

Commercial Fisheries News

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Magnuson important but don't ignore MMPA

After a difficult four-day Atlantic Trawl Gear Take Reduction Team (TRT) meeting in September, I am more convinced than ever that members of the commercial fishing industry can be sincere and effective advocates when we demonstrate unity, remain focused, and communicate with each other.

It's also clear that while we are primarily focused on the reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), we can't ignore the Marine Mammal Protection Act (MMPA), which can, and probably will, affect fishermen in every federally managed fishery.

By the fourth day of the TRT meeting, it was obvious to all of the fishing industry members and their representatives that the requirements of the MMPA, last amended by Congress in 1994 and currently up for reauthorization, can be as restrictive as the MSA.

These MMPA amendments, and their interpretation by the National Marine Fisheries Service (NMFS), often result in unrealistic constraints on the commercial fishing industry. Fishermen are required by this law to avoid an event that is nothing more than an unfortunate, infrequent, and unpredictable accident.

How can anyone conduct an efficient fishery and have no impact on marine mammals, particularly when most marine mammal stocks are increasing and the animals consider some fishing gears a convenient place to find food?

How can the fishing industry be held legally accountable for mammal interactions, which everyone must agree are purely accidental? The congressional action to impose these conditions, as reflected in the MMPA amendments of 1994, is unrealistic and unfair.

TRT process

A TRT is convened when a particular marine mammal stock is considered to be at a certain level of biological risk or, in some cases, when a settlement agreement

is reached as the result of a lawsuit.

In the case of the Atlantic Trawl Gear TRT, the plaintiffs were the Center for Biological Diversity and the Turtle Island Restoration Network. Oceana was part of the initial suit but backed out before the case against the secretary of commerce alleging violations of the MMPA was settled.

As a result of the settlement, the goal of the TRT is to identify industry-supported actions to reduce trawl gear interactions

with small cetaceans such as dolphins, porpoises, and pilot whales. These recommendations will be incorporated into a final take reduction plan (TRP), which will detail how the steps taken by industry will assist in the recovery or prevent the depletion of marine mammal stocks that interact with particular fisheries.

All TRPs have an immediate goal to reduce the incidental serious injury or mortality of marine mammals by commercial fishing below the potential biological removal (PBR) level. The PBR is defined as the maximum number of animals that can be removed from a stock while still allowing the stock to reach its optimum population size.

The long-term goal of a TRP is to reduce serious injury and mortality of marine mammals to insignificant levels "approaching zero" within five years.

In the Northeast, TRTs have been convened for bottlenose dolphins, harbor porpoise, small whales and dolphins, and large whales, and they have supported measures that apply to both fixed and mobile gears.

Industry unity

The initial Atlantic Trawl Gear TRT meeting took place during the week of Sept. 19 in Providence, RI. Twelve fishermen from the New England and Mid-Atlantic midwater and bottom trawl fisheries attended, along with NMFS staff, scientists, conservationists, and four industry advocates, including myself.

The industry members made well-considered suggestions throughout the long and drawn-out discussions. They all remained engaged for the entire four days, willingly and candidly sharing their experience and expertise in order to thoroughly address the serious issue of marine mammal interactions in their fisheries.

They identified current data gaps and analyses that will provide more insight into the circumstances that cause incidental takes of marine mammals. They also advocated for additional nonregulatory requirements such as continued and expanded research designed to find technological solutions to reduce

the number of interactions.

As a unified industry group, we addressed several administrative issues regarding the TRT process as well as some of the legal requirements of the MMPA. We requested that NMFS clearly define what the industry is legally required to do to conform to the MMPA and the settlement

agreement and to clarify the timeline and other requirements of the act.

Several members of the conservation community were not supportive of the industry request, taking the position that it wasn't a priority. Despite their opposition, our unified industry position was presented to the entire TRT, added to the final mitigation and options document,

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GUEST COLUMN

by Greg DiDomenico

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—Greg DiDomenico

Guest Column

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and identified as a priority for NMFS.

This small but significant result demonstrated to me as an industry advocate what we can accomplish when we ignore our fishery-to-fishery differences and work together for the common good.

MMPA disaster

Throughout this TRT process, we arrived at the conclusion that the current MMPA requirements are a combination of unrealistic protectionism and very conservative estimates of marine mammal stock assessments.

According to recent NMFS assessments, abundance estimates for pilot whales indicate there are 24,866 individual animals and that 210 of them are being removed annually from the population due to interactions with trawl gear.

The allowable level of pilot whale removal – the PBR – is 239 animals, so we are below the immediate level of concern.

However, NMFS recently interpreted a provision in the MMPA called the “zero mortality rate goal” (ZMRG) to require us to reduce annual mortality to 10% of PBR, which is considered to be a level that approaches zero loss.

In the instance of pilot whales the ZMRG number is approximately 24 animals. Similarly, common dolphins are at a population size of 99,975 animals with an annual fishing mortality of 119 and a PBR of 960, but the ZMRG level is set at only 96 animals. There are 37,904 Atlantic white-sided dolphins reported with an annual mortality rate due to fishing interactions of 38. The stock has a PBR of 364 and a ZMRG equal to only 36 animals.

Vicious cycle

It is inevitable that as we protect these animals the abundance of marine mammals will continue to increase, and this may unfortunately result in increased numbers of interactions.

While the population increases will be reflected through modest increases in PBR, the fishing industry is legally bound to achieve levels equal to ZMRG and reduce the rate of serious injury and mortality of marine mammals to insignificant levels approaching zero within five years. It is these overly conservative interpretations of the MMPA that are having, and will have, severe impacts to all fishermen and all fisheries.

As an industry representative, I truly appreciate the hard work and cooperative spirit from all of those who attended the TRT on behalf of the commercial fishing industry.

I look forward to working with all of you to manage our mammal interaction issues and advocate for long-term, positive changes to the MMPA.

Greg DiDomenico

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