



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

August 26, 2003

Small Entity Compliance Guide

Dear Lobster Trap/Pot and Gillnet Fisherman:

This letter announces that the National Marine Fisheries Service (NOAA Fisheries) has issued a final rule amending the regulations implementing the Atlantic Large Whale Take Reduction Plan's (ALWTRP) Dynamic Area Management (DAM) program. Effective September 25, 2003, NOAA Fisheries may utilize gear modifications as an additional option under the DAM program. This final rule also corrects and clarifies the regulations implementing the Seasonal Area Management (SAM) program for lobster trap/pot gear in Northern Inshore State Lobster Waters and Northern Nearshore Lobster Waters that overlap with a SAM area.

The regulations implementing the DAM program (67 FR 1133, January 9, 2002) established criteria and procedures to temporarily restrict lobster trap/pot and anchored gillnet gear on an expedited basis within a defined area (i.e., DAM zone) north of 40°EN latitude in order to reduce the risk of serious injury or mortality to right whales from entanglement in such gear. Once a DAM zone is identified, NOAA Fisheries may: 1) require the removal of all lobster trap/pot and anchored gillnet fishing gear for a 15-day period; 2) allow modified lobster trap/pot 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/pot 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. At the time the DAM program was established, NOAA Fisheries had not identified specific gear modifications that would sufficiently reduce the risk of entanglement to right whales as part of the implementing DAM regulations. Therefore, NOAA Fisheries could not allow modified lobster trap/pot and anchored gillnet gear within a DAM zone. This final rule identifies and implements management measures that will allow NOAA Fisheries to utilize gear modifications as an additional option under the DAM program.

The gear modifications for the DAM program are described on the back of this letter. These requirements are in addition to the gear modifications currently required under the ALWTRP for the Offshore Lobster Waters, Northern and Southern Nearshore Lobster Waters, Northern Inshore State Lobster Waters, Stellwagen Bank/Jeffreys Ledge Restricted Area (lobster and gillnet area description), Other Northeast Gillnet Waters, and Mid-Atlantic Coastal Waters (gillnet area description). NOAA Fisheries also included in this final rule a provision that clarifies its intent with respect to lobster trap/pot gear in Northern Inshore State Lobster Waters and Northern Nearshore Lobster Waters that overlap with a SAM area by requiring a weak link with a maximum breaking strength of 600 pounds at all buoys.

This letter provides only a summary of the approved regulations. To obtain these regulations in their entirety, please call 978-281-9328. In addition, these regulations are available by accessing the ALWTRP web page (www.nero.nmfs.gov/whaletrp/). If you have any questions regarding these regulations, please call 978-281-9328.

Sincerely,

for

Patricia A. Kurkul
Regional Administrator



DAM Program Gear Requirements

The following requirements are in addition to the gear modifications currently required under the ALWTRP found at 50 CFR 229.32. If the requirements and exceptions for gear modifications in a DAM zone, as described in the final rule, differ from other ALWTRP requirements for any overlapping areas and times, then the more restrictive requirements will apply in the DAM zone.

Lobster Trap/Pot Gear

Fishermen utilizing lobster trap/pot 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 must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant 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 must be placed at all buoys.

Fishermen utilizing lobster trap/pot 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:

3. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
4. All buoy lines must be made of either sinking or neutrally buoyant 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;
5. Fishermen are allowed to use two buoy lines per trawl; and
6. A weak link with a maximum breaking strength of 1,500 lb must be placed at all buoys.

Anchored Gillnet Gear

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 must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant 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. Each net panel must have a total of five weak links with a maximum breaking strength of 1,100 lb. 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 three floatline weak links. The placement of the weak links on the floatline must be: 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 two weak links must be placed in the center of each of the up and down lines at the panel ends; 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 Danforth-style anchor at each end of the net string.