

**ALWTRP Scoping Meeting
Gloucester, MA
July 21, 2011**

NMFS Staff: Dave Gouveia, Kate Swails, Mary Colligan, Mike Asaro, Lanni Hall

Number in attendance (not counting NMFS staff): 35

Including:

- Dan McKiernan, Massachusetts Division of Marine Fisheries, Take Reduction Team State Representative
- Arthur Sawyer, Take Reduction Team Industry Representative
- Vito Calomo, representing Senator Scott Brown

NOTES: Due to a power outage at the NMFS Northeast Regional Office, this meeting was conducted without a PowerPoint presentation. Mr. Gouveia gave introductory remarks, but was interrupted with questions from attendees quickly and frequently. The majority of questions and comments pertained to large whale serious injury/mortality estimates, serious injury and mortality due to ship strikes, and large whale population abundance estimates. Approximately one hour into the meeting, an individual representing his personal conservation organization along with a man identified as his attorney entered and began confronting the fishermen in attendance regarding whale entanglements in fishing gear, at which point a significant number of attendees left the meeting.

Meeting began at 6:00pm:

Introduction by Mr. Gouveia
ESA overview
MMPA overview

Representative from Senator Brown's office asked for introductions by all in attendance.

One commenter asked why NMFS must implement additional regulations despite the current trend of increasing large whale population abundance estimates.

Mr. Gouveia described the mandates under the MMPA (Potential Biological Removal, Zero Mortality Rate Goal, etc.) and indicated we are still not achieving MMPA goals.

One commenter asked if this plan applies to all marine risks to large whales.

Mr. Gouveia explained that the TRT is an advisory body that assists NMFS in addressing commercial fishing interactions with large whale species.

Commenter continued on this point, saying anecdotally that shipping kills more right whales annually than do commercial fisheries and asked what percentage of right whale mortality is attributable to shipping.

Ms. Colligan explained that while she did not know the exact rates at the moment, more large whale serious injury/mortality is due to shipping.

One commenter asked why additional measures are being implemented when there hasn't been an adequate period of time to review data from the sinking groundline rule.

Mr. Gouveia explained that in order to adequately monitor the success of the ALWTRP, measures must first be put in place that address both sources of entanglement risk to large whale species. He explained that NMFS implemented measures to address the entanglement risk associated with groundline entanglements in 2009 and that NMFS and the TRT are in the midst of addressing the entanglement risk associated with the vertical line or buoy line entanglements. He further stated that the vertical line component of the recent ALWTRP regulatory amendments has been planned to be implemented for several years. Once both sources of entanglement risk (groundline and vertical line) are addressed, NMFS will then be able to adequately monitor the effectiveness of the complete plan to address entanglements and monitoring the compliance with its regulations.

Representative for Senator Brown asked why, in addition to the implementation of the sinking groundline rule, additional measures are being implemented. He interpreted the presentation thus far as an unfair threat against the fishing industry.

Mr. Gouveia responded that the purpose of scoping is to solicit industry involvement in attempting to gain support for measures. He stated that there is no hard endline reduction goal being developed, stating that the agency is open to all options to reduce risk without setting a firm reduction goal.

One commenter strongly expressed his opinion that the regulations within the sinking groundline rule have been excessive, and stated that Massachusetts needs its own exemption zone. He strongly opposed the development of additional measures.

Representative stated that Senator Brown encourages industry participation and recognizes that fishing provides the state of Massachusetts with jobs. Supports the work of the Massachusetts Division of Marine Fisheries and encourages industry participation in the fisheries process.

TRT representative questioned current whale population trends, stating that the north Atlantic right whale population is currently at 450 animals. He stated that as the population increases, regulations will become stricter as interactions increase. He expressed frustration, stating that humpback whales should be delisted under the Endangered Species Act.

One commenter suggested revisiting the current situation after a 5 year wait to examine the effect of the sinking groundline rule

One commenter stated that 78% of right whale ship strikes result in mortality while only 16% of entanglements in commercial fishing gear are fatal.

One commenter expressed frustration at the suggestion of implementing additional gear marking requirements.

TRT representative wants to see co-occurrence of commercial fishing gear with right whales only, instructing NMFS to focus only on right whales. He reiterated his suggestion to de-list humpback whales from the Endangered Species Act.

Commenter reiterated another's comment on increasing right whale population abundance estimates. He expressed frustration that the US Navy and other ship strikes kill right whales.

Commenter expressed frustration regarding the 2009 right whale ship strike involving the R/V Auk, and his opinion that NMFS has moved slowly in its investigation.

TRT representative mentioned that investigation into the R/V Auk ship strike case had been resolved with a finding of no fault on the part of the vessel's crew.

One commenter stated that the industry is self-policing with regard to fishing large numbers of endlines, and stated that offshore trawls are longer, with few endlines than inshore fishermen.

Commenter stated that regulations currently limit the length of rope used on endlines. He stated that the number of endlines cannot be reduced, and suggested removing the length of endlines as a solution.

One commenter stated that the use of sinking line results in longer endlines. He suggested using more floating rope, upwards of 50%, as a method to reduce length of endlines

Mr. Gouveia mentioned that in other ports, fishermen have suggested using weaker strength rope in the top 1/3 of endlines.

TRT representative commented that, while NMFS is open to hearing ideas from members of the fishing industry, NMFS does not follow through with those ideas.

Commenter stated that the agency should utilize more cooperative research.

Mr. Gouveia explained several examples of cooperative research being conducted, including research to show that using a grapple to retrieve lineless gear is unfeasible.

One commenter stated that money did not need to be spent on the grapple study, stating that fishermen could have told NMFS in advance that lineless fishing wouldn't work in this manner.

MA DMF representative stated that, after reading the recent Biological Opinions, he is observing that NMFS is attempting to do its best. He warned that industry should be concerned with reducing the level of risk due to endlines in the ocean. He stated that risk may not be currently increasing, but that we should all be cautious about the potential for increased risk in the future.

Mr. Gouveia mentioned that ideas have focused on this concept, citing an endline cap proposal that was discussed by some industry members.

One commenter stated that he would like to see more regionally-focused regulations that target the area in which whales are most likely to occur. He stated that he has never seen large whales in Ipswich Bay.

Mr. Gouveia emphasized that NMFS shares this sentiment and reiterated the concept of co-occurrence as a management tool to achieve this goal.

Mr. Gouveia solicited comments on ideas to improve gear marking techniques that will allow NMFS to better identify regions and fisheries in which entanglements occur.

Commenter asked why gear should be marked.

Mr. Gouveia reiterated the concept of being better able to attribute gear recovered from an entanglement to a region and/or fishery based on gear markings. He stated that ultimately, better gear marking will translate into better management whereby managers can focus future measures in those areas that need them and not apply regulations liberally throughout all areas.

The individual representing his personal conservation organization and his attorney entered the room, filming the meeting with a small video camera (7:08pm).

One commenter expressed his frustration at the prospect of new regulations being implemented in addition to the implementation of past regulations. He was concerned with potential right whale mortality due to ship strikes and reiterated the need for a 5 year hiatus to monitor the current regulations.

One commenter cited shipping, wind turbine development, LNG activities, and other industries as being greater risks to whales than commercial fishing.

Commenter expanded on the previous commenter's statement, stating that NMFS issues regulations most heavily on commercial fisheries to unfairly blame fishing for large whale mortality.

The individual representing his personal conservation organization accused fishermen of killing whales, stated that the largest cause of large whale serious injury and mortality is commercial fishing. He criticized the TRT process and NMFS regulations. He spoke at length, reiterating criticism of NMFS and fishermen.

During this time, the individual representing his personal conservation organization caused a significant disruption and spoke for a long period of time (7:11pm to 7:19). As the individual spoke, a significant portion of the industry members left the meeting (7:12pm). Ms. Colligan finally convinced him to stop speaking. At this point, nearly all attendees representing the commercial fishing industry had left. Only staff from NMFS, MA DMF, and 1 other person remained.

One commenter asked for clarification on the regulatory process from scoping to rulemaking.

Mr. Gouveia explained that scoping occurs early in the process, before measures have been proposed. He continued to describe the regulatory process.

Commenter announced that he has invented endlines that do not entangle whales and he stated that trials are currently being conducted. He asked for the inclusion of regulations mandating this rope technology in the next TRT regulations and next rulemaking.

Mr. Gouveia explained the current process for having gear technologies reviewed by the ALWTRT and encouraged attendees to follow this process.

The individual representing his personal conservation organization stated that the technique and attitude of fishermen factor into the likelihood that large whale entanglements occur. He accused the fishermen of fishing negligently and subsequently increasing entanglements. He stated that fishermen should adopt a "green" mentality and self-report entanglements, whale sightings, etc. He stated that fishermen should be given preference to get a fishing permit if they report whales, report lost gear, receive disentanglement training, etc. He stated that the current management system has no transparency and accused NMFS of hiding reported large whale entanglements.

Mr. Gouveia acknowledged attendee's complaints and asked others in attendance for any further comments.

The individual continued to speak, stating that gear should be bar coded to allow for better gear identification. He stated that gear should be registered to a specific person and stated that forensic technology should be implemented. He suggested that NMFS should build a forensics lab to analyze fishing gear in the same manner as would the FBI. He stated that NMFS should build a national forensics database.

Mr. Gouveia acknowledged his comments and adjourned the meeting (7:33).