

NMFS Concept Paper on ALWTRT
“Proposal to Open a Management Area Presently Closed to
Trap/Pot Fisheries to Stimulate Development of Ropeless [Buoy Lineless] Fishing”

For Distribution to the ALWTRT
November 2010

I. Background

In April 2009, the Atlantic Large Whale Take Reduction Team (ALWTRT) asked NMFS to identify management areas currently closed to trap/pot gear that could be opened to special gear development¹. Many ALWTRT members suggested making use of areas already closed to trap/pot fisheries, and opening them to trap/pot gear that is fished buoy line-free except for brief periods of attended gear retrieval. Specifically, the ALWTRT suggested that the Great South Channel (GSC) Restricted Area, which is seasonally closed to trap/pot fisheries (April 1 – June 30), be considered as a Gear Development Area (GDA) and opened to stimulate development of buoy lineless fishing (see attachment for full ALWTRT proposal).

Buoy lineless fishery operations occur in the Southeast U.S. Atlantic golden crab trap/pot fishery (for operational reasons; e.g., extreme depths, typically 1600 – 2400 feet, coupled with the strong Gulf Stream currently make the use of buoy lines impractical if not impossible). However, buoy lineless fishery operations do not typically occur in Atlantic Large Whale Take Reduction Plan (ALWTRP) regulated trap/pot and gillnet fisheries. Problems with gear conflicts are the main reason why buoy lineless fisheries are not being conducted on a broad-scale basis. Any unmarked fixed gear would be susceptible to being towed through by mobile gear fisheries (bottom trawl, scallop dredge, etc.), and set over by other fixed gear and vice versa. Therefore, in order to encourage buoy lineless fishery operations, incentives to fish in a lineless manner would need to be developed and gear conflicts would need to be addressed. This could include access to a closed area and/or paying fishermen to fish buoy lineless gear in an area (i.e. compensate for time and/or lost gear). Additionally, scientists could be encouraged to conduct research in an identified closed area to further development of buoy lineless technology.

II. Area and Fisheries

For any area considered as a potential GDA, the allowance of both trap/pot and gillnet fisheries managed under the ALWTRP should be considered at the initial stage of development. Likewise, any other fixed gear would face similar obstacles in implementing buoy lineless gear. As such, they too should be considered at the initial stage of development. However, gear consideration for any GDA must consider potential

¹ Note that the proposal received consensus support from the ALWTRT Northeast Subgroup. The approach was generally supported by participants at the Mid/South Atlantic Subgroup meeting, though one Team member suggested the effort would be more fruitful if an area now open and important to fishermen were closed to all but those willing to fish without end lines.

entanglement risks associated with other components of the gear (i.e., groundlines in trap/pot gear and net panels in gillnet gear). In addition, the area considered must also take into consideration other closures that may overlap the potential GDA (i.e., groundfish closures).

Taking these issues into consideration, since there is currently a closure in the GSC Restricted Area to protect large whales, allowing gillnet gear would re-introduce the net panels and increase entanglement risk to large whales. In addition, as described later in this document, the area considered for this GDA overlaps a groundfish closure, which prohibits the use of gillnet gear in the proposed GDA for the protection of groundfish species. Allowing gillnet operations in this area would increase entanglement risks to large whales and also circumvent groundfish conservation initiatives. Therefore, only trap/pot gear is being considered in the proposed GDA, as this gear would not have a profile in the water column (i.e. would be required to use sinking groundline), and thus would not increase entanglement risk.

The area proposed to be considered by the ALWTRT is an area in the GSC Restricted Area. Although the ALWTRT asked NMFS to consider other potential areas, none can be identified at this time. For example, there are 4 Fixed/Mobile Gear Restricted Areas (GRAs) in the offshore waters south of Cape Cod around the 50-150 fathom edge of the offshore canyons. The GRAs regulate access to the canyon areas for both fixed gear and mobile gear; when one gear type is allowed in the GRAs, the other gear type is banned from the GRAs. Therefore, there are no GRAs where the GRA is closed to both fixed and mobile gear types at the same time where an incentive program could be developed as proposed by the ALWTRT. NMFS also considered other areas in the Northeast but could not find an area (other than the GSC Restricted Area) where multiple gear types are regulated in such a manner where a GDA could be considered.

Since the ALWTRP was first implemented in 1997, the GSC Restricted Area has been closed to both gillnet (except for the Sliver Area) and trap/pot gear yearly from April 1 – June 30, which corresponds to the presence of endangered large whales. NMFS investigated Northeast Fishery Management Plan (FMP) regulations that overlap with the GSC Restricted Area to determine if there is an area where potential gear conflicts could be minimized to try to identify a potential GDA. NMFS considered numerous FMP regulations that involve fixed and mobile gear that overlap this area, including the following: Northeast Multispecies; Atlantic Sea Scallop; Atlantic Surf Clam and Ocean Quahog; Atlantic Herring; and Atlantic Mackerel, Squid and Butterfish. NMFS identified the following:

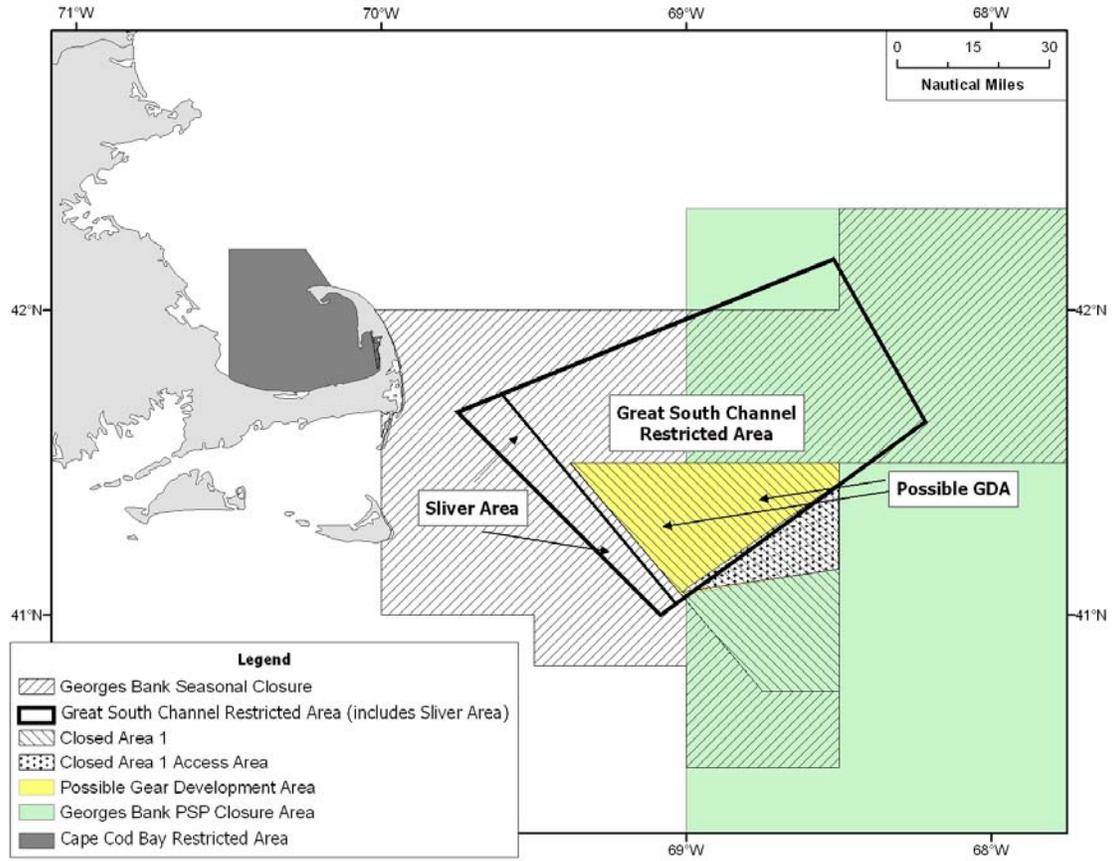
1. The Northeast Multispecies Closed Area 1 is closed year-round to all fishing vessels (e.g. gillnet, bottom trawl) with limited exceptions such as: 1) vessels fishing with or using non-fish pot gear (e.g. lobster, hagfish), pelagic hook and line gear, pelagic longline gear, harpoon gear, tuna purse seine, pelagic mid-water trawl gear, and tuna purse seine gear, provided no regulated species are kept and no other gear capable of catching Northeast Multispecies is on board; 2) vessels

2. There is an Interim Closed Area 1 Hook Gear SAP that is in place May 1 through January 31 (i.e. bottom hook-and-line gear could be present in the GSC during May and June).
3. The scallop Closed Area 1 Access Area does not include the GSC.
4. Although mid-water trawl vessels are not prohibited from the Closed Area 1, and by definition the gear should be designed not to fish or be in contact with the bottom, this gear could be close to the bottom. This fishery will have 100% observer coverage in Closed Area 1.
5. The eastern portion of the GSC does overlap with the Georges Bank Paralytic Shellfish Poisoning (PSP) Closure Area whereby surf clam and ocean quahog dredges would be prohibited.
6. NMFS Northeast Regional Office (NERO) Vessel Monitoring System (VMS) data through August 2007 indicates that general category and limited access scallop vessels do not typically fish in the GSC.
7. Although most of the GSC area also overlaps with the Multispecies FMP Georges Bank Seasonal Closure Area (May 1 – 31), whereby gear such as bottom trawl would be prohibited (with some exceptions for scallop dredges), this would not apply to sector vessels.

Based on a consideration of the above management areas and associated regulations, NMFS has determined that the portion of the Multispecies FMP Closed Area 1 that overlaps with the GSC Restricted Area could be considered as a GDA from April 1 – June 30, for commercial trap/pot gear given that gear conflict could be minimized. However, gear conflict would not be eliminated as bottom hook-and-line gear could be fished in this area during May and June. Additionally, there is a possibility that mid-water trawl gear could fish close to the ocean bottom. There is also the issue of trap/pot gear conflict within the fishery.

- *Questions for consideration:*
 1. *Should a GDA only be considered for areas that allow both trap/pot and gillnet gear or can the areas be limited to just one gear type? If allowing only one gear type, how do you address equity issues?*
 2. *Is allowing fishing in this area of the GSC enough of an incentive for fishermen? The identified area might not allow enough of an incentive based on a variety of factors, including proximity to shore, potential for gear conflicts, and inability to fish with buoy lines.*

Possible ALWTRP Gear Development Area (GDA) in the Great South Channel Restricted Area



III. Regulatory Issues

Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act)

The Magnuson-Stevens Act allows NMFS to authorize a fishing vessel of the United States to conduct fishing activities that would be otherwise prohibited under the regulations found at 50 CFR part 648 or part 697. Activities that frequently require an Exempted Fishing Permit (EFP) include, but are not limited to, the testing of fishing gear. Therefore, commercial vessels could potentially conduct research or research-related work in the GDA if an EFP was granted from the NMFS Northeast Regional Office. For example, trap/pot gear may need an EFP to fish in a buoy lineless manner as the Federal lobster regulations require gear to have an buoy line in certain areas (see 50 CFR part 697.21).

Scientific research on regulated fisheries could be allowed in the GDA but may require special permits. The Magnuson-Stevens Act does not apply to fishing as research, if: 1) The activity meets the definition of a scientific research activity at 50 CFR 600.10; and 2) The vessel meets the definition of a scientific research vessel, also at § 600.10. If the activity qualifies as scientific research with a scientific research vessel, NMFS prefers researchers request a Letter of Acknowledgement (LOA) from the Agency for such at-sea work. (The NMFS Regional Administrator reviews the scope of the research plan to determine whether an LOA or EFP is needed.) Scientific Research Permits can also be issued for studies that would be exempted from the Magnuson-Stevens Act, but are conducted by NMFS personnel. In all cases, the scientific research may require approval by NMFS if there is the potential of a “take” of marine mammals (Section 104 of the Marine Mammal Protection Act) or endangered species (Section 7 and 10 of the Endangered Species Act).

Marine Mammal Protection Act (MMPA) and Endangered Species Act (ESA)

An area that is currently closed to commercial fisheries would typically need a regulatory action for it to be opened to these fisheries. The MMPA does not provide an allowance for any prohibited fishing gear in a closed area unless an exception is specifically noted in the implementing regulations. The ALWTRP regulations currently close GSC Restricted Area to commercial trap/pot and gillnet gear (except for the Sliver Area) from April 1 – June 30 with no exceptions. Therefore, a regulatory action to amend the ALWTRP regulations would be required to allow commercial buoy lineless trap/pot gear in the area or allow research (involving commercial gear) within the area. In addition, researchers may also have to obtain a scientific and/or fishery research permit. A regulatory change to the ALWTRP would not be needed if scientific research was conducted on non-commercial gear, but a scientific and/or fishery research permit would be required.

The timeline for implementation of the GDA under the ALWTRP could be approximately 1-2 years as this would involve additional discussions with the ALWTRT to flesh-out the details of the proposal (as noted in this document), and time necessary for rulemaking (i.e. proposed and final rule, including National Environmental Policy Act requirements) and to obtain any necessary permits (e.g. applicable Endangered Species

Act [ESA]/MMPA, Magnuson-Stevens Act). Any ALWTRP regulatory change would require coordination with NMFS NERO Sustainable Fisheries Division; NMFS NERO Protected Resources Division (for any needed Section 7 consultation); NMFS NERO Habitat Conservation Division; NMFS Office of Protected Resources; Permits, Conservation and Education Division; and/or the New England Fishery Management Council.

If a portion of the GSC Restricted Area is opened to buoy lineless gear as defined by the ALWTRT proposal, and all other ALWTRP requirements are in place, NMFS believes there would be no change in entanglement risk to whales if the gear is fished without vertical lines. However, there would be increased risk of entanglement compared to the current closure if vertical line is present untended in the water column for a period of time (e.g. if the gear being tested malfunctions and releases a vertical line into the water column). Also, there could be a minor increased risk due to ship strike because more vessel traffic could occur in the area.

- *Questions for consideration:*
 1. *Consider the following if there is a future change to the ALWTRP regulations allowing a GDA for commercial gear in the GSC Restricted Area or for scientific research to be conducted using commercial gear:*
 - a. *What requirements should be considered in the regulations (e.g. contact NMFS 30-days before fishing in the area, provide report with specific information, limit gear used)? (Note: This would likely trigger the Paperwork Reduction Act.)*
 - b. *Should the regulations allow all commercial trap/pot fishermen to fish in a buoy lineless manner with specific requirements or select fishermen if they meet specific requirements? If the latter, how is this determined (e.g. voluntary, lottery)?*
 - c. *What other requirements should be considered in the regulations (e.g. contact NMFS 30-days before fishing in area, provide report with specific information, limit gear used)? (Note: This would likely trigger the Paperwork Reduction Act.)*
 - d. *Should the gear have a unique marking system? If so, what is it? If not, how would the gear in the area be monitored by enforcement and managers?*
 - e. *How will gear conflict (e.g. with other trap/pot gear) be avoided? Should fishermen also be compensated for lost gear and/or time?*
 - f. *Should the area be opened permanently or temporarily by including a sunset date?*
 2. *Consider the following for future scientific research conducted using non-commercial gear in a GDA:*
 - a. *Could the experiment be designed so that there would be no likelihood of an interaction, and, therefore, neither an ESA nor an MMPA permit would be needed?*
 - b. *Should the gear have a unique marking system to distinguish it from commercial gear? If so, what is it?*

3. *In any of the above scenarios, consider possible increased impacts to whales from increased vessel traffic in area and malfunctioning of gear (if vertical line is present in the water column for a period of time). Consider options to mitigate any impacts (e.g. reliability of device/tolerance for malfunctioning [if vertical line present in the water column for a period of time], monitoring).*
4. *What incentives would there be for fishermen to fish in the GDA if they are not allowed to retain and sell their catch?*

IV. Enforcement Issues

Enforceable regulations are critical. If the ALWTRP regulations are modified to allow commercial gear in the area, a very detailed description would be needed as to when buoy lines are permitted, and how they would be defined. For example, the regulations would also need to specify that the commercial gear would need to comply with all ALWTRP requirements. Also, since the buoy lines would only be allowed for gear retrieval, the regulations would need to specify the maximum amount of time the lines could be available during retrieval, a maximum amount of lines available, etc. Also, it is important from an enforcement perspective that gear conflict be addressed/prevented in any scenario the ALWTRT considers. The GSC GDA proposed above would have limited if any gear conflict from mobile gear, but there would be a possibility of gear conflict from other fixed gear (e.g. bottom hook-and-line, trap/pot). A small GDA with a limited number of listed participants would assist enforcement.

- *Questions for consideration:*
 1. *Can a smaller GDA with a limited number of participants be considered?*
 2. *How should gear be addressed if it malfunctioned (if vertical line is present in the water column for a period of time), and enforcement officials found gear with vertical line but no vessel hauling? What is the reliability of device/tolerance for malfunctioning (if vertical line is present in the water column for a period of time)?*
 3. *How can gear conflict be addressed (e.g. from other fixed gear)?*
 4. *Should gear prosecuted in the in a GDA be marked? If so, how? If not, how is enforcement supposed to monitor the area?*

V. Buoy Lineless Fishery Considerations, including Monitoring

It is important that an appropriate definition of buoy lineless gear be developed for any GDA. Under CFR 229.2, *Buoy line* is defined as a line connecting fishing gear in the water to a buoy at the surface of the water. Therefore, a proposed definition could include the following:

Buoy Lineless Gear:

Gear that, after being set, does not exhibit any vertical profile in the water column other than that which is presented by the gear itself. Buoy line(s) can be present only when the gear is being actively retrieved for “X” amount of time.

NMFS has conducted and/or supported research for many years on buoy lineless fishery operations (see “Status of Research on Buoy Lineless Fishery Operations” section below). However, NMFS does not believe buoy lineless fishing technology currently exists that could be put to use in a broad-based manner. NMFS “Gear Research Needs and the Atlantic Large Whale Take Reduction Plan” matrix notes various gear modification options to reduce the number of vertical lines such as acoustic devices, galvanic time release, and mechanical time release (see matrix for additional background on these options, including status of research.)

NMFS’ Gear Research Team can offer guidance and assistance to individual fishermen to assist with coordination of technological development and implementation. There are various options to document and assess all aspects of technological developments, catch, and gear loss (ALWTRT specified it must not be burdensome to fishermen). These vary based on how standard the project is and also costs. For example, this could range from NMFS Gear Research Team documenting and collecting information from participating fishermen, fishermen completing reports (which could trigger the Paperwork Reduction Act), and/or use of the NMFS Observer Program (which would have associated costs). Any funded grant project with a reporting requirement would not require Paperwork Reduction Act consideration. A monitoring program is important and any results would be reported back to the ALWTRT for further discussion.

- *Questions for consideration:*
 1. *Is the buoy lineless definition enforceable, clear, etc.? How much time should a buoy line be allowed to be retrieved? (Note: The definition allows that two buoy lines be available for industry for hauling.) Also, should the definition note that the buoy line should be attached to the hauler to make the definition more enforceable?*
 2. *What is the appropriate monitoring strategy?*
 - a. *Should there be a requirement to check gear? Note that requirements to check gear can be more difficult for offshore areas.*
 - b. *What reporting requirements are important in order for NMFS and the ALWTRT to successfully monitor (e.g. technological developments, catch, gear conflict and gear loss)? (Note: If fishermen are required to complete logs, this would likely trigger the Paperwork Reduction Act (PRA). NMFS could consider whether this would fall under an existing approved information collection requirement for the Marine Mammal Authorization Program (MMA).)*
 - c. *Would an observer program element be needed?*
 - d. *Consider costs of the above monitoring efforts (ALWTRT specified it must not be burdensome to fishermen).*

VI. Status of Research on Buoy Lineless Fishery Operations

The below summarizes the status of research on buoy lineless fishery operations that NMFS has supported:

NMFS/NFWF Right Whale Research Program (formerly known as the mini-grants program and fishing gear research program) funded projects:

- Zap buoy development (Newport Distribution) – remotely releasable buoy device. A final report is available which indicated that an initial prototype was developed with the funds provided, and this prototype would be used for demonstration purposes. The prototype consists of the release device and the submersible buoy. Graphics depicting the prototype are provided in the final report.
- Acoustic release system development (Joe DeAlteris, URI)
 - Note: This project was initially funded through a NMFS contract in 1998 as a proof of concept for the design, testing, and evaluation of an acoustic release system in the offshore lobster fishery. NMFS NERO has the final report for this project.
 - Additionally, two follow-up projects related to this were funded through the Right Whale Research Program.
 - The first project involved a cost feasibility analysis for using such a device. A final report was provided that indicated that the present cost of acoustic release devices could be reduced from \$2,000-3,000 to about \$1,000 (see report for specifics on how this could be accomplished). The second part of this project involved a survey (which included commercial fishermen), in which responses on the feasibility of the use of these devices was mixed.
 - The second project involved an evaluation of and small pilot study for an acoustically released pop-up buoy. The final report provides information on the number of hauls with the device and success and failure of the release. It also identifies a number of issues associated with using these devices (determined through testing and speaking with the participating fishermen), as well as future needs.

Other NMFS Funds

- NMFS is working with members of the trap/pot fishing industry to develop research options for pilot studies involving the testing of fishing gear without the use of vertical lines.

Sea Grant

- Sea Grant funded Dr. Ken Baldwin at University of New Hampshire to develop a Buoyless Lobster Trap (BLT). This was a student engineering project aimed at developing a simple low cost acoustic buoy release system for use in the lobster fishery. This project was primarily a ‘paper’ exercise conducted in a laboratory without any field trials.

Others:

- Notus (Canadian company) may have developed an acoustic device being used commercially in NJ. Under a previous contract to NMFS, this company was not successful in developing a 'low cost' acoustic release system.

The following includes potential funding that could be used to assist in the development of new fishing technology:

- Saltonstall-Kennedy Grant Program – e.g., conservation engineering priority
 - NMFS/NERO research and/or gear funds (either competitive or non-competitive)
 - Broad Agency Announcement (BAA) – e.g., unsolicited proposals addressing NOAA's mission goals
 - WWF Smart Gear competition
 - NOAA Sea Grant
 - New Hampshire Sea Grant Request for Proposals (<http://www.seagrant.unh.edu/funding/rfp.html>) – The RFP is usually released around February 1 of even-numbered years (biennial grant program). Projects should address one or more of the marine-related issues identified in the NH Sea Grant Strategic Plan. In this plan, Goal 2 is to “develop strategies and technologies that will lead to the reduction of bycatch, discard and unaccounted fishing mortalities.” One of the Actions and Opportunities listed under this goal is: “Devise techniques that reduce the incidental take of marine mammals during fishing operations while minimizing economic impact on the fishing industry.”
 - Consortium for Wildlife Bycatch Reduction (this would require discussions and coordination with the New England Aquarium and other members within that group)
 - National Fish and Wildlife Foundation (NFWF)
 - State agencies
 - Northeast Consortium (if future RFPs are issued; last one was in 2007)
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- *Questions for consideration:*
 1. *What are some suggested thoughts for research needs, priorities, etc.?*
 2. *If a research study is conducted, how should this be designed?*

VII. Summary Table of Options

	<i>Open GSC Restricted Area to Buoy Lineless Commercial Trap/Pot Fisheries</i>	<i>Support Scientific Research in GSC Restricted Area Using Commercial Gear</i>	<i>Support Scientific Research in GSC Restricted Area Using Non-Commercial Gear</i>
<i>Can buoy lineless gear be achieved?</i>	<ul style="list-style-type: none"> • Development still needed 	<ul style="list-style-type: none"> • Development still needed 	<ul style="list-style-type: none"> • Development still needed
<i>How reliable is the buoy lineless gear?</i>	<ul style="list-style-type: none"> • Development still needed • Monitoring difficult due to distance from shore 	<ul style="list-style-type: none"> • Development still needed • Monitoring difficult due to distance from shore 	<ul style="list-style-type: none"> • Development still needed • Monitoring difficult due to distance from shore
<i>Feasibility/fishability of the gear?</i>	<ul style="list-style-type: none"> • Development still needed 	<ul style="list-style-type: none"> • Development still needed 	<ul style="list-style-type: none"> • Development still needed
<i>Gear Conflict</i>	<ul style="list-style-type: none"> • Gear conflict issues, although minimized in this area, are not addressed 	<ul style="list-style-type: none"> • Gear conflict issues, although minimized in this area, are not addressed 	<ul style="list-style-type: none"> • Gear conflict issues, although minimized in this area, are not addressed
<i>Pro</i>	<ul style="list-style-type: none"> • Encourages research • Allows trap/pot fishing (number of participants to be determined) in an area that has been historically closed 	<ul style="list-style-type: none"> • Encourages research • Under grants, no PRA required to obtain information needed • Under Grants, no PRA required to obtain the information needed 	<ul style="list-style-type: none"> • Encourages research • No ALWTRP regulatory change required • Under Grants, no PRA required to obtain information needed
<i>Con</i>	<ul style="list-style-type: none"> • No clear, viable lineless fishing option to test • ALWTRP regulatory change required • Potential increase in risk to large whales (e.g. malfunctioning gear and vertical line present in the water column for a period of time) compared to status quo; may not be the most appropriate area for a GDA 	<ul style="list-style-type: none"> • No clear, viable lineless fishing option to test • ALWTRP regulatory change required • Potential increase in risk to large whales (e.g. malfunctioning gear and vertical line available for a period of time) compared to status quo; may not be the most appropriate area for a 	<ul style="list-style-type: none"> • No clear, viable lineless fishing option to test • Potential increase in risk to large whales (e.g. malfunctioning gear and vertical line available for a period of time) compared to status quo; may not be the most appropriate area for a GDA • Little or no incentive to encourage industry

	<i>Open GSC Restricted Area to Buoy Lineless Commercial Trap/Pot Fisheries</i>	<i>Support Scientific Research in GSC Restricted Area Using Commercial Gear</i>	<i>Support Scientific Research in GSC Restricted Area Using Non-Commercial Gear</i>
	<ul style="list-style-type: none"> • <i>Incentive not large enough to encourage industry participation</i> 	GDA	participation
<i>Future consideration</i>	<ul style="list-style-type: none"> • EFP may be required • Numerous regulatory details need to be considered (see questions to be considered in sections above). If identified GDA used, coordinates of area need to be refined • Reliability of device/tolerance for malfunction (<i>if vertical line is present in the water column for a period of time</i>), monitoring, and enforcement • Does this option encourage innovation for developing line-free fishing strategies? 	<ul style="list-style-type: none"> • EFP may be required • MMPA or ESA permits possibly required • Numerous regulatory details need to be considered (see questions to be considered in sections above). If identified GDA used, coordinates of area need to be refined • Reliability of device/tolerance for malfunction (<i>if vertical line is present in the water column for a period of time</i>), monitoring, and enforcement • Does this option encourage innovation for developing line-free fishing strategies? 	<ul style="list-style-type: none"> • MMPA or ESA permits possibly required • Numerous research details need to be considered (see questions to be considered in sections above) • Reliability of device/tolerance for malfunction (<i>if vertical line is present in the water column for a period of time</i>), and monitoring • Does this option encourage innovation for developing line-free fishing strategies?

VIII. Next Steps/Questions

Based on consideration of the above and the Summary Table of Options, NMFS will not be promulgating a rule to allow trap/pot fisheries in the GSC Restricted Area if fished in a buoy lineless manner at this time. Reasons for this include a potential increase in risk to large whales from a malfunctioning device (e.g. vertical line present in the water column for a period of time) compared to the current status quo (i.e. closure) and the lack of a viable option presented in the ALWTRT proposal (e.g. lack of industry incentive). Due to such issues as the proximity of the GSC Restricted Area from shore, the potential for gear conflicts, and the lack of viable technologies or methods for fishing without buoy lines, NMFS does not feel that the objectives described in the ALWTRT proposal (i.e. encourage innovation for developing line-free fishing strategies) would be achieved.

Also, although the proposal would help test the feasibility of lineless fishing gear, it does not address the gear conflict issue. NMFS believes that this concept of encouraging development of buoy lineless fishing could be explored for other areas for both trap/pot and gillnet gear in the future if a true incentive can be found, and the gear conflict issues addressed. However, the ALWTRP regulatory changes required prohibit an immediate response based on the time required to develop a regulatory action. NMFS believes its efforts should continue to focus on the ALWTRP vertical line rule development and working with the ALWTRT on a strategy. However, NMFS believes that reviewing the proposal has helped identify some questions that NMFS and the ALWTRT should consider when deciding how to manage areas based on the co-occurrence of vertical lines and large whales.

NMFS has been and will continue to support research on buoy lineless gear. NMFS will continue to encourage researchers to focus efforts on high priority vertical line projects as identified in the ALWTRP Gear Research Matrix.

Attachment

A Proposal to Open a Management Area Presently Closed to Trap/Pot Fisheries to Stimulate Development of Ropeless Fishing

Supported by the NE Subgroup of the
Atlantic Large Whale Take Reduction Team
2 April 2009

Background:

Right whales and humpback whales are both entangled in numbers that, according to their NMFS stock assessments, exceed their respective PBR's. Risk of entanglement comes from both groundline and vertical lines. In 2007, the NMFS issued regulations requiring the use of sinking groundlines in significant portions of New England waters. The ALWTRT has reinforced the need to address risk from vertical line. There is an urgent need to develop methods of reducing that risk. A proposal by scientists at the 2008 TRT meeting stated that the only certain way to remove risk is to remove lines from the water. The scientists emphasized at the meeting that this perspective should impact both the TRP's long-term focus and NMFS' research priorities.

Proposal Goal

This proposal seeks to encourage research and innovation in line-free fishing.

General Proposal Outline

- The subgroup sought to identify management areas currently closed to trap/ pot gear that could be opened to special gear development.
- The management area proposed by the subgroup for consideration as a Gear Development Area (GDA) is the Great South Channel restricted area presently seasonally closed to trap/pot fisheries (1 April – 30 June).
- This proposal does not contemplate any additional closures for the purpose of advancing the goals of this development strategy, but should instead make use of areas already closed to trap/pot fisheries.
- Upon the designation, the Great South Channel GDA would be opened to trap/pot gear that that is fished line-free except for brief period of attended gear retrieval.

Outcome

When this proposal is implemented it will have 2 benefits: (1) to encourage innovation in developing line-free fishing strategies by limiting access to the designated area only to those fishermen who can fish with line-free gear and (2) allow room to innovate and to test feasibility.

After the subgroup discussed and accepted the above proposal for stimulating innovative methods to develop and deploy traps or pots without lines in the water column (except for tended retrieval). The subgroup meeting on 2 April 2009 conducted a straw vote and

unanimously requested that NMFS develop a concept paper that considers how an area currently closed to trap/pot fisheries could be opened to those fisheries if fishermen set gear that does not place line in the water column except for the limited time when gear is being retrieved.

The instructions from the subgroup were as follow:

In the review and preparation of the concept paper NMFS should be guided by the spirit of this proposal but should also have latitude to consider practical alternatives to any part of the proposed plan. The concept paper should provide an area-specific context regarding potential gear conflicts and a history of the management of that area and should provide a vision of:

- the definition of ropeless gear and broad guidance regarding acceptable gear for use in the GDA
- regulatory and enforcement issues,
- coordination with other management agencies
- potential funding to assist in the development of new fishing technology
- partnership between NMFS and individual fishermen to assist with coordination of technological development and implementation
- innovative incentives to participate
- a system to document and assess of all aspect of technological developments, catch, and gear loss (must not be burdensome to fishermen)
- reporting of monitoring results to ALWTRT
- steps to implement of the above plan, including the anticipated duration of the plan and timetable for implementation
- changes in risk to whales if the closed area is opened to ropeless gear as defined by the concept paper

The subgroup requests that the concept paper be made available to the entire ALWTRT before the next ALWTRT meeting or 31 March 2010, which ever comes first.

The subgroup further requests that NMFS report to the next meeting of the S.E. subgroup the above concept and actions.