

**Northeast Inshore Lobster Trap/Pot-ALWTRT Working Group Meeting
Urban Forestry Center
Portsmouth, New Hampshire
May 19, 2003 - 10:00 a.m.**

FINAL MEETING SUMMARY

(Prepared by Maine Department of Marine Resources)

A meeting of the Northeast Inshore LobsterTrap/Pot-ALWTRT Working Group was held on May 19, 2003, at the Urban Forestry Center in Portsmouth, New Hampshire. The purpose of this meeting was to discuss the outcome of the April 2003 TRT meeting, work on specific recommendations for floating groundlines and exempted areas, and to address issues that were not covered at the April meeting. Additionally, NMFS listed the issues/topics for Northeast ALWTRP management areas, excluding Offshore Lobster Waters, to prompt further discussion. The meeting convened at 10:20 a.m.

ALWTRT Members:

State & Industry:

Pat White (Maine Lobstermen's Association); Terry Stockwell (Maine Department of Marine Resources); April Valliere (Rhode Island Division of Fish & Wildlife); Dan McKiernan (Massachusetts Division of Marine Fisheries); Bill Adler (Massachusetts Lobstermen's Association); Peter Brodeur (Rhode Island Lobstermen's Association – Alt. For Jeff Jordan); and Leroy Bridges (Maine Fisherman)

Scientists & Conservation/Environmental Groups:

Sharon Young (Humane Society); Erin Heskett (International Fund for Animal Welfare); and Mason Weinrich (Whale Center of New England)

Federal Government and Fishery Management Organizations:

Diane Borggaard (National Marine Fisheries Service); Kristy Long (National Marine Fisheries Service - Alt. For Greg Silber)

Interested Parties:

John Higgins, and Dave Gouviea (National Marine Fisheries Service); Laura Ludwig and Sarah Cotnoir (Maine Department of Marine Resources); Ed Lyman (Massachusetts Division of Marine Fisheries); Steve Robbins (Maine Fisherman); Dr. Scott Moffat (Kittery Animal Hospital); and Ben Brickett (Gear Expert).

After introductions were made, NMFS representatives began the meeting by stating that these types of meetings are useful in that they give the Agency a broader picture of conservation and operational issues for industry. In terms of refining the proposed TRP amendments, scoping meetings will be held over the next few months to gather public comments on the proposals that came out of the April TRT meeting. The subgroup meetings are intended to continue looking at the scope of proposed options. The next TRT meeting is tentatively scheduled for February 2004.

NMFS recognizes that the TRT has many members and will be looking at alternate strategies for the TRT structure. At the February meeting, thought will be given to the TRT composition, perhaps splitting New England and Mid/South Atlantic. If there is a split, it would result in two Teams of approximately 25-30 people per group.

Questions were posed relating to the gear-marking proposals. Is industry going to be involved to decide if current gear options are working? Will changes need to be made? Do we need gear marking at all? NMFS has not had any response regarding a Gear Marking Committee meeting. John Higgins will be contacting key people from each state since this meeting should take place before additional meetings.

The following Working Group discussions took place. Statements included do not indicate consensus by all subgroup members; only issues that were raised in the course of discussion.

Exempted Area Concepts

- It is easier to consider a specific line that applies or doesn't apply to a regulation.
- With this idea on the table, it seems like it's our only idea.
- Concerned if there will be buy-in from the states - states shouldn't feel inhibited.
- Shy of complete prohibition of gear, what else can be done?
- Recognize the limits of knowledge based on sighting efforts.
- Concern that data provided would not reflect any sightings effort.
- It is incumbent on the Science Center to do a data overlay using satellite tracks. It is also important to get input from scientists, academia, environmentalists, as well as collecting other data from whale watch centers or other sources around Maine, New Hampshire and other key areas.
- We need to remain fluid. It is not clear how the whales are getting from one place to another.

Approach to Dealing with Special Management Areas

1. How do we identify Special Management Areas? Maine DMR will be proposing an exempted area; however, by the time DMR gets fully funded and completes the research, it will be well beyond the EIS period.
2. What are we exempting? Would areas be exempt from all regulations or just some?
3. How do we get to more general exempted areas and get away from the DAM concept?

- Concept of focusing on management areas needs to move forward. Concentrate on true exemptions and then focus on state plans, looking at a phase-in period.
- If we do away with DAMs right now, it would slow down the process.
- Minimize the actions contained in the EIS. Additional actions would change the timeline for implementation.
- The Science Center has reservations about how to deal with rocky bottom when reducing line profile.
- Through the EIS, certain parts of the rule could be implemented; then phase-in neutrally buoyant line. This could also help identify special management areas.
- There was an option to increase SAM areas even if whales aren't there.

We need to look at the short term with some sort of conservation benefit that is equal to or better than SAMs/ DAMs. It is incumbent upon each state and the academic/conservation community to provide all data that has been peer reviewed. Sightings should only include those whales deemed strategic - Right Whales, Humpbacks and Fin Whales. Minke whales are not deemed strategic.

What will Special Management Areas be exempt from? All regulations? Selective portions of the regulations? Will there be tougher regulations in federal waters that phase out, or are less restrictive, as you get closer to shore? Each state is different depending on the sightings data. States can wait to promulgate regulations if they want to get more data. NMFS will be sending out an e-mail requesting any exempted areas to be considered and will funnel this information back to the full TRT.

There was some discussion about whether the states should be taking the lead in promulgating regulations. Commercial fishermen are bound by the federal rule and non-commercial fishermen are not bound by federal rule. Federal rules go to the beach, and then the states have to comply. If the states don't comply with NMFS or ASMFC regulations, then they can be found out of compliance. Joint authorization/management with states is worth investigating and may make the process better

Definition of “Low Profile”

Using the best available data (preliminary, not conclusive), the conservation community considers low profile equaling two feet or less. Because of the contour of bottom, there is an operational problem with low profile line. How do we know if it is actually two feet? In transit, whales may get snagged on vertical lines even with their mouths closed

Need to determine if copepods concentrate in patches over rocky bottom habit. Also need to determine relationship between bottom habitat and right whale feeding behavior.

Industry would like to know the academic/conservation community's certainty that groundlines are more likely to entangle when whales are feeding rather than endlines? Suggest that NMFS get an analysis of GIS sightings of feeding and bottom type.

Lots of profiling has been done in deep water, but not much in rocky bottoms. More concentration needs to be directed on whales closer to shore. The ocean can't be zoned; the fishermen should be the ones to recommend what works. Lines don't hover over the bottom indefinitely. We need line that is consistent and testable.

The "two feet or less" concept is based on the anatomy on the lower lip of the right whale. The whales feed dorsal side up on the bottom. There are two protrusions on a semi-adult animal. The idea is that low-profile line would go under the lip, since longer, floating arcs of line would get caught up in the baleen.

The lower profile line may not be operationally feasible in many places, just as the 7/16" float rope isn't sufficient in some places. It is impossible to come up with a one-shot gear modification that fits all. Low profile may not be the same in all areas. We are never going to get away from some bridging effect on bottom.

Maine DMR conducted several ROV pilot projects in the Casco Bay, Cutler and Southwest Harbor areas this past winter. The project was to see how rope is operationally fished on bottom. A full coastal survey is planned for late summer. Massachusetts is also looking at groundline on different bottom types. The conservation community needs this data in a reasonably short time - 9 months or so in order to develop recommendations for a legal definition of low profile line and what is operationally feasible for any type of bottom.

Industry's vision for neutrally buoyant line is to not have it lie 2 inches off the bottom. NMFS took the development of a neutrally buoyant line just so far. Research and development of a hybrid rope has not been thought out. It has been dropped into the rope manufacturer's laps. Operationally, right now we know that float rope works. The Atlantic is a huge area - the bottom and the currents are vastly different Downeast than in an area such as Casco Bay or Cape Cod. Fishermen are continually trying different ideas and strategies.

Concerning gear marking, the only acceptable concept is to have the marking built right into the rope. When disentangling a whale, the marking would disclose the source. Using a uniform type of color does not work from a fisherman's perspective. If a schooner goes through and grabs twenty traps, how do you determine who the gear belongs to when you try to unsnarl the traps if everyone has the same color rope?

States need to deliver information to the fishermen regarding conservationists. We need broad language for enforcement. Whales move over a large area and scientists need specifics. There are pockets where sink line cannot be fished. It is all contradictory - there will be some element of risk to whichever option is chosen.

US/Canada Coordination

Some groups feel that much of the line comes from Canada. US industry can remove every line, do everything right and the PBR still won't get to zero because Canada doesn't use the same gear modifications. Canada would like to have a transboundary meeting to discuss mutual gear types. They are apparently willing to work with us but don't have the resources to do it. How do we work with them on disentanglements? DFO, the Aquarium and CCS are more in line now. There is a DFO/NMFS working group that has met to discuss developing some Terms of Reference, as well as to discuss recovery plans, vessel interaction plans and gear interaction plans to help achieve some consistency.

By June, the Grand Manan and Downeast fishermen are supposed to come up with a mutual plan to fish the gray area; an area of joint jurisdiction, where everyone will have to use whale safe gear.

Additional Topics

In the TRT proposal, no matter what the species being fished is, terms such as Exempted, Modified or Universal need to be consistent. If there is an exempted area in Massachusetts, is it exempt from all regulations?

Why introduce new fisheries into the regulations by species? Why can't the Take Reduction Plan just encompass all fisheries that are trap/pot fisheries and categorize them as a general trap/pot fishery? Why can't a trap be called a trap and a rope be called a rope? Risk is a risk, regardless of what you're catching. The regulation should be inclusive of all fixed gear - get away from species specific. From a state's perspective, enforcement would be easier. Why can't states under the ASMFC have a set of general regulations? It would be easier for states to have blanket coverage.

NMFS has to be specific in the regulations because each species-specific trap/pot fishery has to be analyzed, considering the biological, social, and economic impacts of any regulations enacted.

In Massachusetts, there is a prohibition on experimental fisheries. What about cod trapping? With an experimental fisheries permit, there is a potential take of a right whale.

No one leaves groundfish longline gear out overnight. Halibut trawls are left out, but they're hard on the bottom. As the Plan evolves, the Plan changes; there hasn't been a longline entanglement in a long time. This gear type hasn't been heavily fished for a long time, but now with new gillnet restrictions, people are fishing longlines again. The longline effort is increasing, but we don't have any data on it.

The Agency is considering having other pot fisheries comply with lobster trap/pot regulations. All pot fisheries in Rhode Island are currently below ALWTRP weak link requirements due to the use of milk bottles, Clorox bottles, etc. as buoys. However they are still subject to DAMs and would need a weak link. Scup and sea bass are seasonal fisheries within the Bay.

Are we missing any pot fisheries in these exemptions? Green crabs, groundfish, sand crabs?

The group reiterated two questions:

1. Why do the regulations have to be specific to the species being fished? How can anyone predict other future fisheries?
2. Why can't the states promulgate the regulations? It would make states true partners, consistent with national standards. Should people call NMFS when they have a Massachusetts question? States should be given the ability and encouraged to make their own regulations on inshore fixed gear fisheries under some guiding principles. As a condition of being partners in this plan, states need to provide input. NMFS is always playing catch-up

A question was posed about states requiring gear characterization. States would like fixed gear defined as a generic term and governed under the states and backed by the ASMFC.

Short-term vs. Long-term Actions

DAMs are not doing what they were intended to do. Need to expand the SAM zone and do away with DAM zones.

Ultimately, NMFS and the conservation community are supporting universal gear modifications. To work toward that, keep SAMs year round, get rid of DAMs and expand the effective dates of SAMs. The expansion would take into play areas where animals are sighted more often. Animals move between SAM East, SAM West, the Great South Channel, and the critical habitat areas. Suggest wrapping SAM zone around entire area. Maintain closures in the critical habitat areas unless using gear proposed at the Providence TRT meeting - Two endlines, poly on the

lower third of the endline, sinking groundline and 500-pound breakaways. SAM is workable by allowing two buoys on a trawl rather than one. Knowing a designated time and place, industry

could either fish outside with float rope or inside when the SAM ended. You would have to phase-in - ASAP is not acceptable.

Right now, nothing is being done. The Agency doesn't enforce a DAM every time there is a trigger. These limits impact on the short-term solutions. There was some dissention in the group with the 50% reduction in groundlines.

Even if a DAM were mandatory, the whales are in the area before they have been detected. Reduction of lines needs to be in place prior to the whales' arrival. This would not address Jeffreys Ledge. If DAMs were eliminated for now, other measures need to be in place when 2006 rolled around.

Conservation community would like to offer a buyback package such as an "early bird special." Line brought in early on would be compensated at a rate of 100%. Line bought back in the next 12-18 months would be reimbursed 75% and so on. They are still working on funding for a recycling/buyback program. Unique marking is important so we know where the line is coming from.

Fishermen support the buyback/ recycling program: however, they would not agree to remove the float rope without funding in place. Unless there is a buyback program, widespread gear modification in less than 3 years is not going to happen. There needs to be a transition period. The conservation community and delegation needs to secure funding. NMFS is proposing to allocate half a million dollars for a buyback/ recycling program in the FY '04 budget.

Conservationists are adamant that the Agency needs to do something to reduce the risk they haven't addressed for the last two years. The definition of DAMs is arbitrary and capricious. A short-term risk reduction needs to take place, but modifying the parameters of the SAM program could push the time frame to 2008-2010. There are large aggregations of animals to the West of the critical habitat. If the option to expand SAM doesn't occur by 2006, then conservationists believe that industry or the Agency will need to re-address the issue.

The TRT proposal is currently better in the long-term, but in the short-term, are there other viable options? The prohibition of float rope is unacceptable and unmanageable to achieve before 2006.

States/industry came forward with a list of short-term gear options at last year's gear working group meeting, such as additional weak links in the buoy systems. These still have to go through the lengthy federal rule-making process and it will be at least an additional 18 months.

The Northeast Lobster Industry ALWTRT Breakout Group was proposing 1,100 subsurface and 600 pounds at surface. The first buoy in the water column should have a higher breaking strength. In the Grand Manan channel, the surface breakaway should be increased to 1,100 pounds. This proposal was not finalized at the last TRT meeting. Some inshore guys are using offshore gear because of extreme conditions. Requiring different weak links on various buoy systems makes it difficult for enforcement

Other:

Peter Brodeur of the Rhode Island Lobstermen's Association (RILA) read a memo regarding a buy-out plan for Area 2 lobstermen. Massachusetts Lobstermen's Association has also been informed since Area 2 encompasses some of their members. The Congressional delegation has been contacted requesting \$10 M to support this buy-out effort.

The meeting adjourned at 3:15 PM.

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

Following are discussion points the group commented on regarding changes to the ALWTRP regulatory language.

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.))

NE Inshore Trap/Pot 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.)

NE Inshore Trap/Pot Subgroup Comment: Yes.

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

NE Inshore Trap/Pot Subgroup Comment: It is better to have a knot - it provides a weak link. Knotless lines are not operationally feasible.

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

NE Inshore Trap/Pot Subgroup Comment: All flotation devices will be required to have a weak link. Operationally, what would that mean? Pleasure crafts may use knives to cut away tangled lines. Is there another way to attach without line splicing? Defer to Gear Group. If the toggle breaks loose, you still have the rigging in there. The statement should read as few knots as possible. The mouth entanglements are largely due to groundlines.

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.)

NE Inshore Trap/Pot Subgroup Comment: Yes. In the 2001 Gear Modification final rule, the use of line 7/16" in diameter or less for all buoy lines was removed as an option from the TRT list as the breaking strength of 7/16" line can vary dramatically, and, therefore, is not an appropriate risk reduction tool. The terminology "rope of appropriate breaking strength" replaced "rope of appropriate diameter," and was changed in some management areas but has not been changed for all areas.

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?

NE Inshore Trap/Pot 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?

NE Inshore Trap/Pot Subgroup Comment: All these answers are related to gear-marking. John Higgins should set up a date to have a meeting. This group defers to seek advice from the 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?

NE Inshore Trap/Pot Subgroup Comment: Yes, but this issue may need to be re-addressed if we go to low profile or sinking line.

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?

NE Inshore Trap/Pot Subgroup Comment: The subgroup had a problem with the word “possession.” The Harbor Porpoise regulation uses “possessing, setting, or hauling,” etc. Right now the whale regulation only reads “fishing.” If you are transiting an area while bringing gear home or from one area to another, how will this be enforced? Would they check only gear leaving the dock? You can wind up with a tangled mess of gear that’s not even yours and haul it back. If a person is going to be in trouble for this, they’ll leave it in the water. Massachusetts has a regulation to not abandon gear. How do you fish offshore and inshore? Possession won’t work. This needs to be referred to the enforcement group. What language does MADMF use?

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.)

NE Inshore Trap/Pot 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.)

NE Inshore Trap/Pot Subgroup Comment: One suggestion was to call it “Non-Floating Line.” Another commenter felt that as long as rope manufacturers know the difference, refer to them by their specifications. There is also low profile and sinking line. Should maintain as two separate terms.

Pot/Trap Fisheries

1. Should NOAA Fisheries allow lobster trap/pot fishermen to use neutrally buoyant and/or sinking line from January 1 through May 15 in Cape Cod Bay Critical Habitat Area?

NE Inshore Trap/Pot Subgroup Comment: Presently, From January 1 through May 15 in Cape Cod Bay Critical Habitat Area, the ALWTRP regulations require the use of sinking line only. This subgroup suggests that NMFS change the regulations to April 30. For the past 7 years, no right whales have been seen in the Critical Habitat area in the month of may. They’ve been to the west and outside.