



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XF166]

Withdrawal of Notice of Intent to Prepare an Environmental Impact Statement on Phase 2 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 along the U.S. East Coast

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent; withdrawal.

SUMMARY: NMFS is withdrawing the “Notice of Intent to Prepare an Environmental Impact Statement (EIS) on Phase 2 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 along the U.S. East Coast.”

DATES: The notice of intent to prepare an EIS published in the **Federal Register** on September 9, 2022 (87 FR 55405), is withdrawn as of [*INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER*].

ADDRESSES: Greater Atlantic Regional Fisheries Office, Protected Resources Division, 55 Great Republic Drive, Gloucester, MA 01930; or by email to nmfs.gar.alwtrt@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Jennifer Goebel, Atlantic Large Whale Take Reduction Team Coordinator, Greater Atlantic Region. Telephone: 978-281-9175. Email: *nmfs.garfo.alwtrt@noaa.gov*.

SUPPLEMENTARY INFORMATION: Section 118 of the Marine Mammal Protection Act (MMPA) mandates that NMFS develop and implement Take Reduction Plans for preventing the depletion and assisting in the recovery of certain marine mammal stocks that are killed or seriously injured incidental to commercial fisheries. Pursuant to the MMPA, NMFS convenes Take Reduction Teams composed of stakeholders to develop recommendations that achieve a short-term goal of reducing mortalities and serious injuries of marine mammals covered by the Take Reduction Plan to a rate below each stock's Potential Biological Removal (PBR) level, which is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. NMFS considers those recommendations when implementing Take Reduction Plans through the rulemaking process. The Atlantic Large Whale Take Reduction Team (Team) was first convened in 1996 to recommend measures to reduce mortalities and serious injuries of right, humpback, and fin whales incidental to certain commercial fisheries. Since 1997, the Atlantic Large Whale Take Reduction (Plan) has been amended several times to reduce the impacts of fishing gear on large whales in U.S. waters through measures that include area closures, gear configuration requirements, and gear marking. On September 17, 2021, NMFS published a Plan amendment (86 FR 51970; (2021 rule), that implemented modifications to reduce mortalities and serious injuries caused by entanglement in the Northeast American lobster and Jonah crab trap/pot fishery.

However, at the time, NMFS believed additional entanglement-related mortality and serious injury reduction would be needed to meet the goal set by the MMPA. As part

of the rulemaking process that would establish these additional entanglement risk reduction measures, NMFS published a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for the Phase 2 Modifications to the Plan on September 9, 2022 (87 FR 55405). NMFS reconvened the Team in Fall 2022 to develop recommendations for measures to further address entanglement risk in all East Coast fixed-gear fisheries managed under the Plan. In December 2022, shortly after the Team voted on recommendations, Congress passed the Consolidated Appropriations Act, 2023 (CAA). The CAA deemed the 2021 rule sufficient to ensure that the continued Federal and State authorizations of the American lobster and Jonah crab fisheries are in full compliance with the MMPA and Endangered Species Act for a period ending December 31, 2028. The 2-year timeline for an EIS as defined by the Fiscal Responsibility Act of 2023 updates to the National Environmental Policy Act (NEPA) makes the timeline for an EIS incompatible with the CAA's Congressionally mandated effective date of December 31, 2028, for a new Plan amendment. Therefore, NMFS withdraws this NOI to comply with NEPA requirements.

NMFS may issue NOIs to prepare EISs for future Plan amendments, including for any amendment that may be required December 31, 2028.

Authority: NEPA, 42 U.S.C. 4321 *et seq.*, and MMPA, 31 U.S.C. 1361 *et seq.*

Dated: February 19, 2026.

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Office of Protected Resources, National Marine Fisheries Service.