

**Atlantic Large Whale Take Reduction Team
Mid-Atlantic/Southeast Subgroup Meeting
Sheraton Hotel, Philadelphia, PA
23 June 2003**

FINAL MEETING SUMMARY

ALWTRT Members:

State & Industry:

David Cupka (South Carolina Department of Natural Resources); Cindy Driscoll (Maryland Department of Natural Resources); Bill Figley (New Jersey Division of Fish and Wildlife); Jodie Gay (NC Fisherman); Michael Greco (Delaware Division of Fish and Wildlife - Alt. for Roy Miller); Sonny Gwin (Fisherman); Rusty Hudson (Directed Shark Fisheries); Rick Marks (Garden State Seafood Association); Fentress Munden (North Carolina Division of Marine Fisheries); Jamison Smith (Florida Fish and Wildlife Conservation Commission); Kevin Wark (NJ Fisherman - Alt. for Warren Apel); William Reid (VA Fisherman)

Scientists & Conservation/Environmental Groups:

Sue Barco (Virginia Marine Science Museum - Alt. for Mark Swingle); David Morin (Center for Coastal Studies - Alt. for Stormy Mayo); Sharon Young (Humane Society of the U.S.); Amy Knowlton (New England Aquarium - Alt. for Scott Kraus)

Federal Government & Fishery Management Organizations

Diane Borggaard (U.S. National Marine Fisheries Service/Northeast Region); Kristy Long (U.S. National Marine Fisheries Service - Alt. for Greg Silber); Barb Zoodsma (U.S. National Marine Fisheries Service/Southeast Region)

Interested Parties:

Joan Berko (NJ Fisherman); Rob Burcaw (NJ Fisherman); Juan Levesque (U.S. National Marine Fisheries Service/Southeast Region); Richard Luedtke (Garden State Seafood Association/Fisherman); Richard Pace (U.S. National Marine Fisheries Service/Northeast Fisheries Science Center); Larry Pieper (Maryland Department of Natural Resources); Michael Scott (NJ Fisherman); Denise Wagner (NJ Fisherman); David Gouveia (U.S. National Marine Fisheries Service/Northeast Region)

Introduction:

Mr. Gouveia welcomed the group and expressed his gratitude to Mr. Marks for spreading the word regarding the subgroup meeting in the Mid-Atlantic region. He explained that the agency would like to focus on moving forward by adding to the options that have already been discussed. Mr. Gouveia reviewed the scoping process and noted that the draft EIS is scheduled for completion in November 2003. Ms. Borggaard reviewed the agenda and various logistics for the meeting.

Presentations:

Ms. Borggaard reviewed the fisheries under regulation of the ALWTRP and the corresponding gear modification requirements currently in place, mostly for the northeast region. Mr. Levesque reviewed the fisheries and requirements for the southeast region. Mr. Gouveia explained the authority by Regional Administrators to prohibit fishing in critical habitat areas in the event of an entanglement in such an area. In order to trigger a closure, the interaction must occur within the active restriction period for that area, and with a gear type currently regulated by the ALWTRP (i.e., trailing gear from regions other than the one to be closed would not result in a closure).

Mr. Pace reviewed the Right Whale Consortium database and discussed survey effort. The group discussed strandings, sightings, and survey effort. Generally there is not enough recent historical sighting information to draw conclusions regarding migratory corridors or habitat use in the Mid-Atlantic region. NMFS is increasing survey effort in VA and NC for large whales, in addition to recording opportunistic sightings. NMFS Southeast and Northeast Regions have increased aerial survey efforts in the Mid-Atlantic region for the past 3-5 years.

Mr. Salvador presented the most current entanglement information. Between 1997 and 2002 there were 133 confirmed large whale entanglements. Information on individual entanglements can be found in a summary entanglement document, which can be provided upon request. Participants asked how many entanglements were from the Mid-Atlantic. Mr. Salvador explained that 18 entanglements were observed in the Mid-Atlantic, and of those, 7 entanglements were traced back to Mid-Atlantic fisheries. Mr. Salvador explained the process that the Gear Team goes through to determine which fishery interacted with the whales. All gear taken off entangled whales seems to be in compliance with the ALWTRP, but Mr. Salvador noted that they don't usually get a representative piece of the gear back; the sample of gear is usually too small to determine compliance.

Shark Gillnet Fishery:

There has been some discussion within NMFS to use Vessel Monitoring Systems (VMS) instead of 100% observer coverage for the shark gillnet fishery. VMS would not be used in lieu of observers, but would decrease observer coverage from 100% to 53%. The Highly Migratory Species Division in NMFS may be proposing this change in observer coverage for right whale critical habitat waters off Florida and Georgia. Mr. Hudson relayed that the shark gillnetters are onboard with switching to VMS. Shark gillnetters are required to file a float plan and use spotter planes, so they do not object to VMS. Environmental representatives were onboard with the change in coverage as long as there is still some observer coverage in addition to VMS. The proposed rule regarding the change in observer coverage and VMS will be out in the next month. The public will have 60 days to comment on the proposed rule.

On a related note, the South Atlantic Fishery Management Council just approved an amendment which requires all rock shrimp vessels to have VMS beginning this year. Therefore, infrastructure for implementing VMS already exists in the Southeast.

Team members inquired who would pay for the units. NMFS already has several available units, however, daily use fees would likely be the responsibility of individual fishermen. Mr. Hudson also mentioned that several buybacks for shark gillnet fishermen would occur around 2005, thus decreasing effort in the fishery.

Southeast Shark Gillnet Proposal

Mr. Hudson explained why the shark gillnetters want to extend the fishery for 2 weeks. Fishers would like to have 2 more weeks to fish with straight set gillnets, per the following proposal: Exclusion (from False Cape Florida (@ 29 degrees North from there to the south end of restricted area Nov. 15-30) to fish and target Spanish mackerel and shark with tended gear at night. There have been recorded sightings during those two weeks of the year, however, sightings go back as far as 122 years with no sightings reported in recent years. Some participants noted that extending the season may seem like increased risk to right whales, legally speaking. It may be necessary to develop a compensatory measure to offset the increased risk. It is unlikely that fishery management councils would be affected by the addition of 2 weeks.

The shark gillnetters also proposed a sunrise/sunset clause, which would allow fishers to set their nets 30 minutes before sunrise and continue fishing until 30 minutes after sunset. The reason for this proposed recommendation is so that fishers can fish straight sets as opposed to run around sets during this time. A few team members noted their approval of the recommendation, while others noted potential problems with the proposal. As the times of sunset and sunrise change daily, enforcement would be highly difficult.

Southeast/Mid-Atlantic Gillnet Fishery:

Mr. Levesque reviewed which fisheries are folded into the Bottlenose Dolphin Take Reduction Team (BDTRT) process and detailed the recommendations proposed by the BDTRT for each. Currently, NMFS is in the rulemaking process to develop regulations implementing the BDTRP.

The BDTRT has developed a formal definition of the “North Carolina stop net fishery” and “beach seine fishery.” Mr. Foster explained that beach seines can be defined in many ways as they are constantly evolving. The BDTRT has recommended that monofilament line be prohibited from use in beach seines. Monofilament is sometimes incorporated into the webbing of beach seines, which has been correlated to increased strandings of bottlenose dolphins. The alternative to monofilament is twisted nylon.

Ms. Borggaard noted that the “beach seine fishery” is not currently regulated under the ALWTRP. She asked the group to consider whether it should be folded into the Plan. One participant asked if a beach seine made of gillnet monofilament was set off the beach, but not attached to the beach, would it be considered a gillnet under the ALWTRP. Ms. Borggaard answered yes, it is regulated under the ALWTRP. The Team acknowledged the potential for

regulations on the beach seine fishery through the BDTRP and did not suggest additional regulations through the ALWTRP at this point.

Mid-Atlantic Proposal:

Mr. Marks began the discussion on the Mid-Atlantic proposal by stating that fishing effort is declining in the trap/pot fishery off New Jersey due to a gauge increase in pots that is decreasing lobster retention. He noted that it is possible to quantify the reduction in fishing effort. The following adjustments were made to the proposal provided at the subgroup meeting:

I. Gillnet (Southeast/Mid-Atlantic) (Comments on “One Text” RESOLVE Summary from TRT Meeting)

- B.** 2/3 sinking buoy line should be minimum. Fishers should be encouraged to use neutrally buoyant or non-floating line. The fishers agreed that they could phase-in new buoy line by 2008 (not 2010) and agreed to a year-round requirement.
- C.** Agreed to universal requirements, but would like to define “universal requirements” in coordination with NMFS.
- D.** Agreed to this recommendation.
- E.** Would like to redefine “anchored gillnet” gear, unsatisfactory as it stands now. They are agreeable to the provisions for anchored gillnet gear (meaning gillnets with 2 anchors) year-round. Fishers are greatly concerned about weak links in net panels of non-anchored gear. The NMFS Gear Research Team will work with the Mid-Atlantic gillnetters to test breaking strength (concerned about lead lines popping off in strong wave action) and to determine the best “weak link”. They are not agreeable to multiple weak links at this point. Environmental representatives suggested codifying anchored gillnets minus the anchor into drift gillnet category, and possibly shorten soak times or require gear tending instead of requiring weak links. They would like to work on year-round requirements for non-anchored gear with the Gear Research Team. Weak links are a serious concern for fishermen who use net reels.
- B.** They agreed to work with the Gear Marking subcommittee on this issue.

Discussion continued regarding anchored gillnets. Gillnets that are not anchored are held down by a leadline and are usually tended constantly. Fishers explained that they would not leave a net overnight without an anchor.

Ms. Borggaard pondered whether the TRT should explore standardizing regulations for Southeast and Mid-Atlantic gillnetters because it seems they are fishing very similarly. The fishermen in attendance explained that although the gear is configured the same and deployed the same, the two regions set the gear in different parts of the water column. Thus, interactions with marine mammals in the Southeast are not comparable to those in the Mid-Atlantic and vice versa. In the Southeast, the fishery generally targets mackerel, which is a deeper fishery than the Mid-Atlantic gillnet fishery. The group discussed defining the fisheries by location.

Both New Jersey and Delaware have state definitions for “sink gillnets”. Additionally, NJ has a

no-anchor provision for ~ June 1 through the fall. Currently, Northeast lobster trap/pot gear is required to have 600lb weak links. Some participants were skeptical that 600lb weak links would hold up in the Mid-Atlantic with heavy barge traffic, recreational boaters tying up to buoys, storms, and bottom debris. The Gear Research Team explained that lobster traps/pots and associated buoy weak links are different between regions (e.g., breaking strength). The Gear Team will begin weak link experiments in the Mid-Atlantic shortly.

Mid-Atlantic fishers asked when right whales are utilizing the Mid-Atlantic region. Scientists responded that according to the sightings database and some satellite tracks, right whales move through the area during November and early December. The migration from the calving grounds in the Southeast to the feeding grounds in the Northeast takes about 3 weeks, traveling at 2-3 knots. On the return migration, right whales move through the Mid-Atlantic during April. Scientists suggested extending the March 31 date by two weeks. Others noted that the TRT might want to expand the drift gillnet time frame to correspond with the anchored gillnet time frame.

Between 1997-2002 there were 17 pot interactions, two of which were attributed to Mid-Atlantic fisheries. Mr. Marks explained that the Mid-Atlantic sea bass and lobster trap/pot fisheries have inshore/nearshore/offshore differences similar to those in the northeast. The following adjustments were made to the proposal provided at the subgroup meeting:

I. Trap/pot (Southeast/Mid-Atlantic) (Comments on “One Text” RESOLVE Summary from TRT Meeting)

A. Conch

- a. Industry agreed to phase out floating buoy line by 2008, contingent on keeping bottom 1/3 poly.
- b. Would like to be treated similarly as New England in terms of distance from shore and fishing differences. Breakaways and buoy systems need to be consistent between regions. Would like clarification on this.
- c. Mr. Marks has been working with fishers to determine the cost of changing gear over. Estimated cost of \$9,600-\$54,000 per boat. Each boat fishes a maximum of 800 pots. Poly line lasts 8-10 years whereas sinking line needs to be replaced almost yearly. Trap/pot fishers grapple about 25% of the hauls. Results of “best” sinking line experiments (Mid-Atlantic also working with Northeast Offshore group on this experiment) will not be ready until 2005, therefore a 2006 deadline is too soon. They noted that regarding this recommendation, the benefits to whales aren't commensurate with the hardship to fishers.

B. Black Sea Bass

Mid-Atlantic sea bass fishers stretch their trawls tight with anchors on each end to keep gear from getting hauled by pirates or accidentally pulled when an anchor is

thrown. They generally fish around wrecks and on rocky bottoms. The highly dynamic sand system in the region causes sand to become ingrained in rope, thus increasing wear on the gear. Participants noted that the current may flatten loops between traps on a trawl, but this has not been verified yet. Mr. Gouveia reminded the group that the agency is committed to reducing the profile between traps. NMFS asked the Mid-Atlantic regions to come up with an alternative similar to what Maine is attempting.

Although, there is a small amount of gear being fished in NC and SC, the peak of the sea bass fishery coincides with the southern migration of right whales. Sea bass fishers tend their gear about 2-3 times per day. The group discussed whether a tending requirement is possible. Tending may not help because if a whale becomes entangled in the line from a single pot, it will likely just take the whole pot and associated gear since these pots are generally made of very light chicken wire. In comparison, conch pots off Virginia are generally very heavy with concrete bottoms. Fishers in that region noted that they are willing to explore gear marking, especially braiding in colored line. The sea bass fishery in NC and SC uses 5/16" rope, which has been found on whales. Some participants believe that there are currently no gear modifications applicable to single trap fisheries until the vertical line issue can be solved (i.e., breakaways are infeasible because a single trap is too light to provide resistance). Participants noted that even though representatives from these single pot fisheries cannot yet modify their gear to decrease risk to whales, it is highly beneficial to have them attend TRT meetings to educate the group on these fisheries.

Ms. Young pointed out that although right whales do not seem to be feeding in the Mid-Atlantic, they are using the habitat and have been recorded at depths of 100 fathoms. Participants noted that survey effort to find right whale carcasses has increased over the past few years. However, there are few, if any, whale watch vessels in the area, which contribute greatly to the sightings database in the northeast. Scientists and environmentalists explained that just because sightings or carcasses of entangled whales aren't seen, doesn't mean they aren't there. Regardless, humpbacks are feeding in the Mid-Atlantic region and they must be considered as they are regulated under the ALWTRP. The discussion shifted to legal and regulatory concerns. Environmental representatives noted that the Plan needs to be published by 2005, yet many of these implementation dates are not until 2008. Discussion ensued regarding buoy lines and type of rope. Some participants were not sure risk is being reduced by changing over to sinking or neutrally buoyant line for 2/3 of the buoy line while keeping the bottom 1/3 composed of poly. Fishers explained that changing all groundline to neutrally buoyant or sinking rope is infeasible. Furthermore, attaching weights to poly groundline is not possible because of the hauler. One fisherman thought that adding 2 feet of leadline into the groundline between traps might be a viable option.

At the April 2003 TRT meeting, the Team agreed to deal with groundlines first and then work on

the risk posed by vertical lines. At this point, there are no alternatives to consider regarding vertical lines. Discussion ensued regarding the extent of the whale entanglement problem in the Mid-Atlantic. One team member opined that every fisherman should mark lines to figure out where the problem is originating. Currently, the marking requirements are inefficient to glean the necessary information to attribute entanglements to certain fisheries. New England fishers do not want a marking requirement at all. The group agreed that something needs to be accomplished regarding gear marking as soon as possible. Discussion then moved to time area regulations and possibly implementing requirements during times of high-use.

The discussion shifted to the differences in trap/pot fishing in different regions. In the South Atlantic, specifically North and South Carolina, fishers are mostly setting single pots with poly line, which means no groundline between pots. Sinking line is not feasible because of interactions with coral. Gear is hauled almost every night, unless the weather is perfect, in which case they'll leave the pots overnight. These pot/trap fisheries generally operate in winter. One fisher noted that depending on the pot fishery, there could still be differences within the southeast region. Coastwide regulations may be difficult to implement due to different gear and fishing styles between regions.

The Mid-Atlantic trap/pot proposal is for all trap/pot fisheries, with the exception of black seabass fishers deploying single traps. Ms. Borggaard inquired whether folks would like to have southern inshore, nearshore, and offshore water delineations, similar to those in the northeast. The group thought zones may be unnecessary, but thought weak link requirements could be different for inshore and offshore areas. Therefore, Area 3 could have 2000lb weak links similar to northeast and zones would be similar to the lobster zones. There is an issue with the edge of Area 4 where lobster trap/pots have high flyers because of gear conflicts (e.g., with trawlers) and 600lb weak links are too small. Mid-Atlantic folks are willing to work on this issue. Environmentalist representatives were concerned about relaxing the 600lb weak link requirement. The group also discussed having different management zones for black sea bass.

Mr. Marks will check into the issue of the proposed, small exemption area near Lobster Area 6, off Montauk, NY. Mr. Marks will follow-up on this issue with fishers from that region. At this point, NMFS is looking to fold them in, but the Mid-Atlantic proposal seeks to exempt fishers in this area. The issue is still under discussion. One participant noted that there have been whale sightings reported in that area off Montauk, NY.

Disentanglement Update: (David Morin)

Thus far in 2003 there have been 3 documented entanglements of right whales. It is estimated that 10-20% of the humpback population gets entangled each year. The Center for Coastal Studies has analyzed their disentanglement data, which suggests that disentanglement is not going to solve the problem of fisheries interactions. The success rate for disentangling right whales is approximately 25% whereas the success rate for humpbacks is around 75%. Mr.

Morin explained that there are reporting forms available on the web and the Coast Guard can serve as the initial contact for an entangled whale.

Funding Options:

Mr. Salvador summarized the various grants and funding options available, such as challenge grants and mini-grants. This information can be found at the following website: www.nfwf.org/programs/whale_gear.htm or there is a link to the website from the ALWTRP page. So far, there have been no proposals submitted from the Mid-Atlantic or Southeast regions. Mr. Salvador summarized some of the experiments the Gear Team has conducted thus far, specifically to determine anchor strengths and gear configurations. In addition to the federal grants, both Virginia and North Carolina offer fisheries resource grants, which usually require academic collaboration.

Note: See "Issues and Options for Modifications to the Atlantic Large Whale Take Reduction Plan - Scoping Document" (July 3, 2003) for complete list of proposals provided to NMFS at full ALWTRT meeting in April 2003 and subsequent subgroup meetings.

2003 ALWTRT Meeting Background

The group discussed the following proposed changes to the ALWTRP regulatory language (Appendix 1 document that was handed out at the meeting and is posted on the Large Whale website). The group discussed each item and voted whether to accept the proposed changes:

Gillnet and Pot/Trap:

1. Should headings in the ALWTRP regulations be consistent?

(For example, should NOAA Fisheries change the “Weak Links on all Buoy Lines,” “Buoy Weak Links” and “Weak Links” headings to “Buoy Line Weak Links” where appropriate (e.g. Southern Nearshore Lobster Waters Area section.))

MA/SE Subgroup Comment: Yes.

2. Should the weak link regulatory text for how to attach weak links for the various ALWTRP management areas be consistent?

(For example, where not already mentioned in the regulations, should all the weak link requirement sections include the following: weak links must be designed such that the bitter end of the buoy line is clean and free of any knots when the link breaks; splices are not considered to be knots for the purposes of this provision; and each weak link must be installed as close to each individual buoy as operationally feasible.)

MA/SE Subgroup Comment: Yes.

3.a. Should buoy lines be required to be knotless?

b. Should knots be prohibited when attaching the toggle gangion to the buoy line?

MA/SE Subgroup Comment: No. Not operationally feasible.

4.a. Should NOAA Fisheries change the language from “rope of appropriate diameter” to “rope of appropriate breaking strength” throughout the ALWTRP regulations when referring to techniques for meeting weak link requirements.

(In the 2001 Gear Modification final rule (January 10, 2002; 67 FR 1300), the use of line 7/16" in diameter or less for all buoy lines was removed as an option from the Take Reduction Technology Lists as the breaking strength of 7/16" line can vary dramatically and, therefore, is not an appropriate entanglement risk reduction tool. The terminology "rope of appropriate breaking strength" replaced "rope of appropriate diameter," and was changed in some ALWTRP management areas but has not been changed for all areas.)

MA/SE Subgroup Comment: Yes.

b. Should NOAA Fisheries clarify in the regulations what the approved configurations are for weak links for both gillnet float rope and buoys? For example, should NOAA Fisheries incorporate into the regulations details on the techniques for making weak links and marking buoy lines or provide better indications as to what the techniques are?

MA/SE Subgroup Comment: Details on techniques for making weak links and marking buoy lines should not be in regulation, but rather in an updateable reference. NMFS should continue to enable fishermen to develop additional techniques to abide by the weak link requirements.

5.a. Should all ALWTRP management areas have gear marking requirements?

(For example, currently there is no gear marking requirement for the mid-Atlantic gillnet fishery, South Atlantic gillnet fishery and Northern Inshore Lobsters Waters fishery.)

b. Should the current gear marking scheme be modified? If so, when should the gear marking scheme be effective?

(For example, should both buoy and ground lines be marked? What is the most appropriate gear marking scheme (e.g. individual gear marking vs. geographic/fishery identifications)?)

c. Would further research help determine a better gear marking scheme? If so, what are these research needs?

MA/SE Subgroup Comment: Defer above to ALWTRT Gear Marking Committee.

6. In the regulatory language, where sinking and/or neutrally buoyant line is required for groundlines, should NOAA Fisheries prohibit the attachment of buoys, toggles or other flotation devices to clarify the intent of the existing regulations?

MA/SE Subgroup Comment: Yes.

7. Should NOAA Fisheries clarify in the regulatory language, where appropriate, that fishermen are prohibited not only from fishing with gear that does not meet specified requirements, but also from possessing, setting or hauling back gear that does not meet the specific requirements?

MA/SE Subgroup Comment: Any change in the language should not include the word “possess.” Defer this to ALWTRT Enforcement Committee.

8. Should NOAA Fisheries clarify in the regulatory language that fishermen may use “neutrally buoyant and/or sinking line” (e.g. Lobster Take Reduction Technology List language) rather than “neutrally buoyant or sinking line”?

(For example, for SAM gear modifications, the regulatory language specifies “neutrally buoyant or sinking line” for groundlines and buoy lines. If the regulatory change was made as noted above, fishermen would be able to use “neutrally buoyant and/or sinking line” for their groundlines or buoy lines.)

MA/SE Subgroup Comment: Yes

9. a. Should the definition of “sinking line” be changed to “sinking line means rope that sinks and does not float at any point in the water column”?

(Sinking line is currently defined in 50 CFR 229.2 as “means rope that sinks and does not float at any point in the water column. Polypropylene rope is not sinking line unless it contains a lead core”. If the regulatory change noted above is made, this would allow sinking line which contains some portion of polypropylene blended with other fibers during the manufacturing process, as long as the final product would not float.)

NOTE: GEAR RESEARCH TEAM IS CURRENTLY DEVELOPING A CRITERIA AND PROCEDURE FOR NEUTRALLY BUOYANT LINE. THIS INFORMATION WILL BE FOLDED INTO A REVISED SINKING LINE DEFINITION IN THE FUTURE.

b. Do we want to continue to have two separate names for sinking and neutrally buoyant line?

(Neutrally buoyant line is currently defined in 50 CFR 229.2 as “line with a specific gravity near that of sea water, so that the line neither sinks to the ocean floor nor floats at the surface, but remains close to the bottom.” NOAA Fisheries will be developing a procedure for determining specific gravity of rope, as well as a criteria for establishing a density standard

based on known or measured water densities along the Atlantic coast. The sinking and neutrally buoyant line definitions at 50 CFR 229.2 will then need to be modified to incorporate this procedure and criteria, which will most likely result in the same definition.)

MA/SE Subgroup Comment: Yes. It is important to industry to keep the two names so they know when they are purchasing neutrally buoyant versus sinking line. Also would like to see 3rd definition developed for “low-profile” line. Would also like to keep the option to use groundline with lead core.

Gillnet

1. a. Should NOAA Fisheries clarify in the regulations that weak links should be placed in the center of net panels up to and including 50 fathoms or every 25-fathoms for longer panels?

(Currently, the regulations state that “weak links must be inserted in the center of the floatline of each 50-fathom net panel in a net string or every 25 fathoms for longer panels.” The regulatory change noted above will clarify where weak links should be placed on nets that are shorter than 50 fathoms.)

MA/SE Subgroup Comment: Yes.