

**Minutes of the
Atlantic Scientific Review Group Meeting**

Hollings Marine Laboratory, Charleston, South Carolina

The autumn 2005 meeting of the Atlantic Scientific Review Group (ASRG) commenced at 0900 on 8 November 2005, at the NOAA's National Center for Coastal Ocean Sciences, Hollings Marine Laboratory, Charleston, South Carolina. The agenda is in Appendix I and participants are listed in Appendix II.

Day 1: 08 November 2005

1. Introduction

Welcome

Don Baltz (Chair, ASRG) and Aleta Hohn (SEFSC) welcomed members and participants. Members and observers introduced themselves. Waring (NEFSC) reviewed the agenda and some minor changes were made. The Chair reviewed the meeting format and Waring and Rosel (SEFSC) were appointed rapporteurs.

2. Post Katrina and Rita Update

Mullin and Rosel (SEFSC) reported on strandings and facility damage resulting from the two hurricanes. In July 2005, a biopsy program was begun in Mississippi Sound to sample bottlenose dolphins. Prior to Hurricane Katrina, 80 biopsies were collected. All sampling ceased for the month after Katrina. However, within 10 days of the hurricane, *ad hoc* small boat surveys found that bottlenose dolphins occurred in all areas searched that they inhabited prior to the hurricane, with no apparent changes in numbers or distribution. Aerial surveys conducted two weeks post-Katrina covered coastal waters of Alabama, Mississippi and Louisiana to the Atachafalaya River. No large mass or single strandings were seen, but large debris fields made sightings difficult. Shipboard surveys performed by NOAA for environmental sampling saw many dolphins and encountered no dead animals. The Pascagoula laboratory was heavily damaged, but interim measures are allowing work to continue.

Since Hurricane Rita, six "out-of-habitat" dolphins have been reported in SW Louisiana. Southeast Fisheries Science Center, with the help of the Texas Marine Mammal Stranding Network captured and released five of these into the Gulf of Mexico; the sixth was found dead. In addition, a post-Katrina out-of habitat dolphin found in SW Mississippi was also released into the Gulf.

3. Take Reduction Plan Updates

BDTRT Update

Carlson (SERO) provided an update on the Bottlenose Dolphin Take Reduction Team (BDTRT). In November 2004, NMFS issued the proposed rule to implement the BDTRP

and to amend the mid-Atlantic large mesh gillnet rule. The proposed rule combined actions of the Marine Mammal Protection Act (MMPA) (regulatory and non-regulatory measures from the BDTRT) and Endangered Species Act (ESA) (amendments to the mid-Atlantic large mesh gillnet rule). The two actions were combined into one rulemaking process to (1) address the BDTRT's recommendation to include the seasonally-adjusted closures areas that cover the Northern NC winter mixed management unit; (2) provide consistency among state and federal management measures; and (3) help with interpretation by fishermen. In addition, the BDTRT proposed rule recommends several regulatory and non-regulatory management measures to reduce serious injury and mortality including effort reduction, gear proximity requirements, gear and gear deployment modifications, and gear marking, and continued research into gear modifications and on behavior of animals around gear, monitoring enhancement, and outreach to affected stakeholders. There are 9 category I and II fisheries affected by the BDTRT. Amendments to the large mesh rule include: extend the seasonally-adjusted closures into state waters of VA and NC, include conditional striped bass exemption and revise mesh size restriction to include gillnets with mesh size of 7 inches or greater. Over 4,000 public comments were received on the proposed rule. The final rule still contains two actions. The SERO is recommending that the amendment to the large mesh rule not include the extension of seasonal closures and that beach gear and gear marking requirements not be included in the final BDTRP. Both NC and VA have enacted their own state regulations more conservative than NMFS proposed and they have their own gear marking requirements. Concern was voiced over relying on state fishery measures to deal with federal issues, for state regulations may be changed. However, at this point PBR is being met whether state or federal agencies enact these measures. The final rule is in the clearance process. The complexity of dealing with the combined ESA/MMPA actions and the >4,000 public comments has increased the length of time needed to produce the final rule.

PLTRT Update

Cornish (SERO) and Garrison (SEFSC) reviewed the status of the Atlantic Pelagic Longline Fishery Take Reduction Team (PLTRT). The first meeting of the Atlantic Pelagic Longline Fishery TRT took place in June 2005. Currently this TRT focuses on pilot whales (i.e., long-finned pilot whales, *Globicephala melas* and short-finned pilot whales, *G. macrorhynchus*). Common dolphins (*Delphinus delphis*) are part of the trawl TRT and not the longline TRT. The issue of whether the PLTRT should also include Risso's dolphin (*Grampus griseus*) is under discussion by the team. Pilot whale takes are concentrated in the mid-Atlantic and although the serious injury and mortality rate is less than PBR, it does not reach insignificant levels approaching zero. Hence the goal of this TRT is to determine measures to meet the ZMRG goal within 5 years of implementation of the plan. The first meeting provided briefings on aspects of the fishery, bycatch, abundance and species identification. Uncertainties in which species of pilot whales are being taken complicate matters. Reduction strategies discussed at the 2nd meeting held in September include how to avoid interactions completely, how to decrease the probability of an interaction if pilot whales find the gear, and how to decrease the impacts of the interactions if they occur.

Most takes occur in summer and fall in the mid-Atlantic region. Preliminary analysis of genetic data revealed low intraspecific genetic diversity in the mitochondrial genome for both species and both species have been identified in biopsy samples collected in the mid-Atlantic region in summer and fall. Additional biopsy samples collected in summer of 2005 will be analyzed in winter 2006. Collection of samples in fall and winter needs to be a priority focus for future research. In addition, a predictive model is being developed to evaluate the effect various factors have on probability of bycatch. Parameters being examined include geographic area, mainline length, distance from 200 m isobath (oceanwards) and water temperature. Other parameters suggested include exploring the effects of many shorter mainlines versus one long mainline, the effect of blank sections in the line, lunar phase, weather conditions and damage to catch. The examination of interaction affects and the creation of similar models for turtles and Risso's dolphins are planned.

Although bycatch has not exceeded PBR over past years, the level of serious injury and mortality in the 2nd and 3rd quarters of 2005 has been higher than previous years, and PBR may be reached in 2005. Interactions are not believed to be due to the change in hook type or change in bait, but are more likely due to an environmental change. Waring (NEFSC) and Fairfield (SEFSC) noted that a pool of cool water concentrated Atlantic mackerel and pilot whales around Hudson Canyon from December 1987 to March 1988. This contributed to a significant increase in pilot whale bycatch levels in the distant-water fleet Atlantic mackerel fishery off the northeast U.S. It was noted that it is important to account for the impact of these environmental variables to determine what causes these anomalous years in bycatch. Most bycatch appears to occur due to foraging on bait rather than foraging on the catch. It was noted that the TRT was discussing whether animals may be cueing in on vessel noise, particularly the winch for haul back. To further investigate this, it will be necessary to place dedicated marine mammal observers on the vessels and this is not yet being done. A visual identification system to distinguish between the two species is currently under development by the NEFSC, but it is not yet clear whether it will be successful. Concern was raised over the lack of peer-review for the genetic species identification data used in this TRT. It was noted that the work is standard and straightforward and controls are run through all steps of the process. Because the work was not supported until the TRT was started in June 2005, it is not possible for the results to be published before the TRT met. It was also noted that neither the abundance or the bycatch estimates and methodologies were peer reviewed prior to their use by the TRT either. The SRG suggested that NMFS investigate the possibility of publishing as a NOAA Technical Memorandum or Report or to discuss publication with editors of several journals. Even in these cases, the time to publication will extend beyond the APLTRT time framework.

ATTRT Update

Hopper (NERO) provided an update on the Atlantic Trawl Gear Take Reduction Team (ATTRT). In April 2003, a settlement agreement was signed between the Center for Biological Diversity (CBD) and NOAA Fisheries Service requiring the agency to convene a take reduction team to address takes of pilot whales and common dolphins in the Atlantic Squid, Mackerel, and Butterfish fisheries by September 30, 2006. The agreement also required NMFS to conduct abundance surveys and observer programs for

the fishery. The agreement specified that at least two successive years of updated marine mammal serious injury and mortality estimates for common dolphins and pilot whales should be collected prior to convening the TRT. As mandated by the settlement agreement, NOAA Fisheries has undertaken stock assessment surveys for both species as well as Atlantic white-side dolphins (*Lagenorhynchus acutus*).

In September 2006, NOAA Fisheries Service will convene a take reduction team with the goal of developing consensus recommendations for a take reduction plan to reduce serious injuries and mortalities of pilot whales, common dolphins, and white-sided dolphins incidental to the Atlantic Squid, Mackerel, and Butterfish trawl fisheries, as well as other trawl fisheries. The team composition and their short-term, long-term, and zero mortality rate goals will follow TRT protocols used by existing teams, see <http://www.nmgs.noaa.gov/pr/interactions/trt/>. NMFS is assembling a list of individuals to participate on the team and may have some pre-team meetings. The task to establish a team is on schedule.

The ASRG wanted to know if the inclusion of sea turtle takes in the trawl fisheries would also be addressed by the TRT. Hooper replied that NMFS General Council (GC) provided some guidance on this issue. The TRT can be used as a venue to address the sea turtle bycatch along a separate but parallel track. The inclusion of sea turtle folks at the TRT meetings still needs to be developed, because of the different management authority (Endangered Species Act vs. Marine Mammal Protection Act). The legal issues still need to be addressed. Hooper stated that sea turtles will not be directly part of the ATTRT management process. Long (F/PR) noted that the sea turtle folks are interested in the entire Atlantic coast, whereas the TRT will only focus on specific fisheries. The sea turtle folks are interested in learning from the team.

Palka (NEFSC) stated that NEC staff are working on the trawl fishery bycatch estimates and developing statistical models. Four trawl fisheries (e.g., Mid-Atlantic Bottom Trawl, Northeast Bottom Trawl, Mid-Atlantic Mid-Water Trawl, and Northeast Mid-Water Trawl), based on the new LOF, will be examined. Palka will request an ASRG review of the new bycatch analyses. Palka also noted that NEC hired an economist to prepare an economic analysis of the management measures.

In response to an ASRG question, Palka stated that the team will include all the trawl fisheries. Hooper reiterated that under the court agreement NMFS will address pilot whale and common dolphin bycatch. Based on recent bycatch data, white-sided dolphin will also be included.

HPTRP Update

The NMFS NERO reported that the Harbor Porpoise Take Reduction Plan (HPTRP) is presently in a monitoring stage. The NEFSC presented information on some compliance issues at the last SRG meeting and since that time the NMFS NERO has sent permit letters to fishermen reminding them of their requirements under the HPTRP. Additionally, the NERO Protected Species Division has been working with Enforcement on a plan to monitor compliance, including working through Joint Enforcement

Agreements with state partners as well as the U.S. Coast Guard. There has been active enforcement but the Protected Resources Division is not aware of any cases at this time. The New England Fisheries Management Council (NEFMC) sent NMFS a letter in August asking to consider allowing pingers in Massachusetts Bay from 1-31 March in lieu of the present closure. The NEFMC noted that some fishermen were confused when Amendment 13 was modified and the groundfish closure was changed from February through April to a two-month closure during April and May as they did not realize their gear was still subject to the HPTRP closure. NMFS responded that a re-evaluation of the complete closure of Massachusetts Bay under the HPTRP during March is not warranted since the long-term zero mortality rate goal (ZMRG) has not been achieved and non-compliance with the HPTRP requirements continues to be an issue.

Palka provided an update on harbor porpoise bycatch issues, and distributed the 2004 bycatch table prepared for the 2006 Draft SAR. The data showed that observed bycatch is higher in non-pingered nets. It was also noted that the trend in bycatch has been increasing in recent years. The ASRG will recommend that NMFS reconvene the team to address the issue. It was noted that the low 2001 estimated bycatch will drop from Table 2 in the 2007 draft report; therefore the 5-yr average will substantially increase.

There was some discussion on the reliability of pingers, and the need to improve the viability of a pinger tester. Anecdotal information suggests that some fishermen do not maintain the ones they currently have. This discussion pertained to the Marine Mammal Commission's 23 May 2005 letter to NERO regarding fishers lack of compliance with regulations intended to reduce the bycatch of harbor porpoises in the northeast sink gillnet fishery.

ALWTRP Update

Borggaard (NERO) provided an update on the Atlantic Large Whale Take Reduction Team (ALWTRT). The draft EIS and proposed rule have been issued. The comment period on the draft EIS and proposed rule closed in mid May and mid August 2005, respectively, and NMFS is reviewing the public comments to determine how it will move forward. The final EIS and rule will be released in early 2006. Status of the ALWTRP is available at: <http://www.nero.noaa.gov/whaletrp/>.

The DEIS contains six alternatives, two preferred, but only one to be implemented in the final rule. Alternative 1 is the status quo or "no action." Alternatives 2 through 6 (3 & 6 preferred) include: effective date six months after publication of final rule unless specified (e.g. groundline requirements); extend ALWTRP regulations to other trap/pot fisheries (e.g. hagfish, Jonah crab, shrimp, red crab, black sea bass, and conch/welk); modify exempted areas (inshore areas for ALWTRP and >280 fathoms for sinking &/or neutrally buoyant groundline); expand gear marking for all fisheries & areas; and ALWTRP regulatory language changes.

Alternative 2, 3, and 4:

- Alt 2 = year round along the coast & out to EEZ,
- Alt 3 = year round in New England and seasonal in Mid-Atlantic and southeast,

- Alt 4 = year round in the northeast and Mid-Atlantic and seasonal in southeast, All three contain broad-based gear modifications
 - Weak links (buoy line & net panel), gillnet anchoring requirements
 - By 2008, all groundline would need to be sinking/non-buoyant
 - Seasonal Area Management (SAM) and Dynamic Area Management (DAM) programs eliminated in 2008

Alternative 5 (seasonal elements of Alt 3)

DAM program eliminated when SAM provisions expanded
Broad-based gear requirements not expanded coastwide

Alternative 6 (combines elements of Alts 3 & 5)

Broad-based requirements from Alt 3
DAM eliminated when SAM provisions expanded until 2008 when broad-based sink/non-buoyant groundline requirement in place.

Additional issues identified in DEIS and proposed rule include:

- Low profile groundline
- Vertical line
- Vessel monitoring system (VMS)
- Other trap/pot fisheries

Discussions at 2005 TRT meetings included: further review of ALWTRP principles (e.g., groundline profile, vertical line, and development of TRT data requests for future discussions regarding vertical line); status report outline; approval of a process for considering gear modifications under the ALWTRP; and whale and gear research matrices.

Borggaard stated that NERO will be producing an annual ALWTRP status report and will be obtaining feedback from the ALWTRT. It will include status of the species and monitoring activities. Borggaard mentioned that the “Status of Stock” section from the SAR section will be useful for the ALWTRP status report. The large whale discussions included a review of the definition of PBR and ZMRG and their requirements. It was noted that the ZMRG is only pertinent to U.S. fisheries, since management cannot be applied outside the U.S. EEZ. Borggaard inquired about whether the “Status of Stock” section in the SAR should be rewritten to reflect this. The SRG stated that all takes (e.g. US and Canadian) could be compared to “10% PBR” in the SAR while the ALWTRP status report reflects US serious injury/mortality levels specifically related to “ZMRG.” This relates to a broader question of determining source of fishing gear, since northern right whale (*Eubalaena glacialis*), humpback whale (*Megaptera novaeangliae*), and fin whale (*Balaenoptera physalus*) stocks in U.S. waters are transboundary stocks (i.e., seasonally, move back and forth between U.S. and Atlantic Canada).

The ASRG requested an update on the status of a NERO-funded report on a gear (vertical line) workshop held on the Cape (Oct 2004). Borggaard responded that NER has been

contacting the contractor regarding the report, and will contact the SRG when it becomes available.

The ASRG stated that the timeframe for implementing TRT recommendations was long and that the delays were likely impacting protected species. Further, it was noted that the Pacific driftnet TRT was convened and rules were implemented in the required time frame. NMFS staff responded that the east coast teams are more complex (i.e., multiple states, fishery managements councils, fishery science centers, etc.) as compared to the Pacific example.

4. Serious Injury & Mortality

Garrison (SEFSC) provided an overview of the process for serious injury and mortality determination used for pilot whales in the Atlantic Pelagic Longline Fishery. There is a documented report of each interaction via the incidental take form filed out by observers. Comments by observers on the nature of the interaction, how the animal was hooked, the length of attached gear upon release etc. are examined using criteria from the SI workshop report of Angliss and DeMaster (1998), (Angliss, Robyn P., and Douglas P DeMaster. 1998. [Differentiating Serious and Non-Serious Injury of Marine Mammals Taken Incidental to Commercial Fishing Operations: Report of the Serious Injury Workshop 1-2 April 1997, Silver Spring, Maryland](#). U.S. Dep. Commer., NOAA Tech. Memo. NMFS-OPR-13, 48p.) to make a serious injury determination. A serious injury or mortality determination is made if an animal is released with a hook in the mouth, a hook is ingested and/or the animal is released with gear likely to further entangle the animal (\geq 4 feet of line). Improvements to the incidental take form are being considered and the APLTRT process will likely be involved in revamping this sheet. Information on what happens to animals after release is limited, but opportunities for tagging and follow-up after release are rare. The ASRG wanted to know if iron (subject to rust) or stainless steel (current) hooks would be less injurious to hooked / released cetaceans. NMFS staff had no information on the use of iron hooks in the fishery.

Palka summarized the 2000-2004 seal bycatch in the Gulf of Maine Atlantic Herring (*Clupea harengus*) Purse Seine Fishery. NEFSC staff is reviewing the observer comments to determine if the SI guidelines are being met. Seals are generally released alive. Rossman (NEFSC) noted that this fishery has only been recently observed. Anecdotal information suggests that some fishers are deliberately harassing bycaught seals. The ASRG suggested that the observer form may need to be modified to assist observers to collect data that will allow a SI determination.

Long provided an update on the next NMFS Serious Injury Workshop. She stated that F/PR (Eagle) has nominated some NMFS staff to serve on the steering committee. Eagle has developed a draft agenda and discussion items, and envisions breakout groups that will come up with guidelines. The meeting is planned for late spring and it will be FACA (Federal Advisory Committee Act) exempt.

The ASRG wanted to know why another workshop was needed. NMFS staff responded that it has been eight years since the first set of guidelines (Angliss and DeMaster 1998)

were published and the Alaska SRG has concerns on SI determination for large whales. It was also noted that SI determinations have been made in a number of fisheries since 1998, thus there is new data that should be examined to see if SI determinations are being made in a similar fashion (i.e., adhering to national guidelines). One ASRG member noted that more information is available on SI determinations for large whales, and this should be the focus of the new workshop. Substantial new data are not available for smaller cetaceans. There was general agreement that large whales should be the major focus, but some time should be allocated to small cetaceans. It was also suggested that the workshop include SI due to other non-fishery related injuries (ship strike, etc.).

Pace (NEFSC) briefly reviewed the process for large whale SI determinations, and cited a recent NEFSC Laboratory Reference Report "Mortality and Serious Injury Determinations for Large Whale Stocks Along the Eastern Seaboard of the United States: 1999-2003," by T. Cole, D. Hartley, and R. Merrick. The report is available on the ALWTRP website: <http://www.nero.noaa.gov/whaletrp/>. Using guidelines recommended by the NMFS's guidelines (Angliss and DeMaster 1998), the NEFSC developed protocols for determining large whale serious injuries and human-caused mortalities. This NEFSC report describes the protocols used and contains the determinations made for right, humpback, fin, sei (*B. borealis*), blue (*B. musculus*), minke (*B. acutorostrata*) and Brydes (*B. edeni*) whale events that occurred from 1999 through 2003 along the eastern seaboard of the United States. The report will be updated annually and be available prior to preparation of the annual SARs.

DQA/IQA

Hopper provided a brief review of the requirements of the Data Quality Act (and the Information Quality Act) regarding protected species work. He noted that there is an Office of Management and Budget pre dissemination form that is required to be completed. There was a question on how SARs are handled. Do they come under the acts (influential scientific information, highly influential reports)? The NEFSC believes they come under the Act's highly influential reports.

Large Whale Website

NMFS is developing a website that will contain updated/real time information on Large whale Ship Strike and Entanglement. In addition, answers to frequently asked questions will be included. This website is intended to be used for outreach purposes.

5. MMPA and ESA Re-authorization

Long reviewed the status of MMPA and ESA reauthorization. The MMPA has been up for reauthorization since 1999. Both NMFS and Congress have taken steps toward reauthorizing the MMPA.

The Administration MMPA Reauthorization Bill

NMFS developed an MMPA reauthorization bill with Department of the Interior (DOI) Department of Defense, and the Marine Mammal Commission to: 1) clarify the thresholds in the definition of harassment to make explicit that harmful activities directed at marine mammals in the wild are considered harassment; 2) expand the take reduction

plan (TRP) process to include non-commercial (i.e., recreational and personal use) fisheries with frequent or occasional incidental mortality and serious injury (bycatch) of marine mammals; 3) enhance the MMPA's enforcement capabilities; 4) allow NMFS and USFWS to enter into co-management agreements with Native Alaskans prior to a depletion finding; 5) prohibit the release of captive marine mammals to the wild; 6) ban cetacean traveling exhibits; and 7) reduce ship strikes of whales. The Administration bill was submitted to Congress in 2002, 2003, and most recently, in June 2005.

Congressional Activity on MMPA Reauthorization

Both House and Senate were active on MMPA reauthorization in 2003, holding five MMPA-related hearings in total. In November 2003, Congress passed, and the President enacted, the National Defense Authorization Act (NDAA), which amended the MMPA's harassment definition for military readiness activities and scientific research activities conducted by or on behalf of the Federal government. The NDAA also removed references to "small numbers" and "specified geographic region" from the incidental harassment authorization provisions in 101(a) (5) of the Act.

Since late 2003, the Senate has not taken any legislative action on MMPA reauthorization. However, the House has introduced legislation to reauthorize and/or amend the Act. Most notably, Rep. Wayne Gilchrest (R-MD) introduced H.R. 2130, which included several of the Administration's proposed amendments (e.g., including recreational fisheries in the TRP process, prohibition on release of captive marine mammals) but not others (e.g., harassment definition and co-management amendments). The Gilchrest bill also included amendments not proposed by the Administration, such as those to restructure the scientific research permitting process and to remove the requirement for fisheries to reduce marine mammal bycatch to insignificant levels approaching a ZMRG by April 2001. This bill has been passed by the House Resources Committee and awaits a vote by the full House.

Rep. Don Young (R-AK) recently introduced a bill (H.R. 3839) to repeal the ZMRG requirement altogether from the MMPA. To date, the bill has merely been introduced and awaits Subcommittee action. Rep. Richard Pombo (R-CA) recently attached a slight variation on Gilchrest's H.R. 2130 to a House Budget Reconciliation bill. The bill will likely be referred to the House Budget Committee in the next several weeks. One aspect of the bill is to move all ESA species to DOI; another provision will exempt Florida contractors from MMPA requirements during dock construction projects.

6 Marine Mammal Commission

MMC cost-effectiveness of right whale protection programs

Simpkins (MMC) reported that in 2004, Congress allocated money to the Commission to: "... review the biological viability of the most endangered marine mammal populations and make recommendations regarding the cost-effectiveness of current protection programs." To address this request, MMC commissioned two white papers. One paper will review the classification systems under ESA and MMPA and the status of each listed marine mammal species. The other paper will provide a general overview of protection programs for each listed species. MMC also held a workshop on population viability

analyses and their usefulness in making listing decisions and evaluating the effectiveness of management actions. Finally, in late winter and early spring 2006 MMC will conduct two more thorough reviews of protection programs for northern right whales, North Atlantic Stock and manatees. The reviews will be carried out by a panel of experts. Initial planning for the right whale review, which will be held first, is underway and panel members are expected to include Andy Read, Randy Reeves, Daryl Boness, John Reynolds, Lloyd Lowry, Steve Katona, and Mike Weber.

Pace noted two other reviews: 1) The Government Accounting Office (GAO), is conducting a broad-scale review of endangered species science and management, current status and why has it not changed, cost effectiveness, and how funds were obligated, and 2) Center for Independent Experts (CIE) review of NEFSC right whale research (Jan 06).

7 Proposed List of Fisheries

Long provided an update on the final 2005 and proposed 2006 List of Fisheries (LOF). The 2005 proposed LOF was published in December 04 [<http://www.nmfs.noaa.gov/pr/pdfs/fr/fr69-70094.pdf>]. The Mid-Atlantic Bottom Trawl and Northeast Bottom Trawl Fisheries were elevated to Category II based on recent bycatch data. The latter fishery was previously called the North Atlantic Bottom Trawl Fishery. Comment period was reopened for 60 days and closed in mid-October. Final list is expected to be out in early 2006. The list was delayed due to the five Alaska fisheries that were to be elevated. The proposed 2006 LOF will be published soon after the final 2005 LOF is published. NMFS will also add two new features to the LOF tables to: 1) Identify which marine mammal stocks are the bases for the Tier designation, and 2) Delineate those fisheries that are designated by analogy. These changes are in response to the Marine Mammal Commission's January 2005 written comments on the 2005 proposed LOF.

Cornish recommended some format changes to Table 1 and several appendices contained in the SAR. She also requested that Table 1 and appendices for the SARs be released with the draft SARs when they are released for public comment. This will improve consistency and reporting of the data used to update the LOFs. Waring responded that this is possible as long as new data are not added to the tables/appendices that are not contained in the respective SARs. Several of the changes that Cornish recommended will be implemented in the 2006 Draft SARs. It was also requested that Table 1 include CVs for abundance and mortality estimates, when the last survey was performed and the frequency of the surveys.

8 Stranding Program / Events

Hohn provided an overview of 2005 mass stranding events in southeast region. Thirty-three short-finned pilot whales mass stranded on the Outer Banks, North Carolina between 15 and 16 January. A mass stranding of 67 rough-toothed dolphins, *Steno bredanensis*, occurred at Marathon, Florida in March. Two *Steno* were rehabilitated, satellite tagged and released by Marine Animal Rescue Society (MARS), see below. Nine *Steno* were rehabilitated and released by the Marine Mammal Conservancy, four of these were satellite tagged.



A mass stranding of five Risso's dolphins was recorded at Marco Island, Florida in August. Also in August, a mass stranding of 15 striped dolphins occurred in North Topsail Beach, North Carolina.

2004/2005 Unusual Mortality Events (UME)

One hundred and seven bottlenose dolphins stranded dead in St. Joe Bay, Florida between 10 March and 13 April 2004. Analyses conducted to date found brevetoxins, naturally occurring neurotoxins produced by *Karenia brevis*, the Florida red tide, at high levels in the stomach contents of all dolphins examined to date and at variable levels in the tissues of these animals. Hundreds of dead fish and marine invertebrates were also discovered in the area.

A multispecies (n=45) small cetacean offshore mortality, occurred between July and 7-9 September 2004 along North Carolina, South Carolina and Georgia. The cause of this

event is unknown, but pathology revealed the following conditions: Delphinids – 81% meningoencephalomyelitis; Kogiids – 66% cardiomyopathy.

Another multispecies stranding (n=36) of pilot whales (n=33), dwarf sperm whales, *Kogia sima* (n=2), and a single minke whale occurred along North Carolina from 15 to 16 January 2005. This event occurred a few days following Navy sonar training in deep waters off North Carolina. Some of the animals were euthanized. The cause of the stranding is still underway. Horn noted that necropsy protocol now includes examination of body organs/structures for signs of acoustic trauma. Further, lawsuits against NOAA Fisheries by the National Resource Defense Council are also underway.

From February to May 2005, forty-three harbor porpoise stranded along North Carolina coast. Molecular and tissue pathology of two animals revealed the first detection of *Bartonella* (cat scratch disease) in a non-terrestrial animal. This is an emerging worldwide epizootic disease, and in marine mammals, clinical impact, mode of transmission, pathology, epidemiology unknown. Link to article: <http://www.cdc.gov/ncidod/EID/vol11no12/05-0969.htm>

Further, a multi-species UME (bottlenose dolphin, sea turtles, manatees, fish, birds) off of Florida West coast; July - present 2005 [protracted red tide] was noted.

Gilbert commented on Gulf of Maine harbor seal UME. He noted that the increase in strandings is correlated to increase in effort. Further, the population is increasing and ~20% first year mortality is normal.

Prescott Funding Program

The ASRG initiated a short discussion of this program. One member asked if the group should review the science based on this program. The Group thought this was a good idea and will draft a letter to NMFS requesting that they provide a presentation at the autumn 2006 ASRG meeting. The ASRG also wanted to know if the Prescott final reports were available. Cornish responded that since 1997 Prescott has funded 187 grants totaling more than 16M dollars (64 recipients in 24 states). The funding covers two categories: 1) Support to stranding network infrastructure to respond; 2) scientific research. Each year, each Region sets its priorities for Prescott funding and posts them on the website. Since 2002, 52% of the support has gone to support science, 47% to support the stranding network and 1% to support construction of facilities. Reports are not yet online, but they are moving towards that. The 2005 Biennial Conference on the Biology of Marine Mammals will have a stranding session with talks that will illustrate some of the science supported by Prescott funds. The ASRG noted that in some grant proposals there is confusion about the categories, where a proposal written primarily to support stranding response also includes research and that perhaps an effort is needed to make the categories clearer. Further, an ASRG member noted that some strandings data sets were distributed without caution – (i.e., students acquire data and attempt to use it without validating it with the source). Waring reviewed the protocol used at NEFSC to validate Level A data. Two Atlantic coast stranding coordinators have proposed the following draft disclaimer: “The National Marine Mammal Stranding Database catalogs

Level A data gathered from all stranded marine mammals. These data represent the number of marine mammals reported in a state, per year. Level A data include basic data such as reporting agency, stranding date, location, and latitude/longitude. Detailed information including sex, length (estimated or actual), weight (estimated or actual), condition code, age class, disposition, and Human Interaction evaluation are also considered Level A data. On the Level A data sheet a YES in the 'Signs of Human Interaction' section indicates that there were signs consistent with human interaction found on the animal or carcass. However, this does not mean that human interaction caused the stranding or caused the death of the animal. These data cannot be used to interpret the cause(s) of mortality and should not be used out of context or without verification from the original data collector. The data compiled in the National Database are a measure of the response and data collection efforts of the members of the regional stranding networks.

Day 2: 09 November 2005

9 2005 Survey Results & 2006 Plans

2005 MONAH project

Pace provided a brief overview of the YoNAH (Year of the North Atlantic Humpback) project (1992/93) as background. This was principally an International Whaling Commission (IWC) photo-id project that was conducted on multiple feeding grounds (i.e., Gulf of Maine, Gulf of St. Lawrence) and breeding grounds (i.e., mostly Silver Bank and a few at Navidad Bank, Mona Passage, Samana Bay). The MONAH (More North Atlantic Humpbacks) project is part of the IWC large-scale humpback whale assessment. Two years (2004/05) of work were conducted on the breeding and calving grounds (Silver Bank only), and on the Gulf of Maine feeding grounds. NMFS has the lead for the breeding grounds work, whereas the Provincetown Center for Coastal Studies has the lead for the feeding grounds component. The numbers of genetic samples collected in the 2-year program were: 657 in 2004 and 2096 in 2005. Assuming a 50:50 sex ratio of samples the number of likely male are, respectively, 383 and 1156. DNA is currently being extracted and all microsatellite work is expected to be completed by the end of 2006

Right whale surveys

SEFSC, through contract with Cornell University, will be deploying passive acoustic monitoring buoys near Cape Lookout, North Carolina, Charleston, South Carolina, and Savannah, Georgia during December 2005 – April 2006. This is the third year of these deployments to monitor for the presence of right whales in these habitats during winter months. In the 2005/2006 deployment, nine buoys will be deployed in arrays across the bathymetry for a total of 6 months. The buoys will be placed directly underneath aerial survey tracklines to allow direct comparisons of visual sightings data and acoustic contacts.

Pace stated that NEFSC is considering a reduction in right whale aerial effort, (i.e., use one aircraft in lieu of two). This is justified because sufficient data have been collected to understand the distribution of right whales. The ASRG wanted to know how the

reduction in effort will affect effort in the offshore and Mid-Atlantic regions. Pace noted that the 2nd aircraft was used to survey regions that were poorly sampled in prior surveys. Broadscale sampling may also be discontinued.

Garrison noted that the Mid- Atlantic region has always been a big gap in knowledge of right whale distribution. The SEFSC began surveys in mid-October 2005 and will continue to April 2006. Survey effort will cover from the continental shelf from the Chesapeake to Florida. Goals are: 1) documenting migration routes and determining residency times; and 2) initiate development of an early warning system for the areas off Virginia / Chesapeake Bay. The Center plans to work with the Navy on implementing the warning system. Surveys conducted by the Georgia Department of Natural Resources will continue (1 December 2005 through late April 2006) off South Carolina. Overall coverage from the two programs will be from Cape Canaveral to Chesapeake Bay.

Small Cetacean surveys

Pace reported on the NEFSC pilot whale survey conducted aboard the NOAA RV *Delaware II* from 5-22 July 2005; collected 21 samples in shelf-edge and oceanic waters south of Cape Cod. Samples have been shipped to Rosel (SEFSC) for analysis.

Garrison reported on SEFSC 2005 surveys. A winter Mid-Atlantic aerial survey was performed with the main goal of estimating coastal *Tursiops* abundance for Georgia and Florida stocks. From 30 January – 9 March, 14 flight days covered shelf and offshore waters from central Florida to the Chesapeake Bay. Sighting rates were low north of Cape Hatteras due to very poor weather. One hundred and thirty-five *Tursiops* sightings, 958 animals, were recorded. A 2005 summer biopsy survey was conducted in the Atlantic. The survey consisted of three legs. Leg one had the goal of collecting bottlenose dolphin biopsies in waters between Florida and North Carolina between 20m and 50m. Sixty-one bottlenose dolphin and eleven Atlantic spotted dolphin (*Stenella frontalis*) samples were obtained. Leg 2's goal was to collect pilot whale biopsies in the Mid-Atlantic for the PLTRT. Fifty-three pilot whale samples were collected. The third leg was experimental to capture and fit bottlenose dolphins in pelagic waters with satellite tags. Weather was extremely poor and no animals were captured.

2006 plans

Garrison reviewed 2006 and 2007 SEFSC survey plans. During the summer of 2006, SEFSC is planning a habitat survey along the continental shelf break north of Cape Hatteras, North Carolina. It is anticipated that the survey will be funded through an interagency agreement with the Navy. The survey is intended to examine the relationships between mesoscale physical features, prey distribution, and marine mammal distribution in the Cape Hatteras region. This area is a convergence zone for three physical features: the Cape Hatteras front, the Gulf Stream front, and the shelf break front. These features concentrate primary productivity, forage species, and predators including marine mammals. During a summer 2004 survey of the area, we observed extremely high densities of pilot whales, common dolphins, spotted dolphins, bottlenose dolphins, beaked whales, and sperm whales in this region. This area also has a high level of pelagic longline fishery activity, and recent bycatch of pilot whales. The 2006 survey

will include intensive physical sampling, sampling of prey fields using acoustics and nets, and surveys for marine mammals.

In summer 2007, SEFSC plans to conduct a vessel based assessment survey of the oceanic (>200m depth) waters of the Gulf of Mexico. The survey will be primarily targeted at sperm whales and other pelagic species. It is anticipated that the survey will be stratified based upon persistent physical features, such as the Loop Current, associated with high densities of marine mammals. This will be the first large scale survey of the Gulf since 2003 and post-hurricane Katrina. The survey will likely be funded under our interagency agreement with the Navy.

Palka reviewed options for NEFSC 2006 summer surveys, excluding large whales. In July 2006, the RV *Delaware II* will be conducting oceanographic, acoustic and trawling work in the Gulf of Maine (GMe) to characterize small cetacean habitats. The RV *Henry Bigelow* was scheduled to conduct a harbor porpoise survey in August 2006, which would also obtain abundance data for other GMe species. In 2004, the RV *Endeavor* survey covered the offshore region and the NOAA Twin Otter surveyed the continental shelf waters. However, the 2004 survey was early for GMe, so GMe species need to be resurveyed. Original plan for 2006 was to use aircraft & circle back method and ship. However, due to funding constraints (e.g., charter) and RV *Henry Bigelow* status, NEFSC will only do the aerial component. The August 2006 aerial survey will provide data for a new harbor porpoise abundance estimates, plus some other species.

Pace reported on NEFSC 2006 large whale survey plans. In 2006 the emphasis will shift from broadscale to more focused work (i.e., Photo-id and habitat studies). The RV *Albatross IV* spring 2006 survey in the Great South Channel will continue, and RV *Delaware II* August survey will be habitat related.

Palka also noted the proposed Trans North Atlantic Sighting Survey (NASS + Greenland + Canada) survey in summer of 2007. This will be an international effort to conduct a survey across the northern Atlantic. The NEFSC is also are planning to a conduct U.S. Atlantic offshore abundance survey in summer 2007.

10 Stock Assessments Reports (SAR)

Status of 2005 SARs

Waring, reported that the Draft 2005 SARs have been finalized. Two steps must be completed prior to their publication. First, NEC/SEC responses to the MMC comments on the Draft 2005 reports need to be submitted to F/PR. Secondly, F/PR needs to issue a Federal Register (FR) notice on both the availability of the responses and the final 2005 reports. He expects that this will be completed in late January.

Simpkins summarized the MMC's comments on the draft 2005 SARs, which were contained in a 25 September 2005 letter to Payne (F/PR). Simpkins focused on the Commissions comments regarding some of the inconsistencies among the regions including: classification of stocks of unknown status as strategic or non-strategic,

estimation of abundance and mortality for groups of species that are difficult to distinguish in the field, estimation of PBR for declining stocks and issues pertaining to trans-boundary. Cornish noted that Office of Technology now oversees the observer program so they should be copied on future Commission letters.

SAR guidelines

Simpkins summarized the MMC's comments on the NMFS proposed changes to the SAR guidelines, which were contained in an 8 March letter to NMFS (Payne - F/PR). Kenny commented that the Commission recommendation to apply a negative R_{max} in the PBR formula for declining stocks was inappropriate. Kenny noted that R_{max} cannot be negative, as it is a theoretical parameter. In response to an ASRG question, Simpkins noted that some issues of concern in the Atlantic region were: PBR for mixed species (e.g., pilot whales) and trans-boundary stocks (e.g., harp seals). Simpkins also noted that the Commission supported the concept of "local/feeding stocks," and the most conservative approach is to assume that mortality could come from either "local stocks."

Draft GAMMS Guidelines

NMFS staff reported that the FR Notice announcing the availability of the revised GAMMS guidelines was published in June 2005. The ASRG wanted to know if the comment period had closed. NMFS staff responded that this round of change to the guidelines is over, but the guidelines remain a dynamic document. If the SRG wants to recommend that NMFS review and revise them again, that would be an appropriate recommendation. This review could serve as the basis for potential for a joint SRG meeting, which the ASRG has been requesting for a couple of years.

In response to a question regarding NMFS's plans to convene a workshop on stock structure, Long responded: NOAA Fisheries Service is planning an agency workshop to review procedures and criteria by which NOAA Fisheries Service identifies management or conservation units under its three major statutes, the Magnuson-Stevens Fishery Conservation and Management Act (stocks), the Endangered Species Act (species, including species, sub-species, and distinct population segments), and the Marine Mammal Protection Act (population stocks or stocks). The workshop will be held in Silver Spring, Maryland, 14-16 February 2006. Tom Eagle will chair the workshop.

The identification of management units plays an important role in NOAA Fisheries Service conservation efforts and has come under increasing scrutiny in recent years. At a NOAA Fisheries Service Leadership Council meeting in early 2003, Mike Sissenwine led a discussion of lumping and splitting in identifying management units. Following this discussion, the Office of Science and Technology asked Rick Methot to begin drafting a white paper to review the identification of management units to ensure that the identified units are consistent with NOAA Fisheries stewardship responsibilities under Federal law.

Draft 2006 SARs

The ASRG noted that few of the draft 2006 reports and associated documents were available for their review two weeks prior to the meeting. They requested that they be provided with a more reasonable time frame to review the draft reports. This initiated a

general discussion on the factors contributing to the delay. The ASRG will draft recommendations to NMFS regarding this issue.

Palka and Rossman reviewed preliminary results of new bycatch analyses for trawl fisheries. Palka summarized 1993-2004 observed takes and observer coverage in the paired and single mid-water trawl fisheries. Cape Cod was used as the demarcation line for the New England and Mid- Atlantic regions, which corresponds to the 2005 LOF (i.e., Northeast Mid-Water Trawl and Mid-Atlantic Mid-Water Trawl). The 1999-2004 analysis focused on single mid-water trawl vessels and observer data were reexamined using a variety of statistical models. For example, independence of observed hauls; tow duration as a unit of effort; VTR and landings data were compared. Generalized additive models (GAM) were used to investigate which variables were significant predictors of the bycatch rate. Example variables included: water temperature, bottom slope, target species, fishing effort, tow speed, gear characteristics, season, area...). BIC (analog to AIC) due to small sample sizes was used to select the best fitting model. The best predictor variables included target species (Atlantic herring or Atlantic mackerel) and bottom slope (shallow [0-0.5] or steep [>0.5]). Analysis focused on single mid-water trawl vessels (1999-2004). Herring trips were mostly in northeast section, some in Mid-Atlantic, whereas mackerel was exclusively in Mid Atlantic section. The highest bycatch estimate was for unidentified dolphin, at this time it will not be assigned to a species.

The ASRG recommended that the revised bycatch estimates for Atlantic white-sided dolphins, pilot whales, and unidentified small cetaceans be incorporated into the draft 2006 SARs.

Palka's presentation also included bycatch data from the 1989-1995 experimental large pelagic pair trawl, which NMFS closed in 1996. These data were presented since NERO reported that a request for an experimental fishery is under review.

The ASRG initiated some general discussion on observer coverage in trawl fisheries. They also stated that it will be important to delineate the gear/target species for the upcoming ATTRT. In reference to the high 2004 bycatch rates in the mid-Atlantic region, Seagraves noted that 2004 was a record year for squid and mackerel landings in the Mid-Atlantic region due to increased shore side capacity and markets. The ASRG also requests that updated information on fishery changes be incorporated into the draft 2006 SARs. Rossman and Waring responded that that information on the new fisheries will be incorporated into the SAR Appendices.

Rossman reviewed her bycatch analyses for the Northeast and Mid-Atlantic Bottom Trawl fisheries. She provided an overview of observer coverage and observed bycatch. Observer coverage increased substantially since 2002. Between 1993 and 2004 observed bycatch included: pilot whales (9), common dolphins (28), and Atlantic white-sided dolphins (32). Most of the pilot whales and common dolphins were caught along the shelf break between the southwest portion of Georges Bank to Delaware Bay in the squid and mackerel fisheries. Whereas, white-sided dolphin bycatch was mainly in Gulf of Maine groundfish fisheries in Wilkinson Basin.

Logistic regression was used to model pilot whale bycatch. Model variables included (spatial and temporal (lat., long., month, port...); habitat (slope, SST...); gear & vessel (mesh, tonnage class, net material...), and fishing practices (tow duration, tow speed...). Stepwise selection of covariates was used to build the predictive model. The important covariates were bottom slope (<2.4 or >= 2.4), and tonnage class (<184 GT or ≥184 GT). Preliminary results from univariate analysis for white-sided dolphins were reviewed and SST, wire out, and vessel horsepower were deemed to be important covariates. Comparison of logistic regression vs. GAM is underway. To date, modeling of common dolphin bycatch has not been started. Rossman also reviewed the revised Table 2 for the pilot whale SARs.

The ASRG wanted to know if the JV bottom trawl data had been examined. Rossman responded that there have been no Atlantic herring or Atlantic mackerel JV fisheries in recent years. Seagraves noted that in prior JV fisheries, cetaceans were taken by U.S. boats while net being towed on surface to processing vessel. The ASRG requested that the SARs contain text that explains how the new fishery designations and analyses affect the estimated bycatch. Seagraves suggested that “characteristics” of vessels in the *Illlex* fishery should be examined using criteria reviewed by Lisa Hendrickson, NEFSC.

Atlantic Stocks

Fin whale

There were only editorial comments.

Humpback whale

The ASRG had a question on SI determinations table compared to data (animal status) that was posted on disentanglement website. NEFSC and NERO staff will look into the matter. The ASRG will provide a list of animals in question.

Inconsistencies in the references were noted. In particular, “NOAA Fisheries” was substituted for NMFS in several references. The ASRG noted that NOAA Fisheries is not the formal name for NMFS – do not change references.

The ASRG initiated additional discussion on the inclusion of current year large whale SI and mortalities into the report. Pace responded that the new NEFSC protocol is to prepare an annual NEFSC Laboratory Reference Report and then incorporate those data in the SAR 5-yr reporting period.

Right whale

The NEFSC requested assistance on stock name until NMFS determination of separate North Pacific and North Atlantic species is complete. The ASRG recommended “Northern right whale - Atlantic Stock.”

It was noted that an animal that was a SI in September 2004 and subsequently a mortality in 2005 was included in the 2006 draft. The ASRG noted that this is inconsistent with the “new policy.”

New text on fishery related mortality needs to be revised.

Editorial comments were given to Pace.

Minke whale

There were no comments on this report.

Common dolphin

Mostly editorial comments, redline did not work in some places (see abundance data).

The ASRG wanted to know if the 1998 and 2004 abundance estimates could be used to evaluate trends. Palka responded, no, because the seasons were different. The 2004 surveys began in June, whereas the 1998 surveys commenced in July. The 2004 common dolphin abundance estimate was significantly higher than the 1998 estimate. This is consistent with previous CETAP finding of higher abundance in spring as compared to summer surveys.

The text regarding period of years that stock was or was not strategic in the Status of Stock section needs to be clarified.

Pilot whale

Text in the Stock Definition section pertaining to the Fullard manuscript needs to be clarified.

Risso’s dolphin

Mostly editorial comments, redline did not work in some places (see abundance data), and some references are incomplete.

Historical bycatch data needs to be reinserted into the report.

White-beaked dolphin

Minor editorial comments were noted.

Atlantic white-sided dolphin

The stock definition needs to be corrected, as different names are used in the title and text.

Text pertaining to bycatch in Atlantic herring weir fishery needs to be clarified.

The strategic status may need to be changed once the bottom trawl bycatch analysis is completed.

Harbor porpoise

The footnotes in the strandings table need to be clarified.

Text regarding the 2004 bycatch vs. PBR needs to be inserted in the Status of the Stock section.

Bottlenose dolphin – Western North Atlantic coastal stock

The ASRG noted that the SEFSC has been conducting a number of small-vessel surveys to help define stock structure. Therefore, perhaps provisional stock status could be used in future SARs.

The recovery factor used in the PBR determination needs to be revised to account for the CV of the estimated fishery bycatch.

Research vessel takes should be included in the in fishery section.

The text that designates stranded animals to the coastal or offshore morphotype needs to be clarified.

Text on the mid Atlantic coastal gillnet fishery bycatch estimate needs to be clarified.

Text pertaining to the depleted status and photo-ID work needs to be updated.

General issues

The ASRG requested that a new paragraph be inserted in the stranding section of all reports that qualifies the reliability of “human induced mortality.” Waring will provide text to all SAR authors.

The ASRG will make a recommendation on collecting tissue samples from stranded animals for stock ID purposes.

The ASRG requested that a description of the Atlantic herring purse seine fishery be included in Appendix III. They also recommended that observers be instructed to look for SI in this fishery.

11 Right Whale Permitting Issues

Leathery (F/PR) provided an update on the status of the EIS for right whale scientific permits, and an overview of the Scoping process. Four lawsuits were filed under NEPA against the agency for issuing scientific research permits. NMFS has hired a consulting firm to draft the EIS and the process has just been initiated. The first Scoping Meeting was held on 3 November in New Bedford, Massachusetts in conjunction with the Right Whale Consortium Meeting. Future meetings will be held in December 2005 at the Biennial Conference in San Diego, California, and in Silver Spring, Maryland in January 2006.

At the New Bedford and subsequent meetings presentations will include: 1) The purpose of the Scoping Meeting; 2) requirements of the NEPA; and 3) Northern Right Whale research-proposed action and alternatives. This is followed by the public comment period. The Scoping Meetings will 1) allow for early public notification of a proposed federal action, 2) provide the NMFS the opportunity to present the proposed action, and 3) seek input on the scope of the EIS.

Leathery stated that NMFS is soliciting comments from the scientific community pertaining to critical research that should be undertaken to enhance recovery of right whales. These include: level of research effort, coordination of research, qualifications of researchers, and effects of research.

The ASRG wanted to know how much work is being conducted by the contractor. Leathery stated that the contractor is developing the product, but the agency is taking the lead on evaluating of critical elements – scientific review will be conducted by internal and external experts. In response to other ASRG questions, Leathery stated that cumulative impacts will be considered, they are required under NEPA, and a biological opinion will be conducted over the entire process.

The ASRG had a question regarding the status of permits that are scheduled to expire prior to the publication of the final EIS. There was some concern regarding how permits will be issued during the EIS process. Leathery stated that these issues are under review. One-year extensions with restrictions are routinely issued for permits on non-listed species. He also noted that a FONSI (finding of non-significant impact) will be required under the EIS.

The ASRG wanted to know if NMFS was concerned with data losses due to lack of permits. The response was yes, but a decision has not been made on the process to address this issue

The ASRG also asked if NMFS will agency require EISs' for all species. Leathery stated that it was likely for listed species and pinnipeds, perhaps others, particularly since agency is frequently sued under NEPA. Protected Species is moving into the NEPA world on a number of species. The Agency is concerned that a judicial decision could stop research on a number of species, thus the NEPA route is important

12 Navy Undersea Warfare Training Range

Leathery provided an overview of the NMFS Section 7 Consultation with the Navy over their proposal to: instrument a 500 nm² ocean area offshore of the Carolina's in waters from 120 to 190 ft. deep. The area starts 50 miles offshore and will contain a passive hydrophone array and cables for an anti-submarine warfare (ASW) training range (USWTR). The Navy has submitted its first ever incidental take request for underwater sonar. An ESA consultation and Biological Opinion will be undertaken as well as the necessary MMPA ruling. NMFS will look at the potential for physiological and behavioral effects, auditory issues (threshold shifts) and will use the energy level of the

sound being emitted rather than the pressure level when examining impacts. Special consideration will be given to beaked whales where all Level B harassment will be considered Level A harassment. Section 7 reviews are conducted under ESA, and MMPA amendments do apply to the Navy's proposed action. The Navy's MMPA and ESA findings were based on an even distribution of marine mammals throughout the entire depth range and included pre-mitigation exposure estimates. Mitigation measures and a marine mammal monitoring program are addressed in the DEIS to meet requirements of the MMPA and ESA. NMFS has not yet determined whether they are adequate. Mitigation proposed includes marine species awareness training, lookouts at range operations, limit to transmission when an animal is seen within 350 yards, and protective measures during nearshore transit for Northern right whales. NMFS is preparing a proposed rule to authorize take by the Navy to be released in January 2006. There will be a 45-day public comment period on the proposed rule. A final rule will address comments received on the proposed rule and make amendments to the rule. A final determination on whether the taking proposed by the Navy meets the requirements of the MMPA will be made around May 2006.

13 MMC Advisory Committee on Acoustic Impacts on Marine Mammals

Simpkins reported that the Commission convened a Federal Advisory Committee (FAC) in response to Congress' request to investigate the impacts of anthropogenic noise on marine mammals. The group was made up of 28 stakeholder representatives (including environmental groups, federal and state agencies, oil and gas and shipping industries, and researchers) and met six times over roughly two years. At their final meeting in September, the Advisory Committee agreed to drop prior plans for a single, consensus-based report. Instead, each member has the opportunity to submit a non-consensus statement to the Commission. They may also work together to produce multi-member statements. In addition, the Commission will provide a report to Congress outlining the Commission's perspective on aspects of science and management related to the issue of anthropogenic noise, as informed by the FAC process. The members' statements will be attached to the Commission's report, providing a snapshot of the members' varied perspectives on the issue. The Commission is currently drafting the report to Congress, as well as several reports from related workshops, including the beaked whale technical workshop and the international policy (London) workshop.

Lang (MMS) reiterated that the Committee reviewed a broad range of acoustic research applicable to marine mammals, but the panel was deadlocked on a consensus. The size of the report that will likely be submitted to Congress is probably too large for meaningful consideration.

14 Manatee Issues

The USFWS did not have a representative at the meeting, but the Jacksonville, Florida Office did provide a report "Biological Population Assessment of the Florida Manatee" for the meeting. The ASRG noted that the documents were not a SAR, which was also stated in assessment report. The group stated its' concerns that the manatee SARs have not been updated in several years. The ASRG will draft a letter to the Department of Interior to raise their concerns.

15 ASRG Business & wrap-up

Finalize recommendations from this meeting

The ASRG met in private to finalize their recommendations. These recommendations will be sent to NMFS headquarters.

The ASRG recommended that the 2006 autumn meeting be delayed until the second week of January 2007. This should ensure that the Draft SARs contain updated bycatch analysis, large whale serious injury and mortality tables, and new abundance estimates. The group recommended that the meeting be held in northern Florida to encourage participation by USFWS manatee biologists.

APPENDIX I
Atlantic Scientific Review Group
Meeting Agenda – November 8-9 2005
Hollings Marine Laboratory, Charleston, South Carolina

Tuesday, November 8, 2005

1. **Introduction** (Baltz, Hohn, Waring)
 - Welcome, housekeeping
 - Travel reimbursement
 - Introductions
 - Appointment of rapporteurs; Minutes deadline
 - Agenda review and schedule
 - Documents

2. **Post Katrina and Rita Update**
 - Impact on GOM scientific & management programs, etc. (SEC/SER-Mullin, Rosel, Cornish)
3. **Take Reduction Plan Updates**
 - BDTRP (SER-Carlson)
 - PLTRT (SER/SEC-Cornish/Garrison)
 - Also includes discussion of recent elevated takes of pilot whales
 - ATTRP (NER/NEC-Hopper/Rossmann/Palka)
 - HPTRP (NER-Borggaard)
 - ALWTRP (NER-Borggaard)
 - Also includes discussion on ALWTRP research matrixes

4. **Serious Injury & Mortality**
 - Overview of how determinations are currently made in SARs (SEC-Garrison on PLL fishery and NEC-Rossmann on proposed process for purse seine fishery)
 - Overview of how right whale SI/M determinations are made through NEC's peer review process (NEC-Pace)
 - Brief review of DQA/IQA (NER-Hopper)
 - Development of entanglement and ship strike web page for real time information (NER-Borggaard)
 - Update on the national serious injury and mortality workshop (F/PR-Long)

5. **MMPA and ESA Re-authorization**
 - Update on MMPA & ESA re-authorizations and discussions on impacts to science and management (F/PR-Long)

6. Marine Mammal Commission

- Update on MMC forthcoming review of the cost effectiveness of right whale research and conservation programs (MMC-Simpkins)

7. Proposed List of Fisheries

- Update the SRG on final 2005 and proposed 2006 LOF (FPR-Long)
 - MMC comments on LOF (Simpkins)
- Discuss potential changes to the LOF table or SAR Appendix II to clarify level of interactions with various fisheries (SER/NEC- Cornish, Waring)

8. Stranding Program / Events

- Unusual mortality events in SE & NE (SER/SRG-Hohn, Gilbert)
- Overview of Prescott Funding: application announcement/deadline; program direction; access to Level A data (F/PR/SER-Long, Cornish)
- Scientific Results from the Stranding Program (SEC-Hohn, Rosel)

Wednesday November 9, 2005

9. 2005 Survey Results & 2006 Plans

- Winter and summer 2005 aerial surveys in SE region (SEC-Garrison)
- MONAH project (NEC-Pace)
- Review of right whale survey programs (NEC/SEC-Pace, Garrison)
- Summer 2005 pilot whale biopsy survey (NEC/SEC-Pace, Garrison)
- NEC & SEC 2006 survey plans (Palka, Pace, Garrison, Hohn, Mullin)

10. Stock Assessments

- Status of 2005 SARs (NEC/SEC-Waring, Fairfield, Mullin)
- MMC comments (Simpkins)
- Revised SAR guidelines (NEC/SEC/MMC-Waring, Palka, Garrison, Simpkins)
- Response to Draft GAMMS Guidelines (Cornish)
- Review Appendixes (NEC/SEC-Waring, Rossman, Pace, Cornish)
- Review trawl bycatch analysis methods (NEC-Palka/Rossman)
- Review draft 2006 SARs (NEC/SEC-Waring, Palka, Pace, Fairfield, Garrison)
 - **Note:** no GOM reports will be updated for 2006
- Brief summary of recently published paper on spotted dolphins (SEC-Rosel)

11. Right Whale Permitting Issues

- Update on Environmental Impact Statement (EIS) on Northern Right Whale Research in the Atlantic and Pacific Oceans (F/PR1-Leathery)

12. Navy's Undersea Warfare Training Range (USWTR) off the Carolinas

- Overview of the Navy's proposed action and NMFS's Section 7 Consultation (F/PR1-Leathery)

13. Marine Mammal Commission Expert Panel on Marine Mammals and Acoustic Effects – report

- Overview of current status (MMC-Simpkins, MMS-Lang)

14. Manatee Issues

- Update on manatee research and management issues

15. ASRG Business & Wrap-Up

- Finalize recommendations from this meeting
- Venue and timing for autumn 2006 meeting
- Adjourn

APPENDIX II

Atlantic Scientific Review Group (ASRG) Members and Participants November 8-9 2005, NOAA's National Center for Coastal Ocean Sciences, Hollings Marine Laboratory, Charleston, South Carolina.

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