- Spatial closure (lines out) to gillnets same boundaries as SIRA (plus small wedge of fed waters north of 41 20) Feb 1 to April 30th
 - + 75% weak rope rule
 - + 20 or 25 panel minimum per two buoys

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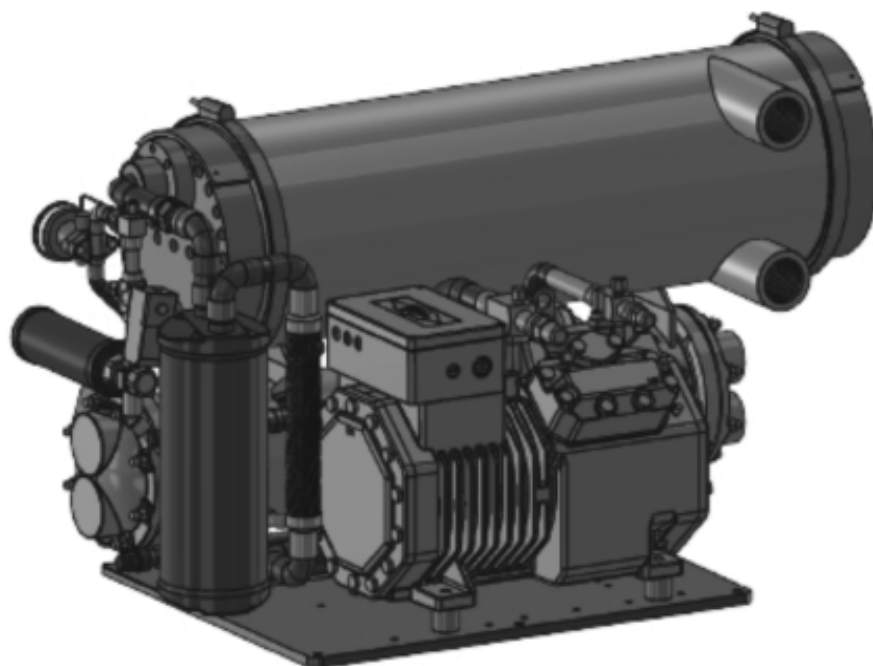
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The following can be attributed to Paul Grillo, Chief Operating Officer at H&H: "We are honored to receive this ABS certification. This is an important development for our Northeast customers as we offer a certified, centrally located facility, proven quality workmanship, conducted in compliance with stringent ABS standards. With accelerating material costs and lead times we've all experienced, this service helps our customers reduce downtime, and in many cases, avoid costly shaft replacement. H&H's unparalleled expertise in shaft inspection and repair

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Congratulations to DMF staff

Congratulations to the Massachusetts Division of Marine Fisheries (DMF) staff; Bob Glenn, Mike Armstrong, Story Reed, Kevin Creighton, and Stephanie Cunningham who have been promoted to management. This re-structuring created five new management titles.

The new structure will have four second-level managers reporting directly to Director, Dan McKiernan: two Deputy Directors overseeing the science and monitoring aspects of DMF, and two Assistant Directors: one to oversee fiscal and facility operations and the other to oversee permitting, statistics, enforcement and compliance for state waters fisheries. A fifth management title was created for Stephanie Cunningham in her new role. Along with the two Environmental Analyst IV's (Melanie Griffin and Nichola Meserve) who already serve as the Directors' proxies on the federal Councils and the interstate Commission.

Bob Glenn will serve as the Deputy Director responsible for Shellfish, Habitat, and Invertebrate Fisheries, and Protected Species Section. This would entail oversight of four programs: Shellfish, Habitat, Invertebrate Fisheries, and Protected Species. It would include studies of climate change assessments and help address offshore wind energy development issues. Note: Shellfish and habitat issues frequently overlap and this position would help bridge the work products and collaboration between these two programs.

Mike Armstrong will serve as the Deputy Director responsible for overseeing Fisheries Biology Section, recreational and diad-

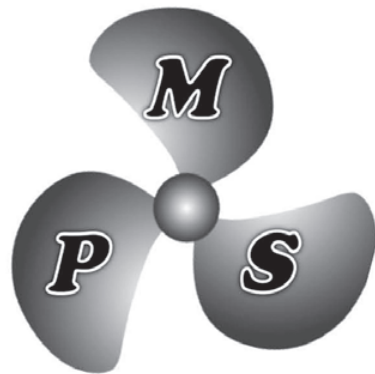
romous fisheries program. This role is largely unchanged for Mike, but the Assessment and Survey Program (including the Resource Assessment Trawl Survey) will be shifted to the Fish Biology Section. He will be responsible for the oversight of the daily operations at the Cat Cove Marine Lab in Salem.

Story Reed will serve as Assistant Director responsible for state fisheries management and policy. This would include work on state fisheries management, policy development, and the seafood marketing program. Duties would include oversight of DMF's statistics and permitting programs as well. Also, Story will oversee the Administrative Law Project and liaise with Department of Fish and Game (DFG) staff including the Chief of Staff, General Counsel, Information Technology staff, and others at the Department level on many of these activities. Jared Silva, who heads up the Administrative Law Unit and is DMF's regulations specialist, will report to Story.

Kevin Creighton is now the Assistant Director Responsible for Operations. This works includes DMF fiscal matters, capital assets, operations plans, and assistance to the Departments HR Director and fiscal officer.

Stephanie Cunningham is now in a management role and title: Fiscal Administration & Operations Manager. She will continue to oversee all federal aid and is now officially in charge of the daily operations at the Annisquam lab. As before, she will report to Kevin Creighton.

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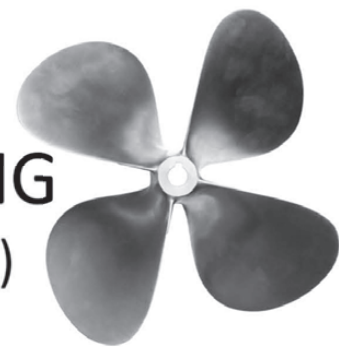
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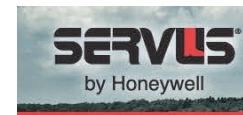
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MASSACHUSETTS DIVISION OF MARINE FISHERIES

LOBSTER TABLES

PRELIMINARY TABLE 1. Permit Information for the Massachusetts lobster fishery, 2014-2021¹

	2014 ²	2015	2016	2017	2018	2019	2020	2021
Coastal Permits								
Issued	1,170	1,139	1,116	1,088	1,081	1,066	1,047	1,031
Fished	715	704	704	714	712	698	661	663
Did Not Fish	371	350	317	308	309	315	319	296
Incomplete	20	14	15	8	10	11	11	16
Not Reporting	64	71	82	58	50	42	56	56
Offshore Permits								
Issued	163	159	154	171	156	150	137	133
Fished	73	63	66	66	75	70	65	59
Did Not Fish	11	10	8	9	7	7	6	9
Incomplete	3	1	2	1	0	2	2	2
Not Reporting	76	85	78	95	74	71	64	63
Offshore Non-Trap Permits								
Issued	237	235	242	236	236	242	246	231
Fished	93	90	90	83	75	70	80	74
Did Not Fish	8	9	13	10	8	8	8	6
Incomplete	4	2	0	3	3	1	1	0
Not Reporting	132	134	139	140	150	163	157	151
Seasonal (Student) Permits								
Issued	76	86	88	96	100	104	102	101
Fished	43	44	51	46	52	46	58	54
Did Not Fish	22	29	17	31	23	10	14	9
Incomplete	2	2	2	1	1	25	19	18
Not Reporting	9	11	18	18	24	23	11	20
Recreational Permits³								
Issued	7,635	7,046	6,535	6,427	6,118	6,481	6,244	5,771
Fished	3,964	4,086	3,782	3,599	3,412	3,353	3,343	3,026
Did Not Fish	1,215	1,203	1,125	1,099	1,107	1,032	1,104	n/a
Not Reporting	2,456	1,757	1,628	1,729	1,599	2,096	1,797	n/a

Data Sources: ¹ Trip-Level Reports (DMF and NMFS VTR data); ² As of 2014 federal reporting vessels (VTR) are no longer required to report if they "Did Not Fish" leading to an increase in the "Not Reporting" numbers; ³ Beginning in 2021, reporting methods for recreational harvest changed and analysis is ongoing.

PRELIMINARY TABLE 3. Massachusetts commercial lobster landings, traps fished and estimated value for 2015-2021

	2015	2016	2017	2018	2019	2020	2021
Total Landings	16,956,310	18,467,688	17,218,843	18,439,451	17,866,857	16,797,873	17,029,592
Total Estimated Value	\$78,285,481	\$82,366,920	\$81,170,506	\$88,821,161	\$95,491,339	\$78,307,441	\$125,383,208
Total Traps Fished	379,692	397,822	403,339	398,148	380,402	369,029	361,481
Average Price (\$) / Lb	\$4.62	\$4.46	\$4.71	\$4.82	\$5.34	\$4.66	\$7.36
Ave. Lbs. / Trap-Haul	1.4794	1.5340	1.4922	1.6931	1.6801	1.690	1.621
Ave. Lbs. / Trap	42.59	44.44	40.57	44.35	44.85	43.29	44.57
Territorial (State Waters)							
Landings	10,134,923	11,083,697	10,226,598	10,753,269	10,271,565	9,039,659	9,573,878
Estimated Value	\$46,791,861	\$49,433,905	\$48,208,705	\$51,797,522	\$54,897,482	\$42,140,607	\$70,489,275
Trap Landings	10,057,797	10,980,152	10,125,850	10,630,391	10,167,670	8,997,134	9,521,291
Traps Fished	270,708	290,233	292,928	290,279	274,322	259,546	258,626
Non-Trap Landings	77,126	103,545	100,748	122,879	103,895	42,525	52,588
Non Territorial (Federal Waters)							
Landings	6,821,387	7,383,992	6,992,245	7,686,181	7,595,292	7,758,214	7,455,713
Estimated Value	\$31,493,620	\$32,933,015	\$32,961,801	\$37,023,639	\$40,593,857	\$36,166,834	\$54,893,933
Trap Landings	6,114,429	6,699,237	6,238,456	7,029,161	6,892,240	6,976,830	6,589,814
Traps Fished	108,984	107,589	110,411	107,869	106,080	109,483	102,855
Non-Trap Landings	706,958	684,755	753,789	657,020	703,052	781,384	865,899

Data Sources: Trip-Level Reports (DMF and NMFS VTR data), SAFIS Dealer Database

TABLE 4. Number of active commercial lobstermen and lobster landings, not including seasonal permits by homeport for 2021

Homeport data taken from vessel information on permit applications. In cases where no vessel or homeport was specified, the primary port of landing was used. Catch data encompasses all reported landings, regardless of gear type, while effort data represents only trap effort. Shaded areas denote towns which rank in the top 10 for either number of fishermen, total catch, or total effort. Some cities and towns are combined to protect the confidential nature of the data.

City / Town	Number	Rank	Territorial	Non-Territorial	Total	Percent	Rank	Traps	Percent	Rank
Barnstable	6	25	33,330	0	33,330	0.20%	35	2,050	0.57%	33
Beverly	21	14	571,692	196,552	768,244	4.51%	6	12,603	3.49%	10
Boston	32	8	298,875	171,269	470,144	2.76%	10	11,530	3.19%	11
Bourne-Falmouth	4	26	*	*	35,281	0.21%	34	338	0.09%	39
Chatham	31	9	120,181	339,313	459,494	2.70%	11	9,162	2.53%	12
Cohasset	25	12	216,063	136,876	352,939	2.07%	14	8,274	2.29%	14
Danvers	3	27	48,147	0	48,147	0.28%	33	1,400	0.39%	35
Dartmouth-Fairhaven	14	18	56,450	38,328	94,778	0.56%	28	2,911	0.81%	29
Dennis	12	20	56,552	0	56,552	0.33%	32	4,324	1.20%	24
Duxbury	4	26	*	*	2,413	0.01%	39	161	0.04%	40
Eastham-Wellfleet	12	20	111,342	27,420	138,762	0.81%	24	4,610	1.28%	22
Essex-Ipswich	8	23	13,211	0	13,211	0.08%	37	964	0.27%	37
Gloucester	137	1	1,656,225	2,187,373	3,843,598	22.57%	1	60,402	16.71%	1
Harwich	7	24	17,835	98,321	116,156	0.68%	26	2,537	0.70%	30
Hingham	8	23	*	*	154,055	0.90%	22	4,470	1.24%	23
Hull	19	15	279,265	57,548	336,813	1.98%	15	9,050	2.50%	13
Islands ²	27	11	51,361	81,124	132,485	0.78%	25	5,883	1.63%	17
Kingston	3	27	19,543	0	19,543	0.11%	36	1,160	0.32%	36
Manchester	16	16	132,729	0	132,729	0.78%	25	4,962	1.37%	21
Marblehead	42	5	633,750	50,816	684,566	4.02%	7	17,067	4.72%	6
Marshfield	50	4	818,679	296,759	1,115,438	6.55%	4	29,040	8.03%	2
Marion-Mattapoisett	7	24	*	*	66,092	0.39%	31	2,124	0.59%	32
Nahant	15	17	353,372	21,787	375,159	2.20%	12	5,868	1.62%	18
New Bedford	42	5	56,432	1,824,716	1,881,148	11.05%	2	23,030	6.37%	4
Newburyport	4	26	70,466	28,993	99,459	0.58%	27	2,250	0.62%	31
Orleans	14	18	*	*	170,387	1.00%	21	5,239	1.45%	19
Plymouth	52	3	800,044	108,712	908,756	5.34%	5	26,320	7.28%	3
Provincetown	33	7	297,323	68,055	365,378	2.15%	13	12,794	3.54%	9
Quincy	3	27	9,185	0	9,185	0.05%	38	558	0.15%	38
Revere-Winthrop	10	21	88,512	0	88,512	0.52%	29	3,329	0.92%	28
Rockport	54	2	763,921	530,288	1,294,209	7.60%	3	17,772	4.92%	5
Salem	10	21	*	*	187,353	1.10%	20	3,711	1.03%	26
Salisbury	4	26	*	*	116,361	0.68%	26	2,250	0.62%	31
Sandwich	23	13	272,026	251,238	523,264	3.07%	9	13,539	3.75%	8
Saugus	13	19	*	*	227,940	1.34%	19	7,400	2.05%	16
Scituate	34	6	352,611	261,745	614,356	3.61%	8	14,250	3.94%	7
Swampscott	10	21	236,824	0	236,824	1.39%	18	5,903	1.63%	17
Truro	9	22	48,077	96,335	144,412	0.85%	23	3,855	1.07%	25
Westport	9	22	33,359	281,085	314,444	1.85%	16	5,058	1.40%	20
Weymouth	6	25	55,598	22,715	78,313	0.46%	30	3,461	0.96%	27
Yarmouth	4	26	34,926	0	34,926	0.21%	34	1,930	0.53%	34
Out Of State	29	10	33,398	251,039	284,437	1.67%	17	7,942	2.20%	15
Statewide Totals	866		9,485,751	7,543,840	17,029,592			361,481		

¹The number of "Traps" for each city/town represents the sum of each individual's maximum traps fished for the year; ²The town of Chilmark, Edgartown, Gosnold, Menemsha, Nantucket, Oak Bluffs and Tisbury are all included under "Islands"; *Confidential Data





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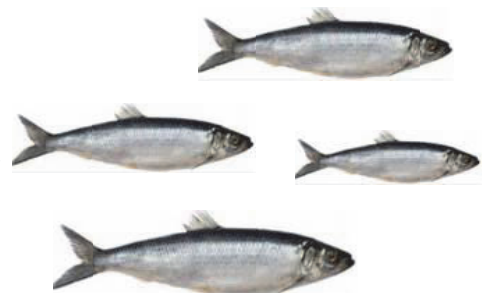
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Currently, the MLA is actively engaged in three separate lawsuits that could have negative impacts on the commercial lobster industry and is working with multiple lawyers in Washington D.C. and here in the Commonwealth to fight for you and your industry.

UPDATE OCTOBER 25, 2022 – (Washington D.C.) Case 1:18-cv-00112-JEB - CENTER FOR BIOLOGICAL DIVERSITY et al v. ROSS et al, the Plaintiffs requested that the Court issue an order:

1. Declaring that NMFS violated the ESA and APA for issuing an ITS in the 2021 BiOp for zero lethal right whale take in the federal fishery without first authorizing incidental take under the MMPA, 16 U.S.C. § 1371(a)(5)(E);
2. Declaring that NMFS violated the ESA and APA by anticipating but not authorizing lethal take in the federal lobster fishery in the 2021 BiOp ITS;
3. Declaring that NMFS violated the MMPA and APA in issuing a final rule amending the Plan that failed to contain the measures the agency expected would reduce right whale M/SI in the U.S. lobster fishery in both state and federal waters to below PBR within six months of implementation;
4. Vacating and remanding the 2021 BiOp with respect to the right whale and the federal lobster fishery with vacatur stayed for six months and ordering NMFS to produce a new biological opinion that includes fully complies with the requirements of the MMPA and ESA in authorizing any anticipated lethal take of right whales in the federal lobster fishery; and
5. Remanding without vacating the Final Rule and ordering NMFS to issue a new rule within six months of the order that contains the measures NMFS expects will reduce right whale M/SI in the U.S. lobster fishery to below PBR within six months of the rule's implementation.

While we obviously do not agree with their analysis, science, and most of what they seek (including their apparent opposition to weak rope and intent to push the industry into ropeless fishing), **we are encouraged by the fact that we (and others) were able to persuade the NGO's to not seek a restraining order concerning our lobstermen's ability to fish even if the Court vacates and remands the 2021 BiOp and orders NMFS to produce a new biological opinion**, that, in the Plaintiffs or in the Court's view, fully complies with the requirements of the MMPA and ESA. As it now stands, the CBD Plain-

tiffs request that, if the Court vacates and remands the 2021 BiOp and orders NMFS to produce a new BiOp and Final Rule, our fishermen be able to continue to fish as-is for at least 6 months post Court decision and until NMFS fashions a new BiOp and new Final Rule.

NMFS's remedy brief (limited to 30 pages) was filed on September 19, 2022. In its briefing, NMFS proposed the Court set a date of **December 9, 2024**, for it to issue a TRP amendment remedying the deficiencies in its. As part of this proposal, NMFS also requested that the 2021 BiOp be remanded without vacatur through to December 9, 2024.

NMFS noted the extreme difficulty it would have in meeting Plaintiff's proposed six-month deadline and explained that it would need to take in additional research and data, including on death dispersions from Canada and the US, to make a proper ITS. This is encouraging to see, as the Court recently determined that NFMS's method for assigning deaths between Canada and the US was reasonable (although we strongly disagree).

However, a large part of NMFS's proposed remedy was focused on implementing and advocating a migration away from VBR which is of course untenable for the vast majority of our members.

We submitted our Remedy Brief on October 7, 2022. In our brief we requested that the Court remand without vacatur, so as to keep the Biological Opinion in place while NMFS issues a new regulation. We also requested that the Court not set a hard deadline for NMFS to finish, but rather to require 6-month status updates to give NMFS the time it needs to do this right. Interestingly, the other Intervenor Defendants adopted our strategy, requesting 6 month status updates.

Plaintiff's Reply Brief was filed on October 21, 2022.

The remainder of the briefing schedule is as follows:

All these are on MLAs website home page under the Right Whale Litigation and Management updates.

UPDATE SEPTEMBER 21, 2022 – (D.C.) Maine Lobstermen's Association, et al. v. NFMS

ORDER GRANTING SUMMARY JUDGMENT - Judge Boasberg has issued his summary judgment order in MLA v. NMFS ruling against the Maine Lobstermen's Association (and us) on every single ground we raised challenging the 2021 BiOp. This is a very disappointing order that we appealed to the D.C. Circuit. In his Order, Judge Boasberg did the following:

1. The Court then found that several grounds raised by the Maine Lobstermen's Association should have been brought in the complaint and, because they were not, the Court would not consider them. This includes the following arguments: (Opinion at 11)

- a. Regularly Flexibility Act
- b. MMPA's purposes
- c. Composition of the take-reduction team

2. Turning to the challenges to the BiOp itself, the Court first ruled as a general matter that NFMS applied the "best scientific and commercial data available", meaning that challenges to NFMS' scientific determinations were not going to succeed. It made this ruling on the basis that data was limited and the agency made valid determinations within the range of scientific judgment

a. As part of this conclusion, the Court dismissed the argument that the NFMS' Consultation Handbook required different scientific analysis by determining that it only requires using the best scientific, which the Court believed NFMS used

3. We then arrive at the more specific claims that was raised against NFMS

a. US/Canada Allocation: The Court determined that the data about where deaths were occurring was uncertain so it was fair for NFMS to use a 50/50 split, especially when the Center for Independent Experts determined the approach was "reasonable".

b. Unknown Origin Entanglement: The Court determined that the unknown origin death data was limited and that it wasn't unreasonable to attribute it to gillnet fishing and VBR especially since deaths seem to happen in VBR areas.

c. Cryptic Mortality: The Court determined that NFMS used a "rigorous peer reviewed method" developed by whale researchers to determine where deaths occurred and that the fact that whales migrate doesn't affect this.

i. The court also determined that natural mortality challenge was adequately explained by NFMS as mostly occurring to whale calves so adult deaths are likely caused by humans.

d. The Court also wholly rejected any reliance on harm mitigation methods deployed by MLA because NFMS did not have access to data on the mitigation measures but incorporated the effects into its modeling as best it could

e. Finally, the Court determined that NFMS could use the "Linden model" and the Decision Support Tool because they are peer-reviewed and thus constitute best date

4. The Court rejected the argument that NFMS attributed too many deaths to the lobster industry, explaining that NFMS had to fall below the PBR because it was just one part of many government agencies impacting whale populations and thus could overestimate the harm

5. Having found that the BiOp survives the challenges against it, the Court then said that the Final Rule also survived because the only challenge to it was that the BiOp was invalid

At the end of its Order, the Court did note that it “fully expects that NMFS will continue diligently incorporating the latest information, considering the concerns of all stakeholders, and adapting to changing circumstances in making its future decisions”. (Order at 33).

We disagree with the Court on each of the grounds it found and will vigorously challenge them on appeal.

For the Appeal, the D.C. Circuit set a briefing schedule where Appellant (meaning Maine Lobstermen’s Association) and Appellant-Intervenor (meaning us, the Maine Lobstering Union, and the State of Maine) briefs are due on November 9, 2022. The D.C. Circuit originally only granted the Appellant-Intervenors two briefs between the three of them, with a total word limit of 9,100. After briefing, we now get our own brief of 4,050 word limits, MLU gets its own brief of 4,050 words, and the State of Maine get its own brief of 6,000 words.

Appellees (meaning NMFS) and Appellee-Intervenors (the NGOs) have their briefs due on December 20, 2022.

The Reply Briefs are due on January 10, 2023.

The commercial lobstermen’s businesses are at stake as well as the thousands of jobs and shore side businesses that depend upon the continued success of the commercial lobster industry. The commercial lobstermen in Mas-

sachusetts are NOT to the problem and have done everything asked of them by National Marine Fisheries Service and have been working under the strictest conservation rules for the right whales anywhere in the world since 2014. Yet here we are, still fighting these lawsuits to keep the Massachusetts commercial lobstermen fishing.

The Massachusetts Lobstermen’s Association has been actively involved in these lawsuits since 2018 and we need your generous support today to continue our fight to keep the commercial lobstermen fishing. As we all know, any legal action costs lots of money and over the last 5 years the Massachusetts Lobstermen’s Association Legal Defense Fund has spent over \$300,000 fighting these legal battles. These are real threats to the historic and iconic commercial lobster industry and we are doing everything to keep the Massachusetts commercial lobstermen fishing.

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Classified ads are a free benefit to MLA Members and Non-members are a flat \$25.00. Ads run for 5 months & will be automatically deleted unless you call the MLA office to renew. **781-545-6984** or email ads to: tracey.abboud@lobstermen.com
*All ads are subject to review prior to placement

AD #1 (10/22) **FOR SALE**– Area 1 Coastal Lobster Permit Call 508-824-0177.

AD#2 (9/22) **FOR SALE** – Trap Trailer 6x12 can hold approx. 50-3 footers. Good shape. \$1,200.00 Call Ben@ 978-578-8882.

AD#3 (10/22) **FOR SALE** – Hydraulic Components, parts and service. Pumps, Motors, Valves and Accessories. Hydraulic Hoses made while you wait. Great Prices–Same day service (in many cases)-Wide selection of in-stock items. Rebuilt items occasionally available. ROSE MARINE, Gloucester, MA 877-283-3334.

AD#4 (10/22) **FOR SALE** - 800 lobster pots 36 x 22 1/2 x 15 5 years old -new -all ground lines included. 10 pot trawls- all spliced. 3-brick in every pot-haul from starboard & kitchen. 10-12 gauge wire. Dick @ 774-218-4701 for more details.

AD#5 (9/22) **FOR SALE** – 24 Crosley net lift \$2,000.00, 15 ft. of 7 1/2 inch mooring chain \$50.00. 20lb. 3/4 stainless steel hog rings B.R.O. 20lb. 1/2 hog rings. 2 – 55 gallon barrels of 7/16th ground line B.R.O. 10-white pingers \$25.00 each Used Gillnets foam and standup B.R.O. Text Only 617-694-4802.

AD#6 (9/22) **FOR SALE** – Marine-land 55 gal Live Lobster Tank \$690.00 John @617-750-3263.

AD#7 (8/22) **FOR SALE** – Cold water dive suit w/all accessories-used once-still in boxes.\$2,000.00 Robert 617-240-5196.

AD#8 (9/22) **FOR SALE** – 38 ft Novi fiberglass over wood- John Deere 6068. 225hp 5,670 hours on Engine-Steamers @8.5/9 knots 14 hauler Simrad Autopilot Inside/Outside steering stations- 150 gal fuel tank-Lobster tank holds 600lbs. Furuno GP-39 S inside- Furuno GP- 32 GPS outside- Furuno Radar, Furuno FCV-292 color video sounder-2VHF. Inside/Outside 2 computer monitors, one face inside- other faces outside

steering station. Very quiet engine. Asking \$15,000.00 Call- 978-290-9929.

AD#9 (11/22) **FOR SALE** – 35 lobster boat McPherson built of wood in Nova Scotia in 1976 – glassed over approx. 8 years ago, repowered w/ 1991 120 hp 6cyl Mitsubishi goes up to 9 knot on 1 1/2 gal/hr new exhaust & auto-pilot 2 years ago. Trap ramp, bunks, electronics ect. Boat currently fishing-will be available for purchase December 16th \$25,000 -Call (508) 939-1231.

AD#10 (11/22) **WANT to buy used** - insulated tubs with lids. mrfish@mrfish.com or Ted 843-267-3473.

AD#11 (10/22) **FOR SALE** - Warp–Used & some new, mostly knot free. 76 lbs. 5/16, 33 lbs. 3/18 \$99 takes all 508-269-1406 Plymouth.

AD#12 (10/21) **FOR SALE** - 18 Wooden Lapstreak Skiff. In remarkable condition. Bottom was fiber-glassed before first used. All heavy duty oak ribs, stiffeners, ribs & floor cleats. Excellent boat for coastal/harbor fishing, or for lugging traps. Will send picture upon request. \$1,990.00 or BRO. 508 269-1406.

AD#13 (7/22) **FOR SALE** - Bronze dual ram steering Quadrant-Freeman Oval hatch-15x23 opening SS mast base. 2 2ft., outriggers-no base-Mike 978-745-6182 leave message.

AD#14 (11/22) **WANTED** – Double drum winch-45ft Boat-Call 978-283-2550.

AD#15 (9/22) **FOR SALE** – 12 Electra-dyne hauler & davit. \$1,800.00 John @ 617-750-3263.

AD#16 (9/22) **FOR SALE** – Fiberglass mold/Swampscott style square bow 10 ft. flat bottom work skiff \$950.00 Call- 978-578-8882.

AD#17 (6/22) **HELP WANTED** – Lobster Boat located in Marshfield is looking for help for the 2022 fishing season. Experienced preferred but

will train. No drama, no drugs & must have own transportation. 781-767-4130/508-510-7792.

AD#18 (10/22) **FOR SALE** – 24' Privateer, 5.7L Crusader low hours, Honda hydraulic power pack with 10' hauler. S.S. Davit. Plotter, sounder, radar, VHF. New cockpit floor & deck with 2' stern extension. Rigged for pot hauling. Ready to fish. \$16,000. Area 2 coastal Mass lobster permit, 90 pot allocation \$25,000. Selling as a package, boat & permit \$35,000. Located in Oak Bluffs. 774-563-0393.

AD#19 (8/22) **FOR SALE** – 200-LMA 2 EEZ/inshore dual zone trap tags \$27,000 Call - 508-542-5729.

AD#20 (6/22) **FOR SALE** - 1,000 hooks new tub trawl-gear W/ anchors, 180 buoy lines. B.R.O. Bryan @ 508-221-8568.

AD#21 (11/22) **FOR SALE** - 1987 Daniels Head 39' 11" Fiberglass Gillnet boat. 207HP Mitsubishi D14.14 T Diesel engine (1992), Twin Disc 506 trans, complete electronics, 2 berth, 6'x5' aluminum gill net reel with stainless frame, 2 fish holds, 2 insulated deck boxes, rollers, 2 bus heaters, vessel in good condition – new fuel tank, new paint/fiberglass/fish boxes (2022). \$79,500 or B.R.O. Fed Permit Monkfish B with around 80 nets and 16 dog nets with buoy st anchors \$45,000. Federal directed shark permit \$15,000.- Call 609-294-1628 /text for pictures 609-713-5228 .

AD#22 (10/22) **FOR SALE** - Area 1 lobster permit, 800 pots-\$25,000.00 B.R.O. Call 774-283-2191.

AD#23 (8/22) **FOR SALE** - 100 traps 36x21x15 \$10.00 each Life Raft \$500.00 Call- 508-577-4868.

AD#24 (8/22) **FOR SALE** - LMA-1 Federal lobster permit, 800 trap allocation, good history \$38,000.00 978-578-8882.

AD#25 (9/22) **LINE FOR SALE** - 3-10 pot trawls of 7/16" Everson line-14 Fathom between traps-7/16" gangions-2 – 20 F x3/8 "buoy lines-In totes included -\$60.00 / trawl Joel @ 781 581 0324 or E-mail joel.w.marie@gmail.com.

AD#26 (9/22) **FOR SALE** - 5" Superior hauling block-Aluminum construction with stainless sheave \$250.00 Joel @ 781 581 0324 or E-mail joel.w.marie@gmail.com.

AD#27 (9/22) **FOR SALE** - Spare new stainless sheave for 5" Superior block-\$150.00 Joel @ 781-581-0324 or E-mail joel.w.marie@gmail.com.

AD#28 (6/22) **FOR SALE** - two aluminum propellers 13.5x15 & 14x11 for Evinrude outboard were on 115 HP, great condition \$50. each Ipswich 978-356-4525.

AD#29 (9/22) **FOR SALE** - Area 2 lobster permit 128 tag limit \$21,000.00 774-775-2827.

AD#30 (9/22) **FOR SALE** - 22ft. Siso Lobster boat 150HP Evinrude OB needs work has 12 hydraulics hauler runs off Honda hydraulics power pack needs work & comes with trailer. Asking \$13,000.00 or B.O. Robert @ 5:00p.m. 617-846-3714 or 617-650-3842.

AD#31 (9/22) **FOR SALE** - #1 Bellhousing 2:1 gear reduction – re-built 51 14A – twin disc transmission- Down Angle-North Atlantic Power Products. 0- hours. 1000 hours or 6-months warranty. \$17,200.00 Peter @ 203-627-6070.

AD#32 (10/22) **FOR SALE** - Lobster Boat-1968 Novi fiber glassed over wood. John Deere 2011 Call for more info-978-290-9929 \$13,500.00.

CAT MARINE ENGINES

Tier 3 Commercial Line-up

C7.1



C7.1 Tier 3 Commercial Ratings:

280 HP @ 2300 Heavy Duty "B" **IN STOCK**
350 HP @ 2500 Maximum Continuous Duty "C" **IN STOCK**
400 HP @ 2600 Intermittent Duty "D" **IN STOCK**
425 HP @ 2700 Intermittent Duty "D" **IN STOCK**

C9.3



C9.3 Tier 3 Commercial Ratings:

375 HP @ 1800 Heavy Duty "B"
416 HP @ 2100 Maximum Continuous Duty "C"
476 HP @ 2300 Intermittent Duty "D"

C18



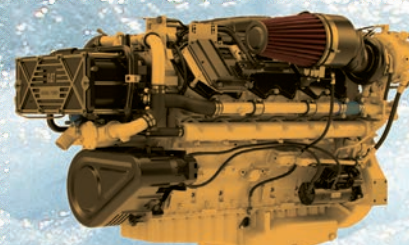
C18 Tier 3 Commercial Ratings:

470 HP @ 1800 Continuous Duty "A"
600 HP @ 1800 Continuous Duty "A"
670 HP @ 1800-2100 Heavy Duty "B"
715 HP @ 1800-2100 Maximum Continuous Duty "C"
803 HP @ 2100 Intermittent Duty "D"

* Tier 4 Exempt Light Commercial Ratings:

1,001 BHP @ 2300
1,136 BHP @ 2300

C32



C32 Tier 3 Commercial Ratings:

750 BHP @ 1600-1800
800 BHP @ 1600-1800

AUTHORIZED MARINE DEALERS

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Stonington, ME

Dennis' Welding & Marine

Beals, ME

Front Street Shipyard

Belfast, ME

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Rockland, ME

Fairhaven Shipyard & Marina, Inc.

Fairhaven, MA

Guy Crudele Repair

Gloucester, MA

Sacchetti Marine and Industrial LLC

Plymouth, MA

Windward Power Systems

Fairhaven, MA

DePaul Diesel Services, Inc.

Portsmouth, RI

Hinckley Yacht Service

Portsmouth, RI

Rhode Island Engine Company, Inc.

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*All T4 Exempt Light Commercial Ratings, require qualifications review and approval by CAT Factory.

*Contact Nick Fawle or Your Authorized Marine Dealer for Tier 4 exemption qualification details.

For Marine Engine Sales, contact Nick Fawle, our new Marine Market Manager.

Nick Fawle at 603-484-5248

Nick_Fawle@miltoncat.com

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