

ATLANTIC LARGE WHALE TAKE REDUCTION TEAM
NORTHEAST SUBGROUP WEBINAR: APRIL 11, 2012: 10 A.M. TO NOON
MID-ATLANTIC/SOUTHEAST SUBGROUP WEBINAR: APRIL 11, 2012: 1 P.M. TO 3 P.M.

KEY OUTCOMES MEMORANDUM

I. Overview

The National Marine Fisheries Service (NMFS) conducted two webinars of the Atlantic Large Whale Take Reduction Team on April 11, 2012: the Northeast subgroup in the morning and the Mid-Atlantic/Southeast subgroup in the afternoon. (A copy of the agenda is available on the Team website at <http://www.nero.noaa.gov/whaletrp/trt/meetings/2012meeting.html>.)

The primary purpose of the webinars was to present the results of and take clarifying questions on the recent analysis of vertical line risk reduction proposals put forward by the Agency and Team members. Other objectives included: (1) general TRT updates; (2) review of recent updates to the vertical line model and baseline results; and (3) consider next steps related to vertical line rule development. The webinars were not intended to seek recommendations on preferred proposals nor were any received during the call.

This Key Outcomes Memorandum summarizes the primary results of the two subgroup meetings. Key themes from both webinars are integrated into one unified summary.

II. Participation

Below is a listing of participants (Team members and/or alternates) who participated in either or both webinars.

Participants - Northeast Subgroup Call		Participants - Southeast Subgroup Call	
Bill Adler	Bob Nudd, Jr.	Beth Allgood	Alicia Nelson
Beth Allgood	Cheri Patterson	Regina Asmutis-Silva	Melissa Paine
Regina Asmutis-Silva	Buddy Powell	Julia Byrd	Tom Pitchford
Erin Burke	Jooke Robbins	Greg DiDomenico	Buddy Powell
Patricia Fiorelli	Bonnie Spinazzola	Cindy Driscoll	Jooke Robbins
Colleen Giannini	Terry Stockwell	Clay George	Mark Swingle
Caroline Good	Kate Swails	Caroline Good	Kate Swails
April Hansgate	Rachel Sysak	Michael Greco	Sarah Uhlemann
Robert Kenney	James Tripp	April Hansgate	Sierra Weaver
Scott Kraus	Sarah Uhlemann	David Laist	Barb Zoodsma
David Laist	April Valliere	Rick Marks	
Kristy Long	Sierra Weaver		
Patrice McCarron	Sharon Young		
Dan McKiernan			
Bill McLellan			

The following NMFS staff convened, participated and/or attended either or both webinars: Mary Colligan, David Gouveia, Kate Swails, Barb Zoodsma, Jessica Powell, Kristy Long, David Hilton, John Kenney and Glenn Salvador. Brian Morrison and Neal Etre for Industrial

Economics (IEc) participated in the call, as did several other IEc staff. Scott McCreary and Bennett Brooks from CONCUR, an environmental dispute resolution firm specializing in marine resource and water issues, served as the neutral facilitators for both calls.

III. Meeting Materials

The following materials were distributed prior to the webinars to support the deliberations:

- Teleconference Agenda
- Atlantic Blue Crab Update – Northeast Florida: March 2012
- Analysis of the Impacts of Alternate Management Measures on Vertical Line and Co-Occurrence Scores
- Draft proposals developed by NMFS and TRT members

Meeting materials can be found at <http://www.nero.noaa.gov/whaletrp/trt/meetings/2012meeting.html> or by contacting K. Swails by phone at (978-282-8481) or via email at Kate.Swails@noaa.gov.

IV. Key Outcomes

A. Welcome, Overview and Updates

Both webinars began with a scan of participants and an overview of meeting objectives. CONCUR emphasized that the meeting was focused primarily on (1) providing updates on the vertical line risk reduction analysis, and (2) seeking Team member clarifying questions. Given the limited time and the webinar format, Team member were asked to refrain from commenting during the webinar on the analysis itself and any implications for a proposed rule and, instead, provide such perspectives in writing following the call. (More detail on next steps is provided below.)

Following the brief introductory remarks, K. Swails provided a handful of general updates regarding the TRP-related issues. These included the following:

- North Carolina does not currently have a state representative, as Red Munden has retired. NMFS is working with the state to identify a replacement.
- From January through March 2012, there was a four-fold increase in blue crab/trap pot fishing effort in the near-shore waters of northeast Florida. K. Swails noted that IEc is working with T. Pitchford to incorporate the new data into the co-occurrence model. The Agency has been taking steps to assist crabbers with gear compliance and will continue to monitor the fishery; no other actions are planned at this date. R. Marks said his contact with fishery representatives in the area suggests that the increase may prove to be anomalous and not indicative of any recurring pattern.
- D. Gouveia updated the group regarding a recent request from B. Kenney and other researchers that the co-occurrence model be adapted to assign some minimum risk value to those areas currently assigned a “0” in the SPUE data. D. Gouveia noted that time and

resource constraints make it impractical to revise the model at this point, but he encouraged Team members to submit comments on the extent to which the Agency should consider such a sensitivity analysis as part of its environmental review of any proposed rule.

B. Vertical Line Risk Reduction Proposal Analysis:

The bulk of the webinar focused on reviewing IEC's analysis of the full suite of vertical line risk reduction proposals put forward by the Agency, states and various Team members either during or after the January 2012 ALWTRT meeting. IEC's analysis can be found on the web at: <http://www.nero.noaa.gov/whaletrp/trt/meetings/2012meeting.html>.

B. Morrison and N. Etre with IEC began the discussion with a quick review of updates to the vertical line model since the January ALWTRT meeting. Key changes included: refinements to New Hampshire and Rhode Island state data and the addition of GIS elements (e.g., Maine 6-mile line, proposed closure areas, etc.) to foster analysis of the proposal.

Following a brief review of the updated baseline results, IEC presented its analysis of the 11 vertical line management proposals put forward: NMFS Northeast, Maine DMR#1, Maine DMR#2, New Hampshire DFG, Massachusetts DMF, Rhode Island DEM, Jordan Basin Closure and Cape Cod Bay to Great South Channel Closure (both put forward by S. Kraus, et al), and Cape Cod Bay Closure, Jeffreys to Cashes Ledge Closure and Great South Channel Closure (all put forward by S. Young, et al). [NMFS staff noted that there no vertical line risk reduction proposals had been put forward for the Mid-Atlantic/Southeast; rather, actions in those areas focus on weak links, line strength and – similar to the Northeast – reporting and gear-marking.] As IEC worked through their summary presentations, they invited proposal proponents to either confirm that proposals were characterized appropriately or suggest necessary revisions.

Each vertical line proposal was analyzed to assess its impact on both the number of vertical lines and co-occurrence scores relative to the baseline in the Northeast and coastwide. As well, it was compared to the Agency's Northeast proposal. The proposals were presented in three groupings:

- NMFS and State proposals
- Closure proposals put forward by S. Kraus, et al
- Closure proposals put forward by S. Young, et al

The analysis generated a number of clarifications by proponents, as well as clarifying questions and feedback on the analysis by Team members. Below is a synopsis of the key points raised during the discussion.

- ***Rethink likelihood of line relocation versus line removals with closures and representation of displacement in the model.*** A number of participants questioned IEC's current assumptions regarding the likelihood of closures to trigger line relocation versus line removal, and several Team members recommended that the Agency look more carefully at the regulatory and operational constraints and considerations that are likely to drive fishermen's decisions and adjust model assumptions as appropriate. Specific comments included the following:

- B. Adler suggested that the Cape Cod Bay Critical Habitat closure proposed by the State of Massachusetts is likely to result in relocations and not just removals, as assumed in the IEc analysis
- S. Kraus suggested that the Cape Cod Bay to Great South Channel closure will likely result in relocation of gear and not just removals, as assumed in the IEc analysis
- D. McKiernan and T. Stockwell both questioned the assumption that the Great South Channel Closure proposed by S. Young, et al, would result in relocations, suggesting that permitting and other constraints would make it improbable that Area 3 vessels would relocate to Maine waters.
- T. Stockwell suggested that the Jordan Basin Closure proposed by S. Kraus, et al, is likely to result in some relocation as Maine fishermen are likely to redistribute to other areas within Area 1. He further stated that it would be reasonable to assume that, with the Jeffreys to Caches Ledge Closure proposed by S. Young, et al, 100% of the gear would be relocated.

NMFS and IEc expressed strong interest in receiving additional Team input on the likelihood of line relocations versus line removals associated with the various closure proposals put forward so as to strengthen model assumptions to support future analysis.

- ***Analytic approach may minimize beneficial impact of proposed closures.*** Several Team members suggested that the analytic approach under-represents the likely conservation benefit of closures to right whales. Specific concerns included: (1) the use of annual averages minimizes the beneficial impacts during specific and particularly sensitive time periods; (2) the combined humpback and right whale data minimizes the important beneficial impacts to right whales; and (3), the nature of the analysis doesn't capture the biological importance of closures during mating season. Additionally, S. Kraus said the Cape Cod Bay to Great South Channel Closure incorrectly suggests low co-occurrence benefits in the model because the SPUE data fails to pick-up the frequent movement of whales in that area which may not surface and thus not be detected. Several participants asked that the Team be provided with vertical line and co-occurrence model data broken out by month/season and disaggregated to report results for right whales and humpbacks separately. D. Gouveia noted the agency's stated intent to present these additional analyses as part of the subsequent EIS, but – given Team interest – he committed to work with IEc to provide some additional analyses as time and resources permit by Friday, April 20.
- ***Interest in better understanding the extent and timing of the impact of ASMFC trap reductions on vertical line risk.*** Both Massachusetts and Rhode Island put forward proposals that link vertical line risk reduction to planned trap limits being put forward by Atlantic States Marine Fisheries Commission (ASMFC) Addendum XVIII. The proposals triggered the following discussion points:
 - Several participants sought to understand why Rhode Island projects a 50% vertical line reduction in LMA2 associated with the ASMFC trap limit addendum,

while Massachusetts projects only a 25% reduction in its state waters in the same LMA. In Massachusetts, as D. McKiernan explained, the state anticipates a more conservative result due to the muting impact of retiring latent permits.

- The extent to which any ASMFC action would be considered in the baseline or as a state action. D. Gouveia said the Agency will not presuppose any action until trap reduction rules are formally approved and implemented by ASMFC and the relevant states.
- D. Gouveia noted that the model assumes a one-to-one ratio between trap reductions and vertical line removal, but he emphasized that the Agency will attempt to refine/validate this assumption as there is no empirical data to bolster such a correlation.

Participants also posed clarifying questions regarding the precise implementation timing. D. McKiernan noted that the rule is expected to be approved in August; implementation is set to begin in 2013 and be fully adopted over six years.

The discussion also yielded a handful of other observations and questions regarding the analytic approach. These included the following:

- Maine representatives noted that DMR#2, developed with feedback from industry following the January 2012 ALWTRT meeting, reflects the fishery's ability to make more aggressive vertical line cuts as it moves further offshore into areas with higher co-occurrence. They further noted that the "six-mile line" – a line that varies in actual distance from shore – is drawn to address operational considerations and practices. DMR#2, they noted, is considered "much more operationally feasible" and is strongly preferred by industry.
- C. Patterson, New Hampshire's state representative, noted that the State made an effort in its proposal to evaluate where co-occurrence is highest on a monthly basis and minimize vertical lines in the water during those times.
- D. Laist voiced the concern that the Agency's decision not to revisit its approach to reflecting SPUE data in the model minimizes the real risks to whales. He further suggested that the model is "becoming something of a black box," and he requested that the Agency provide the Team with maps denoting those grid cells currently assigned a "0" in the SPUE data. D. Gouveia is to work with IEC to provide links to relevant maps already available on the Team website, but he also noted that this issue has been discussed at length with the Team and is not an area where there is consensus.
- Interest in better understanding the degree of precision associated with the analysis results (i.e., given the various uncertainties, can one assume the difference between a 34.5% and 34.6% co-occurrence score is meaningful). IEC suggested that the scores are helpful for relative comparisons – and tenths of a percent are reported so as not to lose data – but they should not be considered precise.

- Several participants sought to understand how the Jordan Basin closure could result in less protection (i.e., lower co-occurrence score) than the NMFS Northeast proposal. IEC staff noted that the closure results in some vessels shifting to less restrictive fishing areas and, as a result, greater line density and co-occurrence risk.
- Several names associated with vertical line proposals were seen to be potentially misleading. One, the Cape Cod Bay Closure, was confused with the existing and much smaller Cape Cod Bay Critical Habitat closure. Similarly, it was noted that the 6-mile line included in both DMR proposals does not actually consistently track along a 6-mile line. (DMR staff noted that the 6-mile line is really intended to be responsive to local fishing practices and not adhere to a strict 6-mile distance from shore.)
- One individual sought to understand why the co-occurrence model shows no change in LMA1 in the Cape Cod Bay to Great South Channel Closure put forward by S. Kraus, et. al. IEC suggested the change is so small that it's swamped by other existing activities, but they are to review and confirm the accuracy of the data.
- One Team member voiced concern that relocation of fishing effort in response to a potential Jordan Basin Closure would trigger a series of problems in LMA3, including gear conflicts and economic impacts for those fishing within and outside of the proposed closure area.
- A recommendation that the extent of gear changes not be characterized as being "statewide" since the analysis excludes exempted state waters.

C. Next Steps

Based on the webinars, Agency staff outlined the following next steps:

- ***Provide Team members with additional analyses to support their preparation of comments.*** Based on participants' comments, NMFS will work with IEC to provide the Team the following additional data:
 - Seasonal co-occurrence risk reduction resulting from proposals
 - Co-occurrence risk reduction for humpback and right whales separately

The new data, to be provided on the Team website, is expected to be available by Friday, April 20. Additionally, the Agency will distribute links to existing maps that indicate grid cells for which the co-occurrence model assigns a "0" for humpbacks and right whales.

- ***Seek Team member comment on analysis.*** K. Swails encouraged Team members to submit written comments regarding the vertical line risk reduction analysis and any implications for a proposed rule to the Agency by Friday, April 27. The Agency emphasized that it is seeking stakeholder perspectives on coastwide vertical line risk reduction strategies that draw from the existing proposals ("building blocks"). She

emphasized that at this point, the Agency is not seeking and cannot analyze new stand-alone proposals and still meet the rulemaking timeline.

- ***Develop proposed vertical line rule.*** NMFS outlined its intended approach and timeline for developing and discussing with the Team a proposed vertical line rule that includes the following steps: (1) NERO develops vertical line risk reduction alternatives (including gear marking schemes) based on Team comment; (2) NERO-developed alternatives submitted to IEC for analysis by June 2012; and (3) draft EIS to be available to the public by late spring/early summer 2013, with public hearing and a possible TRT meeting in summer 2013. Additionally, the Agency intends to provide the Team with periodic updates – either via email or teleconference – throughout the process.
- ***Develop and distribute a unified Key Outcomes Memorandum.*** CONCUR is to develop and distribute to Team members a unified meeting summary from the two webinars. The summary is to be distributed well before comments are due on the proposal.

Questions or comments regarding this summary should be directed to Bennett Brooks or Scott McCreary with CONCUR. Bennett can be reached at 212-678-0078 or via email at bennett@concurinc.net. Scott can be reached at 510-649-8008 or via email at scott@concurinc.net.