

Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

#### *National Environmental Policy Act*

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

#### *Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

#### *Regulatory Flexibility Act*

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

#### *Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal

regulation was not considered a major rule.

#### *Unfunded Mandates*

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

#### **List of Subjects in 30 CFR Part 950**

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 6, 2003.

**Allen D. Klein,**

*Regional Director, Western Regional Coordinating Center.*

[FR Doc. 03-4970 Filed 3-3-03; 8:45 am]

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 229**

[Docket No. 030221039-3039-01; I.D. 081602B]

**RIN 0648-AQ04**

#### **Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan Regulations**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments

**SUMMARY:** NMFS proposes to amend the regulations that implement the Atlantic Large Whale Take Reduction Plan (ALWTRP) to identify gear modifications that sufficiently reduce the risk of entanglement to western North Atlantic right whales (right whales) under the Dynamic Area Management (DAM) program and, as such, would allow NMFS to utilize the option of allowing gear with certain modifications within a DAM zone. Specifically, NMFS proposes to identify Seasonal Area Management (SAM) anchored gillnet and lobster trap/pot gear as gear that could be allowed within a DAM zone. NMFS also includes in this proposed rule a

provision to clarify one of the SAM gear modification requirements (600 lb (272.4 kg) weak link) for lobster trap gear in Northern Inshore State Lobster Waters and Northern Nearshore Lobster Waters that overlap with a SAM area.

**DATES:** Comments on the proposed rule must be received by 5 p.m. EST on April 3, 2003.

**ADDRESSES:** Send comments on this proposed rule to Mary Colligan, Assistant Regional Administrator for Protected Resources, Protected Resources Division, NMFS, Northeast Region, 1 Blackburn Dr., Gloucester, MA 01930. Comments will not be accepted if sent via e-mail or Internet. Copies of the draft Environmental Assessment/Regulatory Impact Review for this action can be obtained from the ALWTRP website listed under the Electronic Access portion of this document. Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and progress reports on implementation of the ALWTRP may be obtained by writing Diane Borggaard, NMFS, Northeast Region, 1 Blackburn Dr., Gloucester, MA 01930 or Katherine Wang, NMFS, Southeast Region, 9721 Executive Center Dr., St. Petersburg, FL 33702-2432. For additional **ADDRESSES** and web sites for document availability see **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Diane Borggaard, NMFS, Northeast Region, 978-281-9145; or Patricia Lawson, NMFS, Office of Protected Resources, 301-713-2322.

#### **SUPPLEMENTARY INFORMATION:**

##### **Electronic Access**

Several of the background documents for the ALWTRP and the take reduction planning process can be downloaded from the ALWTRP web site at <http://www.nero.nmfs.gov/whaletrp/>. Copies of the most recent marine mammal stock assessment reports may be obtained by writing to Richard Merrick, NMFS, 166 Water St., Woods Hole, MA 02543 or can be downloaded from the Internet at <http://www.wh.who.edu/psb/sar2001.pdf>. In addition, copies of the documents entitled "Defining Triggers for Temporary Area Closures to Protect Right Whales from Entanglements: Issues and Options" and "Identification of Seasonal Area Management Zones for North Atlantic Right Whale Conservation" are available by writing to Diane Borggaard, NMFS, Northeast Region, 1 Blackburn Dr., Gloucester, MA 01930 or can be downloaded from the Internet at <http://www.nero.nmfs.gov/whaletrp/>.

## Background

The ALWTRP (50 CFR 229.32) is a multi-faceted plan that includes area closures, gear requirements in areas open to fixed gear fishing, gear research to develop new modifications to current practices and/or fishing techniques, a right whale Sighting Advisory System, and a disentanglement program to free whales caught in fishing gear.

As part of the ALWTRP, NMFS issued a final rule to implement the Dynamic Area Management (DAM) program (67 FR 1133, January 9, 2002; 67 FR 65722, October 28, 2002), which clarified its authority under 50 CFR 229.32 to temporarily restrict the use of lobster traps and/or anchored gillnet gear in areas where right whales aggregate. The DAM program establishes criteria and procedures to temporarily restrict lobster trap and anchored gillnet gear on an expedited basis within defined areas (i.e. DAM zone) north of 40° N. latitude in order to further reduce risk of entanglement to right whales by such gear. When the criteria for establishing a DAM zone are triggered, NMFS may implement fishing restrictions within the DAM zone through publication in the **Federal Register**.

Factors NMFS would consider in deciding what restrictions to implement within the DAM zone include: the location of the DAM zone with respect to other fishery closure areas, weather conditions as they relate to the safety of human life at sea, the type and amount of gear already present in the area, and a review of recent right whale entanglement and mortality data. Once a DAM zone is identified, the regulations allow NMFS to: (1) require the removal of all lobster trap and anchored gillnet fishing gear for a 15-day period; (2) allow modified lobster trap and anchored gillnet gear within a DAM zone for a 15-day period; and/or (3) issue an alert to fishermen requesting the voluntary removal of all lobster trap and anchored gillnet gear for a 15-day period, and asking fishermen not to set any additional gear in the DAM zone during the 15-day period. NMFS may either extend or shorten the duration of the DAM zone depending on the presence or absence of right whales in the DAM zone.

While the DAM final rule did envision, at some point in the future, that DAM zones could be implemented with gear modifications, it did not identify specific gear modifications that would sufficiently reduce the risk of entanglement to right whales. Therefore, no gear modifications were included within the analysis that supported the DAM rulemaking. This proposed rule

would identify acceptable gear that could be allowed under the DAM program. This proposed rule, if adopted, would complete the regulatory actions planned and described in the recent amendments to the ALWTRP, which included the Seasonal Area Management (SAM) program (67 FR 1142, January 9, 2002; 67 FR 65722, October 28, 2002), expanded gear modifications (67 FR 1300, January 10, 2002; 67 FR 15493, April 2, 2002), as well as the DAM program.

## Proposed Lobster Trap and Anchored Gillnet Gear Modifications for Use in DAM Zones

On January 9, 2002, NMFS established a SAM program (67 FR 1142) to protect predictable annual congregations of right whales in the waters east of Cape Cod and seaward to the outer limits of the Exclusive Economic Zone (EEZ). Under the SAM program, NMFS defined two areas (SAM West and SAM East) and required gear modifications for lobster trap and anchored gillnet gear within these defined areas. The interim final rule restricts lobster trap and anchored gillnet gear set within each SAM area to those types designated as Level II or Low Risk Gear, which is defined as gear where death or serious injury resulting from entanglement would be highly unlikely. The requirements under the SAM program are more stringent than, and in addition to, the gear modifications currently required under the ALWTRP for Northern Inshore State Lobster Waters, Northern Nearshore Lobster Waters, Offshore Lobster Waters, and Other Northeast Gillnet Waters.

The information and analysis provided in the proposed rule for the SAM program (66 FR 59394, November 28, 2001) demonstrates that the gear modifications, including replacing floating line with neutrally buoyant and/or sinking line, installing additional weak links, reducing breaking strengths for weak links and limiting the number of buoy lines (i.e. allowing only one buoy line) prevent serious injury or mortality to right whales. NMFS estimated that the SAM requirements resulted in approximately an 85-percent reduction in floating line for offshore lobster gear and 50-percent reduction in vertical line for gillnet and lobster gear. Thus, the SAM gear modifications reduce both the potential for interaction through a significant reduction in floating and vertical line, and the potential for serious injury or mortality through the incorporation of additional weak links at reduced breaking strengths.

As the DAM program was developed in advance of the SAM program, NMFS was not able to identify or analyze SAM gear as part of the DAM program. This proposed rule identifies and analyzes the SAM gear as gear that could be used under the DAM program. NMFS believes that Level II or Low Risk gear modifications are appropriate to allow in a DAM zone because this gear has been determined to sufficiently reduce risk of entanglement of right whales. NMFS maintains that the data available and presented in the SAM proposed rule provides sufficient evidence that fishing with SAM modified gear in a DAM zone is unlikely to result in serious injury or mortality of a right whale.

This proposed rule would identify SAM modified gear as gear that could be allowed under the DAM program. NMFS analyzed additional management alternatives when deciding which type of gear modification to allow within the DAM zone (see **ADDRESSES** section for a copy of the Environmental Assessment (EA) and Classification section's summary of the Initial Regulatory Flexibility Analysis, which describes other alternatives considered). NMFS seeks comments from the public on this proposed rule and these alternatives.

The proposed gear modifications to the ALWTRP DAM program are described below. These requirements are more stringent than, and in addition to, the gear modifications currently required under the ALWTRP for the Offshore Lobster Waters, Northern Nearshore Lobster Waters, Southern Nearshore Lobster Waters, Northern Inshore State Lobster Waters, Great South Channel Restricted Lobster Area (July 1 through March 31), Stellwagen Bank/Jeffreys Ledge Restricted Area (lobster trap and gillnet area descriptions), Cape Cod Bay Restricted Area (lobster trap and gillnet area descriptions; May 16 through December 31), Great South Channel Restricted Gillnet Area (July 1 through March 31), Great South Channel Sliver Restricted Area (July 1 through March 31), Mid-Atlantic Coastal Waters (gillnet area description) and Other Northeast Gillnet Waters and are consistent with the gear restrictions implemented under the SAM program. Time periods are incorporated to clarify when critical habitat areas are subject to the DAM program, which, as described (66 FR 50160, October 2, 2001; 67 FR 1142, January 9, 2002) and implemented by NMFS, are time periods when the requirements for critical habitat areas are no more conservative than the surrounding waters. Additionally, proposed SAM gear modification

requirements under the DAM program are applicable to ALWTRP management areas north of 40° N. latitude where a DAM zone could be triggered.

#### *Lobster Trap Gear*

In addition to the universal gear and gear marking requirements, fishermen utilizing lobster trap gear within the portion of the Northern Nearshore Lobster Waters, Southern Nearshore Lobster Waters, Northern Inshore State Lobster Waters, Cape Cod Bay Restricted Area (May 16 through December 31), and Stellwagen Bank/Jeffreys Ledge Restricted Area that overlap with a DAM zone may be required to utilize all the following gear modifications when a DAM zone is in effect:

1. Groundlines and buoy lines must be made entirely of either sinking or neutrally buoyant line. Floating groundlines and buoy lines are prohibited;
2. A weak link with a maximum breaking strength of 600 lb (272.4 kg) must be placed at all buoys; and
3. Fishermen utilizing lobster trap gear within the DAM zone must have no more than one buoy line per trawl string. This buoy line must be at the northern or western end of the trawl string depending on the direction of the set.

In addition to the universal gear and gear marking requirements, fishermen utilizing lobster trap gear within the portion of the Great South Channel Restricted Lobster Area (July 1 through March 31) and Offshore Lobster Waters Area that overlap with a DAM zone may be required to utilize all the following gear modifications when a DAM zone is in effect:

1. Groundlines and buoy lines must be made of either sinking or neutrally buoyant line. Floating groundlines and buoy lines are prohibited;
2. A weak link with a maximum breaking strength of 1,500 lb (680.4 kg) must be placed at all buoys; and
3. Fishermen utilizing lobster trap gear within the DAM zone must have no more than one buoy line per trawl string. This buoy line must be at the northern or western end of the trawl string depending on the direction of the set.

#### *Anchored Gillnet Gear*

In addition to the universal gear and gear marking requirements, fishermen utilizing anchored gillnet gear within the portion of the Other Northeast Gillnet Waters, Cape Cod Bay Restricted Area (May 16 through December 31), Stellwagen Bank/Jeffreys Ledge Restricted Area, Great South Channel Restricted Gillnet Area (July 1 through

March 31), Great South Channel Sliver Restricted Area (July 1 through March 31), and Mid-Atlantic Coastal Waters that overlap with a DAM zone may be required to utilize all the following gear modifications when a DAM zone is in effect:

1. Groundlines and buoy lines must be made of sinking or neutrally buoyant line. Floating groundlines and buoy lines are prohibited;
2. A weak link with a maximum breaking strength of 1,100 lb (498.8 kg) must be placed at all buoys;
3. Each net panel must have a total of 5 weak links with a maximum breaking strength of 1,100 lb (498.8 kg) each. Net panels are typically 50 fathoms in length, but the weak link requirements would apply to all variations in panel size. These weak links must include 3 floatline weak links. The placement of the weak links on the floatline must be as follows: one at the center of the net panel and one each as close as possible to each of the bridle ends of the net panel. The remaining 2 weak links must be placed in the center of each of the up and down lines at the panel ends;
4. Fishermen utilizing gillnets within the DAM zone must have no more than one buoy line per net string. This buoy line must be at the northern or western end of the gillnet string depending on the direction of the set; and
5. All anchored gillnets, regardless of the number of net panels, must be securely anchored with the holding power of at least a 22 lb (10.0 kg) Danforth style anchor at each end of the net string.

#### **Clarification of Weak Link Requirement for Northern Inshore State Lobster Waters and Northern Nearshore Lobster Waters that Overlap with SAM Areas**

NMFS includes in this proposed rule a provision clarifying that lobster trap gear in Northern Inshore State Lobster Waters and Northern Nearshore Lobster Waters that overlap with a SAM area must have a weak link with a maximum breaking strength of 600 lb (272.4 kg) at all buoys. Prior to the SAM rulemaking, the ALWTRP regulations already required a 600 lb (272.4 kg) weak link for all lobster gear in the Northern Nearshore Lobster Waters, and it was one of a suite of required options in the Northern Inshore State Lobster Waters. Although the proposed rule for SAM discussed the relationship between the proposed SAM restrictions and the existing gear requirements within the ALWTRP, the description of the SAM lobster trap gear requirements did not explicitly articulate the weak link requirement for the portions of the

Northern Inshore State Lobster Waters and Northern Nearshore Lobster Waters overlapped by the SAM areas. NMFS noted this discrepancy in the preamble to the SAM interim final rule (67 FR 1142, January 9, 2002) and intended to correct this oversight in the interim final rule. However, although NMFS discussed these changes in the preamble of the interim final rule, NMFS inadvertently omitted this clarification from the regulatory text of the SAM interim final rule. To dispel confusion NMFS may have caused in the SAM rulemaking, this action would amend the ALWTRP regulations to state explicitly that lobster trap gear in Northern Inshore State Lobster Waters and Northern Nearshore Lobster Waters that overlap with a SAM area must have a weak link with a maximum breaking strength of 600 lb (272.4 kg) at all buoys as part of the required SAM gear modifications.

#### **Classification**

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

This proposed rule would identify gear modifications that sufficiently reduce the risk of entanglement to right whales under the DAM program. The objective of this proposed rule, issued pursuant to section 118 of the Marine Mammal Protection Act (MMPA), is to reduce the level of serious injury and mortality of right whales in East Coast lobster trap and finfish gillnet fisheries. The small entities affected by this proposed rule are anchored gillnet and lobster trap fishermen fishing north of 40° N. latitude. Since DAM is used to respond to unusual and unexpected sightings of right whales, it is difficult for NMFS to predict exactly where DAM zones may be implemented in the future. Therefore, providing an accurate estimate of the number of small entities that will be affected is problematic. In the northeast, there are potentially 7,147 vessels fishing lobster gear and 312 vessels fishing sink gillnet gear (Bisack, 2000). However, NMFS does not expect that number of vessels to be affected by any one DAM zone because of the limited size and duration of a DAM zone. Data from aerial surveys in 2000 were used to retrospectively evaluate the use of the recommended DAM triggers. Based on the analysis of this data, six DAM zones would have been triggered in 2000. Four of the six hypothetical DAM zones would have been subsumed under the Seasonal Area Management (SAM) program and the other DAM zone would have occurred in Canadian waters, which are outside of U.S. jurisdiction. Therefore the

impacts were assessed with respect to one hypothetical DAM zone from June 20 to July 6, 2000. For example, based on 2000 right whale sightings data and 2000 Vessel Trip Report (VTR) data, from June 20th to July 6th the proposed rule would have affected 45 lobster and sink gillnet vessels (29 lobster vessels and 16 sink gillnet vessels), which represents 0.4 percent of the vessels (0.004=29/7,147 lobster vessels) associated with the lobster fleet and 5.1 percent of the vessels (0.051=16/312 sink gillnet vessels) associated with the sink gillnet fleet in the northeast. This proposed rule contains no reporting, record keeping, or other compliance requirements. There are no relevant Federal rules that duplicate, overlap, or conflict with the proposed rule.

Four alternatives, including a status quo or no action alternative, the preferred alternative (PA), and two other alternatives were evaluated using a retrospective analysis based on 2000 right whale sightings data and 2000 VTR data. Under all alternatives, from June 20th to July 6th, 45 vessels, of which 29 were lobster vessels and 16 were sink gillnet vessels, were affected by a DAM zone. A summary of the analysis follows:

1. NMFS considered a "no action" or status quo alternative that would result in no changes to the current measures under the ALWTRP. For the status quo, the economic impact analysis considered a complete closure to lobster and sink gillnet gear when a DAM is implemented. In the worst case scenario, a vessel would choose not to fish and therefore incur revenue losses plus the cost of moving their gear. Under status quo, if a lobster vessel chose not to fish outside the DAM zone, annual revenues would be reduced by 5 percent if these vessels chose not to fish from June 20th to July 6th. It is important to note that this represents forgone revenues for one DAM zone, and a vessel could be subject to multiple DAM zones or closures that are extended in time and space. Annual forgone revenues would be reduced by approximately 9 percent for a sink gillnet vessel if they also chose not to fish outside the DAM zone from June 20th to July 6th.

2. The Preferred Alternative would allow SAM gear modifications to be used under the DAM program. SAM gear modifications include, amongst other requirements, the use of neutrally buoyant or sinking line on all ground lines and buoy lines and restricts fishermen to one endline (buoy line) per trawl or string. Under the proposed rule, if a vessel converts its gear, Class I (length less than 35 feet (10.66m)) and

Class II (length between 35 and 50 feet (15.2m)) vessels fishing lobster gear will have profits reduced by a minimum of 3 percent (maximum of 9 percent) and 1 percent (maximum of 2 percent), respectively. A Class I (length less than 40 feet (12.2m)) and Class II (greater than 40 feet (12.2m)) vessel fishing sink gillnet gear will have profits reduced by a minimum of 0.4 percent (maximum of 0.7 percent) and 1.2 percent (maximum of 1.9 percent), respectively.

3. NMFS considered an alternative (Non-preferred alternative (NPA) 1) that would implement SAM gear modifications with two endlines (buoy lines) and floating line on the bottom third of each endline. Vessels fishing both lobster and sink gillnet gear have been grouped by size classes. Under the NPA 1 plan, if a vessel converts its gear, Class I (length less than 35 feet (10.66m)) and Class II (length between 35 and 50 feet (15.2m)) vessels fishing lobster gear will have profits reduced by a minimum of 3 percent (maximum of 10 percent) and 1 percent (maximum of 3 percent), respectively. A Class I (length less than 40 feet (12.2m)) and Class II (greater than 40 feet (12.2m)) vessel fishing sink gillnet gear will have profits reduced by a minimum of 0.4 percent (maximum of 0.7 percent) and 1.5 percent (maximum of 2.2 percent), respectively.

4. NMFS considered an alternative (NPA 2) that would implement SAM gear modifications with two endlines (buoy lines). Thus, this alternative would allow lobster trap and anchored gillnet fishermen to retain a second end line on each end of the lobster trap or gillnet trawl. Vessels fishing both lobster and sink gillnet gear have been grouped by size classes. Under the NPA 2 plan, if a vessel converts its gear, Class I (length less than 35 feet (10.66m)) and Class II (length between 35 and 50 feet (15.2m)) vessels fishing lobster gear will have profits reduced by a minimum of 3.5 percent (maximum of 10.7 percent) and 1 percent (maximum of 3 percent), respectively. A Class I (length less than 40 feet (12.2m)) and Class II (greater than 40 feet (12.2m)) vessel fishing sink gillnet gear will have profits reduced by a minimum of 0.5 percent (maximum of 0.7 percent) and 1.6 percent (maximum of 2.3 percent), respectively.

NMFS determined that this action is consistent to the maximum extent practicable with the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. No state disagreed with our conclusion that this proposed

rule is consistent with the enforceable policies of the approved coastal management program for that state.

This proposed rule contains policies with federalism implications as that term is defined in Executive Order 13132. Accordingly, the Assistant Secretary for Legislative and Intergovernmental Affairs will provide notice of the proposed action to the appropriate official(s) of affected state, local, and/or tribal governments.

This proposed rule would also clarify that vessels in Northern Inshore State and Northern Nearshore Lobster Waters must install and use a 600 lb (272.4 kg) weak link at each buoy when fishing in SAM West during the time it overlaps the Northern Inshore State and Northern Nearshore Lobster Waters. Requiring a 600 lb (272.4 kg) weak link in those waters rather than a 1,500 lb (680.4 kg) weak link would benefit right whales since more right whales would be able to break a 600 lb (272.4 kg) weak link and each whale would have to exert less force since the breaking strength is lower. The impacts of this proposed requirement on small entities falls within the scope of the regulatory flexibility analyses performed in conjunction with the original SAM proposed and interim final rules. The December 2001 SAM EA/RIR analyzed impacts of requiring a 1,500 lb (680.4 kg) weak link, rather than a 600 lb (272.4 kg) weak link. The cost of a 600 lb (272.4 kg) weak link is similar or less than the cost of the 1,500 lb (680.4 kg) weak link used in the analysis and the effects of using a 600 lb weak link on fishing operations were considered and analyzed while promulgating the December 21, 2000, interim final rule (65 FR 80368). Therefore, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(a) and (c), no further analysis is required. Copies of the SAM EA/RIR are available upon request. (see ADDRESSES.)

#### List of Subjects in 50 CFR Part 229

Administrative practice and procedure, Fisheries, Marine mammals, Reporting and recordkeeping requirements.

Dated: February 25, 2003.

**Rebecca Lent,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 229 as follows:

**PART 229—AUTHORIZATION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972**

1. The authority citation for part 229 continues to read as follows:

**Authority:** 16 U.S.C. 1361 *et seq.*

2. In § 229.32, paragraph (g)(3)(iii)(B) is revised and paragraph (g)(4)(i)(B)(2)(ii) is added to read as follows:

**§ 229.32 Atlantic large whale take reduction plan regulations.**

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(3) \* \* \*

(iii) \* \* \*

(B) Allow fishing within a DAM zone with anchored gillnet and lobster trap gear, provided such gear satisfies the requirements specified in paragraphs (g)(4)(i)(B)(1) and (g)(4)(i)(B)(2). These requirements are in addition to requirements found in § 229.32 (b) through (d) but supercede them when the requirements in paragraphs

(g)(4)(i)(B)(1) and (g)(4)(i)(B)(2) are more restrictive than those in § 229.32 (b) through (d). Requirements for anchored gillnet gear in Other Northeast Gillnet Waters are as specified in paragraph (g)(4)(i)(B)(1) and requirements for lobster trap gear in Offshore Lobster Waters, Northern Nearshore Lobster Waters and Northern Inshore State Lobster Waters are as specified in paragraph (g)(4)(i)(B)(2). Requirements for anchored gillnet gear in Cape Cod Bay Restricted Area (May 16 through December 31), Stellwagen Bank/Jeffreys Ledge Restricted Area, Great South Channel Restricted Gillnet Area (July 1 through March 31), Great South Channel Sliver Restricted Area (July 1 through March 31), and Mid-Atlantic Coastal Waters are the same as requirements for Other Northeast Gillnet Waters. Requirements for lobster trap gear in Southern Nearshore Lobster Waters, Cape Cod Bay Restricted Area (May 16 through December 31) and Stellwagen Bank/Jeffreys Ledge Restricted Area are the same as requirements for Northern

Nearshore Lobster Waters and Northern Inshore State Lobster Waters. Requirements for lobster trap gear in the Great South Channel Restricted Lobster Area (July 1 through March 31) are the same as requirements for Offshore Lobster Waters.

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(4) \* \* \*

(i) \* \* \*

(B) \* \* \*

(2) \* \* \*

(ii) Northern Inshore State Lobster Waters and Northern Nearshore Lobster Waters areas buoy weak links- All buoy lines must be attached to the buoy with a weak link having a maximum breaking strength of up to 600 lb (272.4 kg). Weak links may include swivels, plastic weak links, rope of appropriate diameter, hog rings, rope stapled to a buoy stick, or other materials or devices approved in writing by the Assistant Administrator.

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[FR Doc. 03-4897 Filed 3-3-03; 8:45 am]

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