

Meeting Summary

**ATLANTIC LARGE WHALE TAKE REDUCTION
TEAM
MEETING
June 27-28, 2001**

Portland, Maine

*Prepared for the National Marine Fisheries Service and
the Atlantic Large Whale Take Reduction Team by*

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LIST OF ATTACHMENTS

- 1A. Draft Agenda
- 1B. Meeting Attendees
- 2A. Summary of the Biological Opinions for Multispecies, Spiny Dogfish, Monkfish, and Lobster Completed June 15, 2001
- 2B. PowerPoint slides to accompany update on Biological Opinions presented by Mary Colligan, NMFS
3. *Conservation Law Foundation, Inc., v. Evans*
4. Reduction of Northern Right Whale Interactions with Fixed Fishing Gear PowerPoint slides presented by Richard Merrick, NMFS
5. What is whale-safe or whale-low-risk gear? PowerPoint slides presented by Phil Clapham, NMFS
6. Strategy for Development of Seasonal Area Management Zones PowerPoint slides presented by Richard Merrick, NMFS
7. Letter to Ann Bucklin, NEC
8. A Proposal to the Northeast Consortium: The Development and Demonstration of a Whale-Free Buoy for Commercial Fishing
9. Gear Investigations with Underwater Load Cells
10. Large Whale Entanglement Reports 2000
11. Rhode Island Right Whale Contingency Plan
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13. Massachusetts Conservation Plan for northern right whales
- 14A. Mid-Atlantic Sub-group Meeting Recommendations to NMFS
- 14B. Mid-Atlantic Sub-group Meeting Recommendations to NMFS, revised by TRT
- 15A. Southeast Sub-group Meeting
- 15B. Southeast Sub-group Meeting, revised by TRT
16. S.E. Florida Shark Drift Gill Net Buy Out Proposal, memo from Samuel Michael Baker
17. Lobster Gear Technology List Change
18. Recommendations from Spring 2000 TRT Meeting (05/03/01)

WELCOME, INTRODUCTIONS, AND MEETING OBJECTIVES

The meeting began with a welcome by Abby Arnold, RESOLVE facilitator and brief introductions of all Take Reduction Team members and the public. Chris Mantzaris of the National Marine Fisheries Service (NMFS) made introductory comments to the group, thanking the TRT members for their involvement and recognizing the importance of these issues and input. In response to requests from a portion of the Team members, the agenda was modified. The TRT moved directly to a report on the Biological Opinions and an update on litigation, then discussed Dynamic Area Management (DAM) and Seasonal Area Management (SAM). (A copy of the original agenda can be found as Attachment 1A and list of meeting attendees can be found as Attachment 1B.)

The following objectives were noted in the agenda:

- Update on NMFS activities in the past year;
- Briefing and finalization on gear modifications recommended by Southeast and Mid-Atlantic Subgroups;
- Consider other gear modifications, recommendations;
- Discuss and develop recommendations on DAM and SAM; and
- Further develop innovative gear approaches.

BACKGROUND INFORMATION AND UPDATES

Summary of Biological Opinions

Mary Colligan, Acting Assistant Regional Administrator for Protected Species, Northeast Fisheries Science Center, National Marine Fisheries Service (NMFS), presented information regarding the summary of the Biological Opinions (BOs) for multispecies, spiny dogfish, monkfish, and lobster (Attachment 2A). The conclusion of the BOs was that the current practices of multispecies, spiny dogfish, monkfish, and lobster fisheries are likely to jeopardize the continued existence of right whales. Therefore, NMFS drafted a reasonable and prudent alternative (RPA) which includes measures necessary to avoid the likelihood of jeopardy to right whales. The RPA includes a requirement for publication of a SAM proposed rule by September 30, 2001, to address additional fishery restrictions or modifications. See attachment 2B for implications of the BO.

During discussion of the BO, the following comments and responses were highlighted:

- Responding to a comment that not enough time was spent investigating whether the TRT's last proposal had reduced jeopardy, NMFS explained that the ESA mandates action *now*. "Jeopardy" is a condition defined under the Endangered Species Act (ESA); however, neither the PBR nor the zero mortality rate goal (ZMRG) for North Atlantic right whales has been reached, so the biological opinion concluded that the condition of jeopardy does currently exist. Addressing the concern that the biological opinion was influenced by only one scientific opinion, NMFS ensured the group that all of the best available information, rather than a single set of data, was consulted to complete the report.

- NMFS addressed a concern that one whale mortality in gear of unknown origin would trigger the closure of a fishery. The clarification was made that such a mortality would trigger a reinitiation of consultation rather than an automatic fishery closure.
- Several concerns were raised about premature or inaccurate reports in the press that place the blame of whale mortality on fisheries, both in general and specifically relating to the recently entangled Right Whale #1102. NMFS explained that all information is analyzed before issuing a statement on the source of the line on an entangled whale, and that in the case of whale # 1102, NMFS did not cite fisheries as being responsible for the entanglement.
- The TRT agreed that mortality caused by ship strikes remains a significant issue that needs to be effectively addressed in order to more completely protect endangered whales.

Update on Litigation: *Conservation Law Foundation, Inc. v. Evans* (Attachment 3)

Roger Eckert, Attorney, Office of General Counsel, NMFS, reported on the status of current litigation. In *Conservation Law Foundation, Inc. v. Evans*, the Humane Society of the United States (HSUS)¹ and the Conservation Law Foundation have alleged, in part, that NMFS is violating the ESA and the Marine Mammal Protection Act (MMPA) by not adequately protecting North Atlantic right whales. The plaintiffs assert that NMFS must take additional steps to prevent whale entanglements, including area closures and gear modifications, and must take additional steps to reduce ship strikes. On June 14th NMFS issued BOs addressing implementation of the monkfish, spiny dogfish, multispecies, and lobster Fishery Management Plans (FMPs)². The four BOs conclude, in part, that NMFS' implementation of these FMPs jeopardizes North Atlantic right whales. The BOs provide a RPA with provisions for Seasonal Area Management (SAM), Dynamic Area Management (DAM) and gear restrictions. Importantly for the TRT, the RPA gives NMFS some discretion in how to formulate requirements for DAM, SAM and gear modifications. In addition, the RPA requires NMFS to issue a proposed rule on SAM by September 30, 2001 and a final rule by December 31, 2001. At a subsequent court hearing, the plaintiffs indicated that they will seek, among other things, to have the court order NMFS to comply with this schedule. Accordingly, plaintiffs will file another motion for a preliminary injunction by July 13th, NMFS will respond, and there will be a court hearing on the motion on August 15th. The significance of the case for the TRT is that, at this meeting of the TRT, the team has an opportunity to advise NMFS on DAM, SAM and gear requirements, before NMFS is scheduled to issue a proposed rule on September 30th.

Following the explanation of current litigation, NMFS received questions and comments. Several team members commented that members of the TRT have faithfully participated in the collaborative process and that introducing litigation derails this process. They stated that litigation places into question the purpose and role of the TRT in making recommendations; that Team recommendations become irrelevant with the introduction of litigation into the process. Other team members countered that the litigation has focused NMFS on its much delayed

¹ The HSUS filed a separate lawsuit and was not part of *Conservation Law Foundation, Inc. v. Evans*, though the court is hearing them jointly.

² The litigation did not trigger the consultation and resulting Biological Opinions, but established a time table for their completion in draft form

schedule and freed the agency to implement the Take Reduction Plan (TRP) and take other measures that will provide more protection for endangered whales.

A member stated a concern that members of the team who are litigants of the *Conservation Law Foundation, Inc. v. Evans* may have a conflict of interest. However, other members noted that some TRT members have gone to their state and federally elected officials for assistance and may also have a conflict of interest. The discussion concluded by the facilitator recognizing that the Team needed to focus on the agenda for the next two days, identify where there is agreement among team members, and capitalize on that common ground.

OVERVIEW OF MANAGEMENT OPTIONS: CONTEXTS FOR STRATEGIES OF DYNAMIC AREA MANAGEMENT (DAM) AND SEASONAL AREA MANAGEMENT (SAM)

Richard Merrick, Chief of Protected Species Branch, Northeast Fisheries Science Center, NMFS, led presentations on DAM and SAM, by first pointing out that the semantics of DAM has changed such that brief closures would be very rare, and that SAM is useful because there are already areas within which the presence of whales is predictable in a designated timeframe. Merrick also noted that the main difference between DAM and SAM is timing, regarding when areas are designated management areas before or during whale migration. The following definitions for both terms were given:

- DAM is the response to a brief aggregation of whales. There is no advanced warning of the designation of an area as a DAM and resulting restrictions. The hope of NMFS is that this type of response would be reduced in favor of a broader application of SAMs.
- SAM is a seasonal, predictable designation for which there would be much advanced warning before the implementation of restrictions.

Reduction of Northern Right Whale Interactions With Fixed Fishing Gear (Attachment 4)

The NMFS presentation outlined strategic goals to reduce whale interaction with fishing gear which were based on requirements in the legislation of the MMPA and the ESA. The proposed strategy would use gear modification in combination with spatial and temporally designated restricted fishing areas.

The TRT agreed that an important aspect of gear modifications would be to develop a clear definition of “whale safe” gear. A subgroup of scientists met in the evening and presented on the second day a draft definition of whale safe gear (Attachment 5) based on criteria of whale behavior and gear characteristics. The definitions were slightly modified during group discussion to arrive at the following tiered definition:

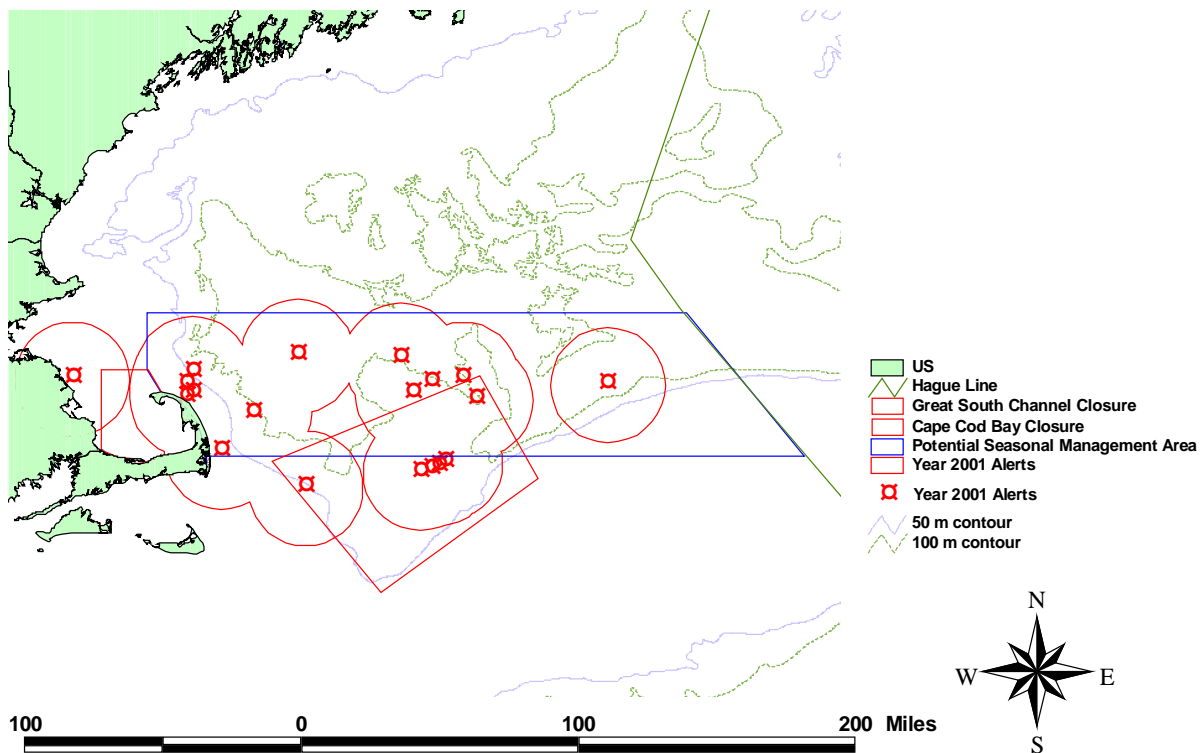
- Level I: Truly whale safe gear: Gear for which there is *no chance* of entanglement
- Level II: Low-risk gear: Gear for which any entanglement would be minor, where *death or serious injury is highly unlikely*
- Level III: Gear/actions which potentially/somewhat reduce the risk of entanglement: Increases the chance that an entanglement will be reported
- Level IV: Gear modifications with unknown degree of risk reduction

These definitions were discussed and generally accepted by the group as a working definition. However, consensus was not asked for or agreed to. An outstanding and significant issue is which stage current gear would be assigned (NMFS does not consider current gear to meet the “whale safe” standard). It was noted that having a three-tiered definition of “whale safe” allows for the monitoring of progress by the fishing industry, and also allows for better gear to be phased in. However, NMFS commented that they cannot simply accept these definitions, until it is determined if the definition addresses the criteria for avoiding jeopardy.

In summary, Merrick observed that the role of the TRT is to offer guidance in the spatial and temporal definition of DAMs and SAMs.

Strategy for Development of Seasonal Area Management (Attachment 6)

Merrick presented the TRT with possibilities for defining SAM zones, pointing out that it is predictable. He explained that zone development would be based on past right whale sighting data, including the potential 2001 DAM closures. The diagram (below) was presented and represents a potential definition of the SAM area for the New England coast. It was noted that this box could be further defined and subdivided such that the total area could be broken down temporally based on the expected presence of right whales on certain dates.



After presentations on DAM and SAM, the TRT discussed and created four possible SAM schemes. The four options are various approaches of applying gear restrictions either up front or following the patterns of whale migration into or outside of the area. What gear would be considered “whale safe” was discussed separately, so the TRT did not develop these options with specific “gear restrictions” in mind.

1. Total management area with gear restricted throughout designated time frame.

Pros

- provides most protection for whales
- is simple
- easier to communicate
- requires no survey effort

Con

- does not allow flexibility in the case that whales are present during a non-SAM time or absent during a SAM enforcement

2. Total management area with gear restrictions lifted sequentially in time as animals leave the area (move east).

Pros

- moderate protection for whales
- more access for fishers without “whale safe” gear than option 1

Cons

- does not allow flexibility for when whales are present, not present
- delays by NMFS in reopening
- whales do roam so this option is not as protective as option 1

3. Total management area with no gear restrictions initially; gear restrictions are instituted as animals appear and are then lifted as animals leave the area (move east).

Pro

- allows for maximum access by fishers, when whales are not in area

Con

- difficult to implement because of dynamic nature
- waiting for whales to come to restricted area,
- requires more survey effort
- hard to enforce

4. Management area divided into predetermined sections; all dates of gear restriction and non-restriction are predetermined

Pro

- allows certainty to fishermen

Con

- whales might leave earlier, or arrive earlier than predetermined
- times set up false expectations, if restrictions applied in advance and whales are not present
- fishermen are forced to use restricted gear unnecessarily

Consensus was not reached by the group. Option 2 was most attractive to those that spoke up. The team decided that, when examining the subdivision of the total SAM area into smaller regulated boxes, there should be a determination of whether there are any patterns of specific times when whales are sighted in specific zones. A member also expressed the importance of knowing the precise coordinates of restricted areas as they are designated.

Another issue not discussed at length by the TRT is the trigger for establishing the DAM. One member, representing Massachusetts lobstermen, asked to go on record with his opposition to the document, *Defining Triggers for Temporary Area Closures to Protect Right Whales from Entanglements: Issues and Opinions* (Clapman and Pace), that proposes the number of whales that can trigger a DAM. He did not feel that the recommendations from the previous TRT meeting were followed.

Management Strategies (DAM and SAM)

The TRT moved to a discussion on what gear might be acceptable within the SAM. NMFS clarified that these suggestions could possibly be applied to future SAMs but would not be acceptable for designated critical habitat. Critical habitat area will be evaluated for use of SAM gear in the future. One member pointed out that, if suggested gear modifications were acceptable in SAMs, a goal for the future would be to spread “whale safe” or “low risk” gear to all fishing areas.

The following options were discussed by the TRT, with consensus and non-consensus points noted³:

Gillnet Fisheries: *No consensus*⁴

- Tend nets (Tend=bringing the gear home at the end of the trip; ?)
 - Tied to boats?
 - Length of nets dependent on boat length?
 - Stay within X (5?) nm of boat or in sight (*Maybe*) or
 - *Trip boats only*
 - May not move protection into Level II
- More weak links on head rope if funds available
- Recommend funds be made available quickly for this weak link work
- Neutrally buoyant or sinking line
 - between nets and anchor
 - buoy line
- Look at various gear types and determine if different regulations should apply to each
- Limit on what nets are set

³ Note: during the discussion a number of TRT members noted that the recommendations from the last TRT meeting were still important to consider, especially those that related to research. These are attached at Attachment 18.

⁴ After the meeting, a Northeast gill-netter contacted the facilitator and suggested that in the proposed rule NMFS include an option that, in a SAM, fishermen could set gear as long as the gear stayed with the boat when not actively fished. He also suggested that in the future, once appropriate technology is developed, NMFS should consider management strategies and the use of weak links and a breaking strength that is determined “whale safe.”

Offshore Lobster Waters Area (Lobster Management Area 3 and 2/3 overlap)
(“Offshore SAM Area” is within blue box and part of Area 3, designated as west of the easternmost circle to the Hague line⁵.)

- Divide closure area into two boxes, if whale data supports this. Offshore lobstermen would prefer to have restrictions in eastern part later in the season rather than early.
- Temporal subdivisions of total period (and box) by month. The rolling restrictions would have a fixed closing date coupled with a variable reopening, examined on a month-by-month basis and depending on whale presence.
- Offshore lobstermen agreed to use neutrally buoyant groundline in their area and requested that it and sinking line be on the gear technology list.
- The offshore lobstermen agreed to use 1500-lb. breaking strength in this designated “offshore” area. Vessels in this offshore area would also use neutrally buoyant or sinking line.
- For the rest of the waters *within* this SAM but *outside* of the designated “offshore” area, use inshore requirements of 600-lb. weak links between buoy lines and buoys year-round.
- The breaking strength in the rest of Area 3, outside of the SAM, will be 2000 lbs. (a reduction from the current regulation of 3780 lbs.).
- Prior to second year, GAG or another forum should meet to evaluate effectiveness.

Northern Near-Shore Lobster Management Areas: *Consensus reached*

-
- Follow proposed Cape Cod Bay critical habitat gear mods.
- No single pots (except within State Waters).
 - 600-lb. weak link on buoy line
 - Neutrally buoyant or sinking line between traps
- Team recommends phase in consistent with Massachusetts plan (see Attachment 13).
- Should work in combination with closure period in CCB.

Various TRT members registered the following concerns about aspects of these proposed gear modifications:

- Tending or staying with gear may not reduce risk, but rather promotes chance for disentanglement. If animal gets entangled and is seen by fisher, fisher can try to disentangle.⁶
- 600-lb. weak link breaking strength should be examined, but it is not a demonstrated solution.
- Enforceability is not addressed in these measures.
- It was noted by a representative of the US Coast Guard that they would expect difficulty in the enforcement of gear modification rules and would prefer enforcement of areas which totally prohibit fishing.
- Some proposed gear has not been purchased, perfected, or developed yet.

⁵ The above description of “offshore” is a working definition used and agreed upon by the TRT in the SAM discussions. The precise boundaries of the “offshore” area will need to be mapped following this definition. Furthermore, this offshore designation should be unique to this agreement and should not necessarily be considered the same in future SAM areas.

⁶ In comments on the meeting summary, it was suggested that this bullet should read “Fisher can stand by the whale and immediately notify the disentanglement network,” since only Level 4 can disentangle and there may be few or no fishermen currently at this level.

- These measures are not enough to be called “whale safe,” which is the goal.
- It is premature to list gear modifications as anything more than a recommendation from the TRT. These are doable in the near term but should not be considered clear solutions that will definitely appear in the proposed or final rule.

Regarding gear modifications, the TRT also expressed the following needs that must be met:

- The **need for creative thinking and funding for gear modifications**. NMFS shared that they welcomed new ideas and feedback. It was also noted that, though something may be technologically feasible, it will not work if the industry cannot implement it.
- A **gear workshop should occur in the fall**, possibly coinciding with a reconvening of a gear advisory group (GAG). A subgroup met in the evening of Day 1 and discussed gear research funding and purpose of this proposed workshop. Objectives could include setting priorities for gear development, creating a concrete proposal for performance measures or allowable gear, making an implementation plan. Participants should include TRT members and NMFS, but also new people with creative ideas, possibly from other parts of the country or the world. The states of Maine, Massachusetts, and Rhode Island will partner with NMFS in assisting with the organization of the workshop. The following participants in this subgroup discussion volunteered to be on the steering committee: Dan McKiernan, Richard Merrick, John Kenney, Terry Stockwell, April Valliere, and Dave Wiley.
- More data should be collected using the load cell.
- Funds should be made available to purchase new gear such as neutrally buoyant line.
- A recycling/ buy-back program for polypropylene line would be beneficial and could be implemented by working with manufacturers. Another option would be to investigate private sector or nonprofits with the resources to help promote the cause. Nina Young and Bonnie Spinazzola offered to lead this task.

Funding is the most significant gear research issue that needs to be addressed. The TRT expressed disappointment about the Northeast Consortium’s (NEC) 2001 funding decisions and insufficient outreach to the fishers who have ideas for how to improve gear so it is “whale safe”. It was suggested that aid in proposal writing should be offered to fishermen. To publicize available funds, groups such as state offices, fishing associations, and state permit holders should be contacted. In order to tap into available resources, TRT members and other interested parties could approach NMFS for \$50,000 and the NEC for the \$200,000 still left in this year’s budget. At the request of the TRT, a letter will be written by Richard Merrick (Attachment 7), addressed to Ann Bucklin of the NEC, to express the TRT’s research priorities in the following areas:

- Breakaway links
- Weak links in gillnet nets
- Knotless splice
- Reduction of gillnet gear profiles and ground line
- Reduction of vertical line and knots in vertical line
- Reduction of interaction between gillnet or lobster gear and whales
- Line that would lose integrity upon interaction with a whale (biodegradable)

In regards to the need for funding for gear development and Section 6 of the ESA, the TRT would like to register the following letter⁷:

The Atlantic Large Whale Take Reduction Team (TRT) is concerned about the limited funding that has been provided to help develop and support state agency programs to mitigate the effects of commercial fishing and other activities necessary to protect and recover North Atlantic threatened and endangered whales. To address this limitation, the TRT recommends that NMFS take the following actions:

- 1. Where they do not already exist, pursue steps to establish cooperative agreements pursuant to provisions under Section 6 of the Endangered Species Act with all states interested in assisting with research and management activities bearing on interactions between right whales and commercial fisheries;*
- 2. In cooperation with those state agencies, annually project funding needs required to undertake those state programs; and*
- 3. Develop and include as part of the administration's annual budget request, annual appropriations pursuant to existing funding authority under Section 6 of the ESA sufficient to provide the appropriate level of federal funding necessary to carry out those cooperative state programs.*

GEAR RESEARCH IN 2001

The Development and Demonstration of a Whale-Free Buoy for Commercial Fishing.

Cliff Goudey of the MIT Sea Grant College Program presented his work on *The Development and Demonstration of a Whale-Free Buoy for Commercial Fishing* (Attachment 8). This proposal for a new buoy design was funded by the NEC in the amount of \$50,000. MIT sought input from the TRT on possible geographic areas where implementation of this buoy would be useful, effective design testing methods, and requirements for getting approval for gear modifications.

Load Cell Data Test Results.

Glenn Salvador, Equipment Specialist, Protected Resources Division, NMFS, presented load cell testing data from deployments that took place in 40-200 fathoms between November 2000 and May 2001 (Attachment 9). After presenting the data, he took comments from the group.

- Maximum recorded load was 490 lbs. in Hydrographer Canyon (see tab 6 handout)
- Two main concerns about the testing were registered by some TRT members. The first was that conditions in which the load cells were deployed do not represent severe weather. The worst conditions in which testing took place was a 19-ft. sea. Secondly, a member commented that the load cell data represent only four tests and that more data are needed to draw conclusive results.
- When asked to extrapolate a reasonable maximum breaking strength based on data, Salvador responded that he believed 1500 lbs. would be reasonable, as this is three times the maximum weight tested in non-extreme conditions.

⁷ Subsequent to the meeting, some members expressed concern that NMFS management authority should not be abrogated to State agencies, nor should parochial State agency needs or diversion of limited resources to the State agencies limit the scope of data collection or management action that is undertaken to protect right whales.

Neutrally Buoyant Line Test Results

Glenn Salvador, next presented data from neutrally buoyant line tests based on 60 miles of line used by inshore and offshore lobstermen and gill-netters. Forty percent of those using the line responded. A majority of inshore users liked the rope. Some had no problems with the rope, especially on smooth bottoms. The biggest problem dealt with chafing or snagging of the rope on hard bottom areas. In summary, the line met most of its expectations. The line will be sent back to the manufacturer with a request to make it more buoyant so it doesn't chafe on hard bottoms. Salvador then took comments from the TRT.

Ongoing Gear Research Team (Salvador and Kenney) Activities: Funded by Northeast Consortium

1. Gear Investigation of Load Cells
2. Continue neutrally buoyant line. Went back to company to try different kinds
3. Building nets with weak links in various positions. With breaks of 600, 900, 1100 lbs.
4. Megafloat on gillnet gear

Money is also available from NMFS, \$50,000 total, to fund quick response mini-grants for fishermen in the range of \$5,000 to \$15,000.

ENTANGLEMENT SUMMARY, RIGHT WHALE #1102

Rather than covering the details of the *Large Whale Entanglement Reports 2000*, which can be read as Attachment 10, David Mattila and Stormy Mayo, Center for Coastal Studies, gave an update of Right Whale #1102. This most recent known whale entanglement was first spotted on June 8, 2001. Line was found from the mouth to tail, but the origin of the line has not been determined. On June 26, an attempt to administer a sedative failed. The whale's tissue has been severely damaged by the embedded line and the epidermis has turned a light gray, a sign that the whale is in very serious condition.

STATE PLANS FOR RIGHT WHALE MANAGEMENT

Rhode Island

April Valliere of the Rhode Island Department of Environmental Management, Division of Fish and Wildlife, shared that her department has developed a contingency plan for responses to dead whales, entangled whales, and the extended presence of endangered whales in state waters (see Attachment 11).

RI has conducted two Level One workshops to train fishermen in basic identification of whales and disentanglement protocol. They have also requested Level Two disentanglement training.

Maps have been developed which divide the area into five- and ten-minute blocks. Based upon the triggers already developed, RI would proceed with the smaller blocks, as their boundaries would be more easily defined and identified. Each block would be numbered, maps distributed to fixed and mobile gear fishermen, and when an event is triggered, a circle drawn similar to what NMFS used recently. Blocks within that circle would then be targeted for regulatory action. One major difficulty for RI is the federal waters between state waters and Block Island. RI would like jurisdiction over this area. Another need for the division is funding for outreach,

education and gear modification workshops, and enforcement and division staff in the event the babysitting of whales becomes necessary.

RI would create a program similar to DAM where the Trigger, three to eight whales, would be responded to within forty-eight hours. Buoy lines would be dropped in lobster gear and gillnet gear would be removed.

Maine

Terry Stockwell of the Maine Department of Marine Resources presented Maine's plan, with its short-term and long-term goals. A description of short-term goals can be read as Attachment 12. With long-term funding, DMR would ultimately like to, and believes it is capable of, monitoring out to 40 miles. The DMR is seeking funding for the maintenance and expansion of the startup program. In his presentation, Stockwell highlighted the opportunity and necessity for consistency in regulations and cooperation with NMFS.

The NEC funded \$142,000 for an outreach coordinator to develop a surveillance system and create a sightings database through monitoring. Congress also designated \$150,000 through the agency which NMFS will provide.

Massachusetts

Dan McKiernan of the Massachusetts Division of Marine Fisheries presented the Massachusetts conservation plan. The basic plan has been in place since 1997, but modifications have been made to meet the objectives of the *Strahan v. Coxe et al.* settlement by the end of 2001. State highlights of the plan, including regulatory proposals to be aired at public meetings in November 2001 and other considerations, are available as Attachment 13.

- MA works with whale watching boats to report whale sightings
- MA is working to rid the waters of ghost gear
- During last minute management changes, the state has had a problem trying to contact the 56 Gillnetters in Cape Cod Bay with proper notice.
- During the NMFS Wilkinson Bay Closure, NMFS did not contact the fleet fishing in the area. Instead NMFS left the contacting up to MA officials.
- Presently, MA has gillnet seasonal closures
- MA is currently discussing a universal color scheme on high flyers, gear marking on poll and flag
- MA wants NMFS to change Cape Cod Bay Closure to April 30th
- MA is opposed to DAM based on low triggers and single surveys
- Presently MA contracts Right Whale work out to the Center for Coastal Studies

BUDGET REVIEW/STATUS FOR 2001, NOAA

Mary Colligan of NMFS presented the NMFS budget to the TRT. She stated that in fiscal year 2000, there was a significant increase in budget for right whale programs, totaling \$4.1 million. In FY 2001, which runs through September, the overall right whale budget went up, but NMFS was apportioned less than half of these funds. Out of an available \$5.0 million, NMFS was given \$2.1 million, while the NEC received the remaining \$2.9 million for funding research. The NMFS money was distributed in the following way:

- \$375,000 for state programs in Maine, Massachusetts, and Rhode Island
- \$450,000 in program support for items such as economic analyses, NEIT and SEIT
- \$745,000 for survey efforts
- \$450,000 for ship-strike prevention, such as early warning systems and SAS
- \$ 75,000 for enforcement and scarification analyses

The budget plan for FY 2002 is for NMFS to receive \$4.1 million in right whale funds, an increase of \$2.0 million from FY 2001. Colligan shared that the largest difficulty with the budget is timing; for example, NMFS still hasn't received right whale funds for the current fiscal year.

MANAGEMENT STRATEGY RECOMMENDATIONS

Kathy Wang of NMFS presented the management strategy recommendations for the Mid-Atlantic and Southeast subgroups of the TRT. Wang reviewed the effort made to include the affected stakeholders in these meetings and noted that the subgroups had developed the following recommendations. She also noted that the full TRT had been sent a copy of the recommendations for review and comment. The full TRT was mailed the recommendations and only one responded with suggested changes. Before discussing the recommendations, a Mid-Atlantic TRT representative pointed out that offshore lobstermen are not included in the subgroups, and other members remarked that there should be representation for the red crab, black sea bass, hag fish, and perhaps other fisheries. These parties commented that, to aid in better representation at meetings of the entire TRT, schedulers need to take into consideration the meeting times of individual Fisheries Commissions to avoid schedule conflicts for team members. Another concern was that there is such a large focus on the Northeast and that the Mid-Atlantic and Southeast is not receiving enough attention. Wang followed by reviewing the subgroup recommendations.

Mid-Atlantic Subgroup

The intention of the Mid-Atlantic subgroup was to create recommendations that are more consistent with those of the Northeast, while allowing for regional differences in fishing gear and practices, as well as in whale species/age composition and distribution. Attachment 14A is the presentation of the recommendations first drafted by the subgroup. Attachment 14B represents these recommendations in full as altered after a review by the entire TRT; these recommendations are summarized below.

Southeast Subgroup

Attachment 15A is the presentation of the recommendations first drafted by the subgroup. Attachment 15B represents these recommendations as altered after a review by the entire TRT, as summarized below.

Summary of Recommendations

Mid-Atlantic Gillnets

- Must have 600/1100 lb. breaking strength weak links (*No full TRT consensus on strength of weak links; mid-Atlantic subgroup recommended 600 lbs., but other TRT members believed that 1100 lbs. was more appropriate*)

- Buoy lines attached to main buoy with 600 or 1100 lb. weak link⁸
- One 600 or 1100 lb. weak link in the center of each panel in the net string, in the float rope (This will be consistent with NE)
- Tending (*No full TRT consensus*)
 - Must be returned to port with the vessel or be anchored at each end with the holding power of at least a 22 lb. Danforth anchor

Mid-Atlantic Pot Fisheries (*Consensus by full TRT*)

- For Lobster Management Areas 4 and 5, require a 600 lb. weak link between buoy line and main buoy with buoy lines to be as knot free as possible in the breakaway (per Northeast) (*Consensus*)
- For Lobster Management Area 3, follow gear guidelines established for the Northeast (*Consensus*)⁹
- Require year-round

Additional Mid-Atlantic Recommendations (*Consensus*)

- Delete the 7/16” line option for both pot and gillnet gear)¹⁰

Southeast U.S. Observer Area Gillnet Recommendations

- Consensus decision to eliminate the allowance of VMS in lieu of 100% observer coverage.
- Prohibit night time straight sets Nov 15 – March 31 in the “closed area”
- Continue to allow runaround sets
- Extend NE gear marking requirements to SE

Proposal for a buy-out of the Southeast Florida Shark Gill Net Fishery.

Mike Baker, a representative of the Southeast Florida Shark Drift Gill Net Fishermen, presented his proposal for a buy-out of the Southeast Florida shark gill net fishery (Attachment 16). Baker sought the TRT’s approval to approach a senator and further develop his proposal. The TRT expressed their support of this plan.

GEAR TECHNOLOGY LIST CHANGES

Gregg LaMontagne, Large Whale Coordinator, NMFS, led a discussion on the lobster and gillnet gear technology list changes (Attachment 17). There was no consensus about deleting the 7/16” line option for the Northeast lobster fishery. LaMontagne suggested a delayed effective date to allow more time for development of improved weak links but there was no consensus. NMFS suggested adding neutrally buoyant lines where sinking ground lines is presently an option.

⁸ Post meeting note: 1100 lbs. is consistent with NE area. Conservation members suggested 600 lb. to accommodate juvenile whales, and mid-Atlantic subgroup members had concurred.

⁹ Post meeting note: this is already a regulatory requirement

¹⁰ Please note that this consensus point is for the Mid-Atlantic and is **not** consistent with 7/16” line discussions for the Northeast.

NEXT STEPS

The NMFS staff explained to the TRT that they will be taking the meeting's proceedings under advisement and that input given by team members during this meeting will be considered during the drafting of the proposed rule. However, the draft rule as it is published may not follow the TRT recommendations exactly. If additional information is necessary, the appropriate individuals will be contacted.

One fisherman requested that a copy of the proposed rule be forwarded to all TRT members. For the possible TRT meeting following the publication of the proposed rule, several fishermen noted their preference for a one-day meeting to cut down on lost fishing time. Another member suggested that subgroups should meet more frequently in the future. One particular group identified as needing to convene is the Mid-Atlantic offshore lobstermen.

Timeline

- Proposed SAM rule with options, September 30, 2001
- Convening of gear workshop, September-October, 2001
- Convening of ALWTRT during public comment period, October-November, 2001
- Final SAM rule, December 31, 2001
- Recommended phase-in of rule that is consistent with state plans.

After reviewing the timeline the meeting adjourned.