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U.S. DEPARTMENT OF COMMERCE**

**HEARING ON  
NORTH ATLANTIC RIGHT WHALES**

**BEFORE THE  
COMMITTEE ON NATURAL RESOURCES  
SUBCOMMITTEE ON WATER, OCEANS, AND WILDLIFE  
U.S. HOUSE OF REPRESENTATIVES**

**March 7, 2019**

Chair and Members of the Subcommittee, I am Chris Oliver, Assistant Administrator for the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) within the Department of Commerce. Thank you for inviting me to testify today on North Atlantic right whales. NMFS is responsible for the stewardship of the nation's ocean resources and their habitat. We provide vital services for the nation: productive and sustainable fisheries, safe sources of seafood, the recovery and conservation of protected resources, and healthy ecosystems—all backed by sound science and an ecosystem-based approach to management.

**About the Species and Our Role**

The North Atlantic right whale is one of the world's most endangered large whale species, with an estimated 411 individuals remaining. By the early 1890s, commercial whalers had hunted right whales in the Atlantic to the brink of extinction. After commercial whaling stopped, right whales had several decades of slow recovery and by 1992, there was an estimated minimum population of 295 individuals. In the early 1990s, the successful implementation of measures aimed at reducing the primary threats, identified through extensive collaboration among stakeholders, resulted in further growth of the population to approximately 481 individuals in 2010. However, since 2010, North Atlantic right whales have experienced another period of decline. Because the population is very small, its status can change quickly. In addition, North Atlantic right whales have made recent, large-scale changes in their habitat use, spending more time farther offshore and to the north, likely in pursuit of better zooplankton foraging opportunities.

North Atlantic right whales are protected under both the Endangered Species Act and the Marine Mammal Protection Act. They have been listed as endangered under the ESA since 1970 and as such, NMFS developed and is implementing a North Atlantic Right Whale Recovery Plan. The ultimate goal of the Recovery Plan is to recover the North Atlantic right whale, with an interim goal of down-listing its status from endangered to threatened. The major actions recommended in the Recovery Plan include reducing or eliminating injury and mortality caused by vessel collisions or by fishing gear, protecting habitats essential to the survival and recovery of the species, and minimizing the effects of vessel disturbance.

NMFS and our partners are committed to conserving and rebuilding the North Atlantic right whale population using a variety of innovative techniques to study, protect, and rescue these endangered whales. We also engage our partners as we develop regulations and management plans that foster healthy fisheries and reduce the risk of entanglements, create whale-safe shipping practices, and reduce impacts from ocean noise.

### **Efforts Underway**

NMFS is working to protect this species on multiple fronts, with the goal that its population will increase. The leading causes of known mortality for North Atlantic right whales are vessel strikes and entanglement in fishing gear.

### **Vessel Strikes**

Collisions between whales and vessels often go unnoticed and unreported. However, research demonstrates that the probability of large whale mortality and serious injury from vessel strikes increases with increasing vessel speed. Thus, NMFS has taken several steps to reduce the threat of vessel collisions with North Atlantic right whales, including requiring vessels to slow down in certain areas and during seasons when whales may be present, encouraging voluntary speed reductions in Dynamic Management Areas, recommending alternative shipping routes and areas to be avoided, modifying international shipping lanes, developing right whale alert systems and mandatory vessel reporting systems, increasing outreach and education, and improving our stranding response.

Since 2008, NMFS has limited vessel speeds to 10 knots for vessels 65 feet or greater in overall length in Seasonal Management Areas along the U.S. east coast at certain times of the year. In the 10 years prior to implementation of the vessel speed regulation, there were 11 confirmed U.S. right whale mortalities due to vessel strikes, but in the 10 years since the regulation has been active, only 3 were documented in U.S. waters.

NMFS is currently conducting a review of its vessel speed restriction rule (pursuant to 50 CFR 224.105). The review will culminate in a report that will assess: economic impacts to the maritime community, vessel traffic compliance with the rule, impacts to navigational safety, conservation benefits to right whales, and outreach activities conducted to date. Staff and contractors are analyzing the latest relevant data in collaboration with other agencies and scientists. The review is well underway, and we hope to have a final report issued by the end of FY19.

### **Entanglements**

Over more than two decades, NMFS has implemented management measures to reduce whale entanglements with the help of the Atlantic Large Whale Take Reduction Team—a group of stakeholders consisting of fishermen, scientists, and state and federal officials. Entanglement in fishing gear is a primary cause of serious injury and death for many whale species, including the North Atlantic right whale. We require commercial fishermen to use certain gear modifications that are meant to reduce entanglement risk to North Atlantic right whales and have established areas where fishing cannot take place during certain times when North Atlantic right whales are present.

However, entanglement in fishing gear continues to be a source of serious injury and mortality for this species; therefore, we are currently working with the Atlantic States Marine Fisheries Commission and the Take Reduction Team to develop management measures to further reduce the risk of entanglement in fishing gear. Specifically, the Atlantic Large Whale Take Reduction Team will be meeting during the week of April 22 to develop recommended changes to the Take Reduction Plan that would reduce the effects of fixed gear fisheries on North Atlantic right whales. NMFS expects the Take Reduction Team to consider recommendations for line reduction measures and additions or modifications to seasonal closure areas to reduce impacts of these fisheries on large whales as well as revised or expanded reporting, monitoring, and gear marking requirements which would allow NMFS to better evaluate the impacts of these fisheries to North Atlantic right whales.

### **International Collaboration**

NOAA is actively collaborating with Canada on the science and management gaps that are impeding the recovery of North Atlantic right whales in both Canadian and U.S. waters through ongoing bilateral negotiations. In March 2018, Canada adopted regulations applicable to its commercial fishing and maritime shipping industries to minimize gear entanglements and ship strikes in advance of North Atlantic right whales migrating into Canadian waters. In early February, these measures were further refined as Canada identified how it intends to protect North Atlantic right whales during the 2019 Canadian snow crab season in the Gulf of St. Lawrence.

In 2016, NMFS issued final regulations to implement the import provisions of the Marine Mammal Protection Act. Pursuant to these provisions, NMFS will evaluate Canadian fisheries from which fish and fish products are exported to the United States to assess the effectiveness of Canada's regulatory program in mitigating bycatch of marine mammals. Consultations on the applicable Canadian commercial fisheries will continue through March 2021 per the existing regulatory timeline for making comparability determinations. To date, NOAA has consulted with Canada's Department of Fisheries and Oceans to identify priority fisheries and elements of a comparable regulatory program to meet the required framework of the MMPA import provisions. Continuing our bilateral engagement and implementation of our respective regulatory regimes will ensure that the United States and Canada are fully complying with the MMPA and eliminating the risk of North Atlantic right whale entanglements in fisheries while ensuring sustainable fisheries and trade continue.

### **Atlantic IHAs**

Late last year, NMFS issued final authorizations under the Marine Mammal Protection Act to incidentally, but not intentionally, harass marine mammals to companies proposing to conduct geophysical surveys in support of hydrocarbon exploration in the Atlantic Ocean. The authorizations require the companies to implement mitigation measures to reduce the impacts of survey activities on marine mammals and set forth monitoring and reporting requirements. Our actions only address the taking or harassment of marine mammals incidental to the planned surveys. The Department of the Interior has jurisdiction over decisions to allow the surveys and any future drilling, pursuant to its authority under the Outer Continental Shelf Lands Act. NMFS can only issue an authorization for the incidental take (harassment) of small numbers of marine mammals if it finds that the taking associated with a specified activity will have a negligible

impact on the affected species or stock(s); and prescribes appropriate mitigation, as well as requirements for monitoring and reporting of such takings. After extensive analysis, NMFS developed rigorous mitigation, monitoring, and reporting requirements for the proposed Atlantic geophysical surveys. For North Atlantic right whales, we specified measures that limit activities in areas where they are expected to be present, including all designated critical habitat and additional seasonal management areas throughout the survey area. Specifically, the mitigation area restricts seismic operation within 90 km of the coast from November through April. Seismic operations are also required to be suspended if North Atlantic right whales are detected at an extended shutdown distance within 1.5 km of the vessel.

### **Next Steps**

As stated above, NMFS and our partners are committed to continuing the progress made in rebuilding the North Atlantic right whale population. At its February meeting, the Atlantic States Marine Fisheries Commission voted to develop an addendum to the Lobster Management Plan to consider measures to reduce the number of buoy lines used by American lobster fishermen by up to 40 percent. Since more than 90 percent of the buoy lines in the areas frequented by right whales are associated with the lobster fishery, this would represent substantial line reduction. A vote on whether to send the Addendum out for public comment could occur as early as the Commission's April 30 spring meeting, allowing final decision making in August 2019.

In addition, NMFS will continue to conduct science related to assessing the current status of whales, including monitoring calf production, and decreasing the risk of entanglements and vessel strikes. This work occurs from the Southeast to the Northeast and extends into Canadian waters, working in collaboration with colleagues at the Department of Fisheries and Oceans. On the topic of calves, despite unusually low recruitment to the population between 2012 and 2018, there has been some encouraging news lately with several births documented this calving season (7 calves as of February 20, 2019).

Thank you again for the opportunity to discuss North Atlantic right whales. I would be happy to answer any questions you may have.