UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

October 2, 2008

Dear Commercial Lobster Trap/Pot and Gillnet Fishermen:

This letter is to inform you that NOAA's National Marine Fisheries Service (NMFS) has reinstituted the Dynamic Area Management (DAM) program under the Atlantic Large Whale Take Reduction Plan (ALWTRP) pursuant to a preliminary injunction issued in the case The Humane Society of the United States, et al. v. Gutierrez, et al., in U.S. District Court for the District of Columbia (Civil Action No. 08-cv-1593 (ESH)).

The DAM program will be implemented consistent with the previous regulations for this program (67 FR 1133, January 9, 2002; 67 FR 65722, October 28, 2002; 68 FR 51195, August 26, 2003; 72 FR 57104, October 5, 2007), except that it will only be reinstated north of the pre-existing Seasonal Area Management boundaries (i.e. north of 42º 30´ N. latitude; see map on back page). The DAM regulations provide NMFS the authority to temporarily restrict the use of lobster trap/pot and anchored gillnet fishing gear on an expedited basis to protect right whales. The DAM program will be effective through 2400 hrs April 4, 2009, and will expire at this time when the broad-based sinking groundline requirement for Atlantic trap/pot fisheries is effective on April 5, 2009.

DAM zones will be established through future notice in the Federal Register. If a DAM zone is implemented in your area, a subsequent permit holder letter will be sent notifying you of your requirements. Please note that if NMFS establishes a DAM zone with gear modifications, and you fish in the area of overlap with the DAM zone, your requirements would include those found in the enclosure to this letter.
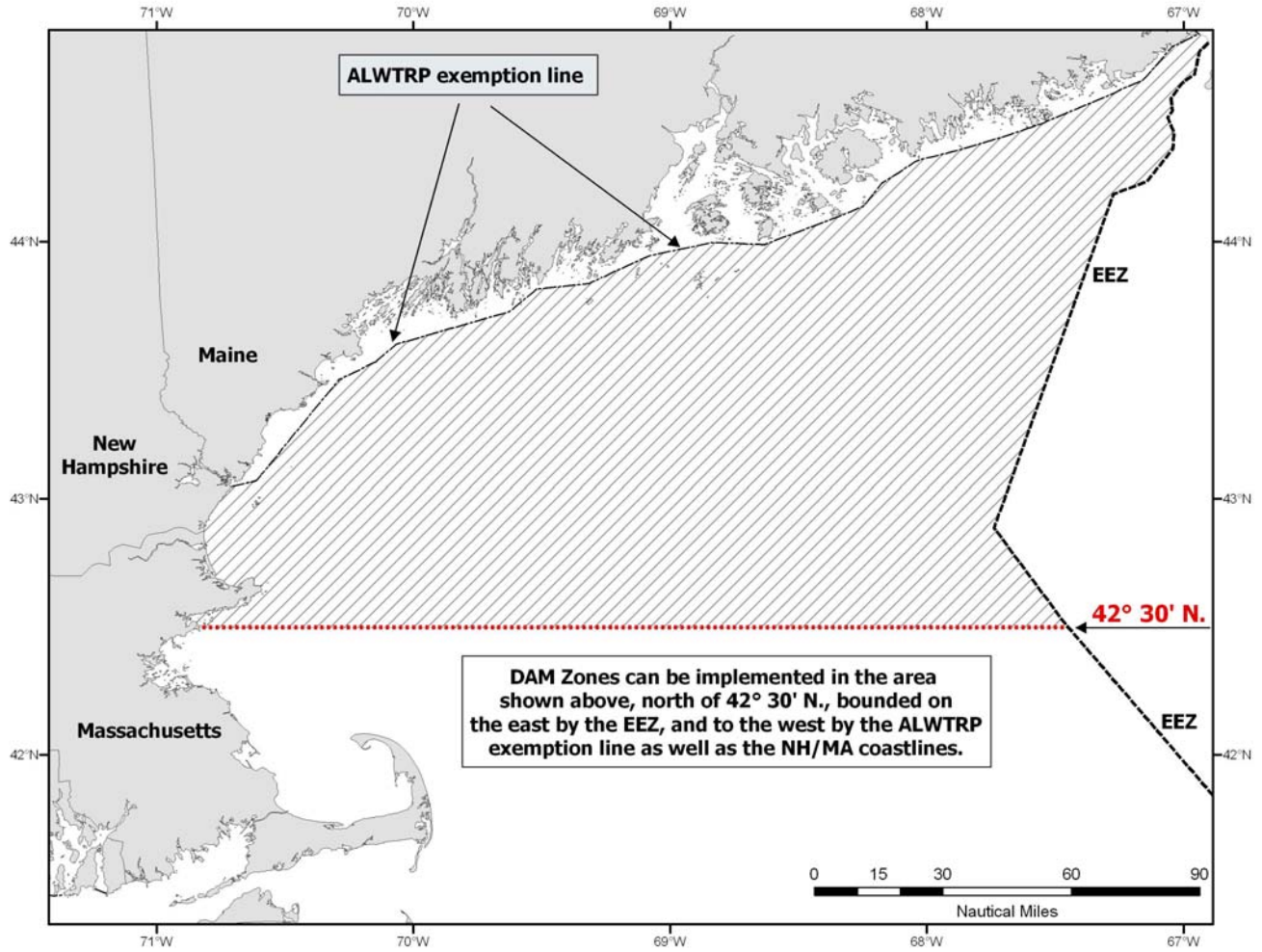
If you have questions about the DAM program or the ALWTRP, please contact the ALWTRP Coordinator, Diane Borggaard (Diane.Borggaard@noaa.gov or 978-281-9300 ext. 6503). Additionally, contact the ALWTRP Coordinator if you would like to receive NMFS' e-mails on DAM actions and other large whale issues. If you have questions about your ALWTRP gear requirements, please contact John Higgins (John.Higgins@noaa.gov or 207-677-2316). The regulations are available by accessing the ALWTRP web page (http://www.nero.nmfs.gov/whaletrp/), or by contacting my staff above.

Sincerely,

Patricia A. Kurkul
Regional Administrator

Figure 1. Applicable Areas for Dynamic Area Management (DAM) Implementation

DAM Program Gear Requirements

In addition to those gear modifications currently implemented under the ALWTRP at 50 CFR 229.32, the following gear modifications may be required in a DAM zone. In such a case, the ALWTRP management areas impacted would be dependent on the area of overlap with the DAM zone. If the requirements and exceptions for gear modification in a DAM zone, as described below, differ from other ALWTRP requirements for any overlapping areas and times, then the more restrictive requirements would apply in the DAM zone.

Lobster Trap/Pot Gear

Fishermen utilizing lobster trap/pot gear within the portions of Northern Inshore State Lobster Waters, Northern Nearshore Lobster Waters, and/or Stellwagen Bank/Jeffreys Ledge Restricted Area that overlap with a DAM zone may be required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of sinking line. Floating groundlines are prohibited;
2. All buoy lines must be made of sinking line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per trawl; and
4. A weak link with a maximum breaking strength of 600 lb (272.4 kg) must be placed at all buoys.

Fishermen utilizing lobster trap/pot gear within the portion of the Offshore Lobster Waters that overlap with a DAM zone may be required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of sinking line. Floating groundlines are prohibited;
2. All buoy lines must be made of sinking line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per trawl; and
4. A weak link with a maximum breaking strength of 1,500 lb (680.4 kg) must be placed at all buoys.

Anchored Gillnet Gear

Fishermen utilizing anchored gillnet gear within the portions of Other Northeast Gillnet Waters and/or Stellwagen Bank/Jeffreys Ledge Restricted Area that overlap with a DAM zone may be required to utilize all the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of sinking line. Floating groundlines are prohibited;
2. All buoy lines must be made of sinking line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per string;
4. The breaking strength of each net panel weak link must not exceed 1,100 lb (498.8 kg). The weak link requirements apply to all variations in net panel size. One weak link must be placed in the center of the floatline and one weak link must be placed in the center of each of the up and down lines at both ends of the net panel. Additionally, one weak link must be placed as close as possible to each end of the net panels on the floatline; or, one weak link must be placed between floatline tie-loops between net panels and one weak link must be placed where the floatline tie-loops attach to the bridle, buoy line, or groundline at each end of a net string;
5. A weak link with a maximum breaking strength of 1,100 lb (498.8 kg) must be placed at all buoys; and
6. 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.