REGULATORY ALTERNATIVES CHAPTER 3

The Atlantic Large Whale Take Reduction Plan (ALWTRP) includes a combination of fishing gear modifications and time/area closures to reduce whale entanglement in commercial fishing gear (potentially suffering serious injury or mortality as a result). The nature of the gear modification requirements varies by location and time of year, maximizing reduction in entanglement risk based on whale movements. NMFS complements these gear modification requirements with prohibitions on fishing at times and in places where whale aggregations are greatest, and therefore entanglement risk may be particularly high.

NMFS is considering various alternatives for modifying existing ALWTRP requirements, with the intent of identifying only one alternative in the FEIS. The alternatives under consideration seek to reduce large whale entanglement by folding in other trap/pot fisheries under the ALWTRP; reducing the profile of groundlines; and mandating gear modifications to vertical lines, for example, by requiring gear marking and the use of weak links of lower breaking strength. These changes are designed to address ongoing right, humpback, and fin whale entanglements resulting in serious injury or mortality. These measures are designed to address entanglement risk posed by fisheries in U.S. waters; however, NMFS recognizes that entanglement risks occur throughout the range of these species. NMFS will continue to work with the Government of Canada toward the development of similar protective measures for large whales in Canadian waters.

For the purposes of this DEIS, NMFS has identified two preferred alternatives (Alternatives 3 and 6) from the six considered, with the intent of identifying only one alternative in the FEIS.

Below, we first describe the regulatory alternatives under consideration (Section 3.1). We then discuss the alternatives that NMFS has considered, but rejected (Section 3.2).

3.1 ALTERNATIVES CONSIDERED

NMFS has identified six regulatory alternatives for consideration in this DEIS, with the intent of identifying only one alternative in the FEIS. The requirements under these alternatives are intended to supplement existing ALWTRP requirements, unless otherwise noted. The alternatives introduce new gear restrictions for fisheries already included under the ALWTRP and extend the requirements to a broader set of fisheries, including additional trap/pot fisheries (Category II Atlantic blue crab trap/pot and Atlantic mixed species trap/pot as designated in the

List of Fisheries (LOF)) and additional gillnet fisheries (Category II Northeast anchored float and Northeast drift gillnet as designated in the LOF). NMFS also proposes modifying exempted areas, adding gear marking requirements, and making regulatory language changes that would apply across all the alternatives, with the exception of the No Action Alternative (Alternative 1).

The alternatives examined in this DEIS are the product of extensive outreach conducted by NMFS. NMFS reconvened the Atlantic Large Whale Take Reduction Team (ALWTRT) on April 28-30, 2003, to help evaluate the ALWTRP and discuss additional modifications that may be necessary to meet the goals of the MMPA and ESA. In response to the continued risk of serious injury and mortality of large whales from entanglement in commercial fishing gear, NMFS determined that additional modifications to the ALWTRP were warranted. Therefore, the ALWTRT was asked by NMFS to consider and develop additional options for addressing incidental interactions between commercial fisheries and large whales. Particular emphasis was placed on those options designed to reduce the potential for entanglements and minimize adverse impacts if entanglements occur.

In addition to the April 2003 meeting, the ALWTRT met in separate subgroups over the following two months to further discuss and refine the proposals developed at the full meeting. These included meetings of the "Northeast Inshore Lobster Trap/Pot"; "Offshore Trap/Pot"; "Southeast/Mid-Atlantic"; and "Northeast Gillnet" subgroups. All meetings were open to the public.

On June 30, 2003, NMFS published a Notice of Intent (NOI) in the *Federal Register* to announce the agency's intent to prepare an Environmental Impact Statement (EIS) (68 FR 38676). In the NOI, NMFS requested comments and announced several public scoping meetings along the east coast to solicit comments on the range of issues to be considered during the preparation of the EIS.

Proposals from the April 2003 ALWTRT meeting and subsequent subgroup meetings were used to develop an issues and options document, which NMFS made available to the public during the scoping process. The scoping document described the major issues, current management and legal requirements, and potential management measures (including measures already in effect) to address fisheries that may frequently or occasionally interact with large whales. During the summer of 2003, NMFS conducted six public scoping meetings at locations from Maine to Florida along the east coast.

During the scoping process, NMFS received numerous comments from diverse interested parties. The comments included both formal written comments as well as oral comments offered at the scoping meetings. Appendix 3-A at the end of this chapter summarizes the comments received and directs the reader to relevant DEIS sections where the comments are addressed.

3.1.1 Alternative 1: No Action Alternative

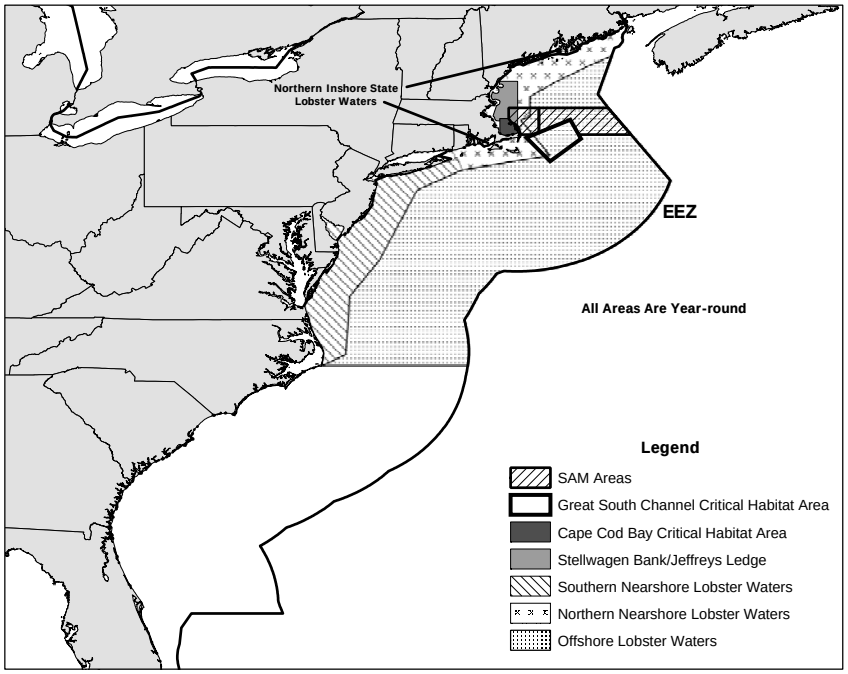
Under Alternative 1, NMFS would continue with the status quo, i.e., the baseline set of ALWTRP requirements currently in place. A description of the current requirements can be found in Chapter 2.

Exhibit 3-1 presents the Alternative 1 management areas for trap/pot and gillnet fisheries.

Exhibit 3-1

ALTERNATIVE 1 MANAGEMENT AREAS

Trap/Pot Fisheries Alternative 1



Gillnet Fisheries Alternative 1

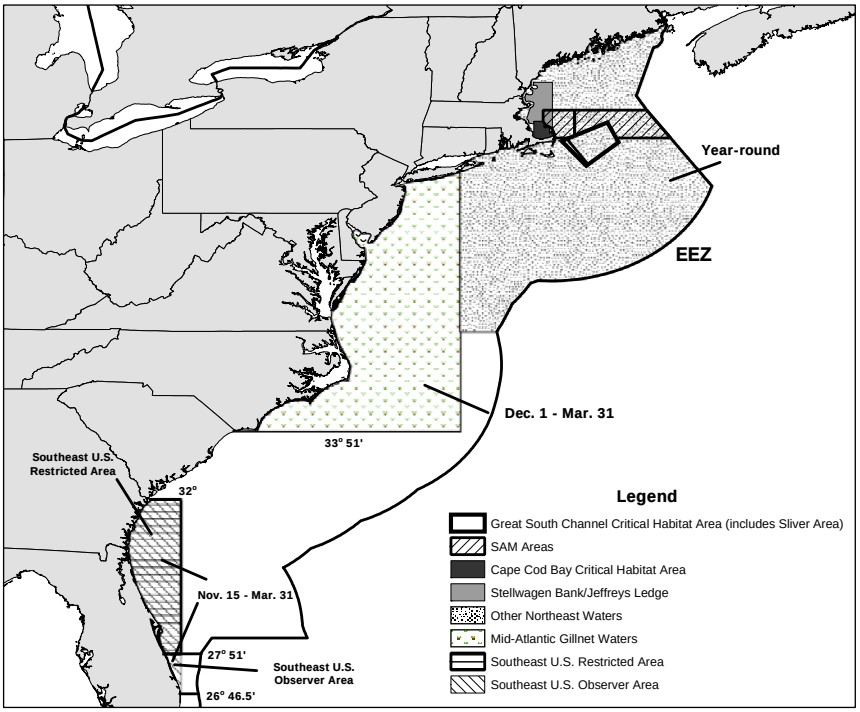


Exhibit 3-2 summarizes the key components of the remainder of the proposed alternatives, arranging the requirements by fishery and geographic region (where appropriate). The discussion below describes each alternative in greater detail, highlighting the differences among alternatives as well as the proposed changes common to all the alternatives except the No Action Alternative (Alternative 1) (i. e. exempted areas, gear marking, and regulatory language).

3.1.2 Alternative 2

Alternative 2 would modify the ALWTRP in a number of ways, with some changes applying equally to all fisheries and other changes affecting only certain fisheries or regions.[1] As shown in Exhibit 3-2, key regulatory changes common to all fisheries include the following:

- Weak links would be required on all flotation and/or weighted devices attached to the buoy line.

- By 2008, all groundline associated with trap/pot or gillnet gear (excluding shark or drift gillnets) would need to be sinking and/or neutrally buoyant (as defined in 50 CFR 229.2). Recent studies (e.g., Johnson et al., 2005) confirm that whales continue to be entangled in fishing gear and that groundlines are among the parts of gear posing risks. NMFS and other stakeholders are currently researching the performance of various types of groundline.

- Both seasonal area management (SAM) requirements and dynamic area management (DAM) requirements would be eliminated in 2008.

In addition, Alternative 2 would extend ALWTRP regulations to a number of fisheries included in the Atlantic mixed species trap/pot designation in the LOF that are not currently subject to such requirements. These include trap/pot fisheries for black sea bass, scup, conch/whelk, shrimp, red crab, hagfish, and Jonah crab. In general, the newly added fisheries would be subject to requirements similar to the current and proposed requirements for lobster. In addition, Alternative 2 would extend ALWTRP requirements to the Northeast driftnet fishery, imposing regulations similar to those that apply to the Mid-Atlantic driftnet fishery, as well as to the Northeast anchored float gillnet fishery, imposing requirements similar to those that apply to other components of the Northeast anchored gillnet fishery.

Alternative 2 would introduce several other changes that affect specific fisheries, including the following:

[1] All requirements discussed under each alternative would be effective six months after publication of the final rule, unless otherwise noted.

- **Lobster Trap/Pot**: Lobster operations in northern inshore waters and in the state portion of the Cape Cod Bay Restricted Area (May 16 through December 31) would need to use 600-pound weak links, eliminating the option of choosing other gear modification techniques from the take reduction technology list. In the northern nearshore lobster fishery (as well as the Stellwagen Bank/Jeffrey's Ledge Restricted Area and Federal portions of the Cape Cod Bay Restricted Area from May 16 through December 31), trawls of four or fewer traps would be allowed to use only one buoy line. The weak link breaking strength for offshore lobster gear would be lowered from 2,000 to 1,500 pounds in offshore waters and in the Great South Channel Restricted Area that overlaps with Lobster Management Area (LMA) 2/3 Overlap and LMA 3 (from July 1 through March 31); 600-pound weak links would be required in all other areas including the Great South Channel Restricted Area that overlaps with LMA 2 and the Outer Cape LMA. ALWTRP requirements would be extended to the small portion of Lobster Management Area 6 (Long Island Sound) that is not included in exempted waters and is not currently covered by the plan. The southern boundary for lobster waters would be extended to $27^{o}51'$N, with nearshore waters defined by Lobster Management Areas 4, 5 and 6 north of $35^{o}30'$N and areas lying west of the 100 fathom line south of $35^{o}30'$N. Offshore waters would be defined by Lobster Management Area 3 north of $35^{o}30'$N and areas lying east of the 100 fathom line south of $35^{o}30'$N.

- **Other Trap/Pot Fisheries**: The other trap/pot fisheries would face the same requirements as lobster trap/pot operations (e.g., SAM and DAM programs), such as 1,500-pound weak links required in offshore waters and in the Great South Channel Restricted Area that overlaps with Lobster Management Area (LMA) 2/3 Overlap and LMA 3 (from July 1 through March 31); 600-pound weak links would be required in all other areas including the Great South Channel Restricted Area that overlaps with LMA 2 and the Outer Cape LMA. As with the lobster fishery, ALWTRP requirements for other trap/pot fisheries would vary by region, with existing Lobster Management Areas and the new southern management area defining the boundaries of each region (see above).

- **Gillnets**: A number of gillnet provisions would change:

  - **Northeast**: In the Northeast anchored gillnet fishery, each net panel would need five or more weak links (rather than one), depending on panel length, with a maximum breaking strength of 1,100 pounds.[2] Weak links would also be required on all flotation and other devices attached to buoy lines. One 1,100-pound weak link per panel would be required when fishing tended gear at night. In addition, the new regulations would require all gillnets to be anchored at each end of the net string with the holding power of a 22-pound Danforth-style anchor. The anchored float and driftnet fisheries would be added to the ALWTRP and subject to the same seasonal closures that apply to the anchored gillnet fishery in the Northeast and the driftnet fishery in the Mid-Atlantic, respectively.

  - **Mid-Atlantic**: For the Mid-Atlantic anchored and driftnet fisheries, requirements would be effective year-round rather than solely from December 1 to March 31. All anchored nets would need to return to port with the vessel or be equipped with five or more (rather than one) 1,100-pound weak links, depending on net panel size (and be anchored at each end with an anchor having the holding power of a 22-lb Danforth-style anchor, as previously required). One 1,100-pound weak link per panel would be required when fishing tended driftnet gear at night. Also, waters between 72°30'W and the Eastern edge of the EEZ, and between the VA/NC border and SC/GA border, would be folded in and managed under the Mid-Atlantic gillnet regulations.

  - **Southeast**: The 80°00'W restricted area and associated requirements would be extended eastward to the outer boundary of the EEZ. Gillnet (shark and non-shark) restrictions similar to those in the Southeast U.S. Restricted and Observer Areas[3] would be in effect in key areas and times as noted in Exhibit 3-2. The timing of shark gillnet and straight set restrictions would also be revised. Alternative 2 would also require the use of vessel monitoring systems (VMS) in lieu of the observer coverage that is currently

[2] For all variations in panel size the following weak link requirements would apply: 1) weak links must be placed in the center of each of the up and down lines at both ends of each net panel; and 2) one floatline weak link must be placed as close as possible to each end of the net panel just before the floatline meets the up and down line. Also, for net panels of 50 fathoms or less in length, one floatline weak link must be placed at the center of the net panel, and for net panels greater than 50 fathoms, weak links must be placed continuously along the floatline separated by a maximum distance of 25 fathoms.

[3] Under Alternatives 2 through 6, for shark gillnet fisheries, the portion of the Southeast U.S. Restricted Area overlapping the Southeast U.S. Observer Area north of 27°51' N would be renamed the "Northern Monitoring and Restricted Area," and the portion of the Southeast U.S. Observer Area south of 27°51' N would be renamed the "Southern Monitoring Area." For non-shark gillnet fisheries, these waters north of 27°51' N, where gillnetting occurs, would be designated as "Other Southeast Gillnet Waters." To avoid confusion in comparing current regulatory requirements to those under each alternative, this document retains the original nomenclature.

required for shark vessels. This would more effectively monitor compliance with time and area closures and allow NMFS to increase observer coverage in other high priority fisheries. NMFS would retain the right to require vessels to take observers to detect protected species take, consistent with the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks and its implementing regulations at 50 CFR 635, which require that observer coverage be maintained at a level necessary to maintain statistical significance. Southeast Atlantic gillnets (excluding shark gillnets) would also need to conform with existing requirements for Mid-Atlantic anchored gillnets. Finally, the requirement that shark gillnetters using strikenets remove their gear immediately if a right, humpback, or fin whale moves within a three-mile range would be year round.

Exhibit 3-2
PROPOSED ALWTRP MANAGEMENT ALTERNATIVES 2 THROUGH 6
(Requirements in Addition to Current ALWTRP Requirements) [1]

Fishery/Region	Component	Alternative 2	Alternative 3 (Preferred)	Alternative 4	Alternative 5	Alternative 6 (Preferred)
Lobster – Northern Inshore and Nearshore Waters; Stellwagen Bank/Jeffrey's Ledge Restricted Area; and Cape Cod Bay Restricted Area (5/16 – 12/31)[2]	Weak links	• Weak links on all flotation devices and/or weighted devices attached to the buoy line • Eliminates existing take reduction technology list; 600-lb weak links on all flotation devices or devices attached to buoy line; applies only to Northern Inshore lobster waters and state portion of Cape Cod Bay Restricted Area (May 16 to December 31)	= Alt. 2	= Alt. 2	Expanded SAM (see text)	= Alt. 3 but with expanded SAM until 2008 and early elimination of DAM
	Groundline	• Sinking and/or neutrally buoyant groundline year-round by 2008				
	Other	• Trawls of four or fewer traps allowed only one buoy line; applies only to Northern Nearshore lobster waters, Stellwagen Bank/Jeffrey's Ledge Restricted Area, and Federal portions of Cape Cod Bay Restricted Area (May 16 to December 31) • SAM/DAM eliminated in 2008				
Lobster – Offshore and Great South Channel Restricted Lobster Area (7/1 – 3/31)[2]	Weak links	• Weak links on all flotation devices and/or weighted devices attached to the buoy line • Buoy line weak link strength of 1,500 lbs for fisheries in Offshore lobster waters and Great South Channel that overlaps LMA 2/3 Overlap and 3 (July 1 to March 31); 600-lb weak links for fisheries in other areas	= Alt. 2 but requirements are seasonal for mid- and South Atlantic (see text)	= Alt. 2	Expanded SAM (see text)	= Alt. 3 but with expanded SAM until 2008 and early elimination of DAM
	Groundline	• Sinking and/or neutrally buoyant groundline year-round by 2008				
	Other	• SAM/DAM eliminated in 2008 • Extend southern boundary by following the 100 fa line from 35°30'N to 27°51'N, and then extend out to EEZ				
Lobster – Southern Nearshore[2]	Weak links	• Weak links on all flotation devices and/or weighted devices attached to the buoy line	= Alt. 2 but requirements are seasonal for mid- and South Atlantic (see text)	= Alt. 2	Expanded SAM (see text)	= Alt. 3 but with expanded SAM until 2008 and early elimination of DAM
	Groundline	• Sinking and/or neutrally buoyant groundline year-round by 2008				
	Other	• Apply all requirements to currently unregulated portion of Lobster Management Area 6 that is not included in exempted waters • DAM eliminated in 2008 • Extend southern boundary by following the 100 fa line from 35°30'N to 27°51'N, and then extend inshore to coast or exempted areas; area south of 35°30'N would use the 100 fa line to define Southern Nearshore Lobster Waters				
Black Sea Bass, Scup, Conch/Whelk, Shrimp, Hagfish, and Jonah Crab (trap/pot fisheries)[3]	Weak links	• Weak links on all flotation devices and/or weighted devices attached to the buoy line • Buoy line weak link strength of 1,500 lbs for fisheries in Offshore lobster waters and Great South Channel that overlaps LMA 2/3 Overlap and 3 (July 1 to March 31); 600-lb weak links for fisheries in other areas	= Alt. 2 but requirements are seasonal for mid- and South Atlantic (see text)	= Alt. 2 but requirements are seasonal for South Atlantic (see text)	Expanded SAM (see text)	= Alt. 3 but with expanded SAM until 2008 and early elimination of DAM
	Groundline	• Sinking and/or neutrally buoyant groundline year-round by 2008; effective six months after publication in Cape Cod Bay between January 1 and May 15 and in SAM waters				
	Other	• Fold in under existing ALWTRP regulations (e.g., trawls of four or fewer traps allowed only one buoy line in Northern Nearshore lobster waters, Stellwagen Bank/Jeffrey's Ledge Restricted Area and Federal portions of Cape Cod Bay Restricted Area during May 16 to December 31) • Define southern boundary using definitions discussed under Southern Nearshore Lobster Waters and Offshore Lobster Waters • Apply all requirements to currently unregulated portion of Lobster Management Area 6 that is not included in exempted waters • SAM/DAM eliminated in 2008				
Red Crab (trap/pot)[3]	Weak links	• Weak links on all flotation devices and/or weighted devices attached to the buoy line • Buoy line weak link breaking strength of 2,000 lbs for operations in offshore lobster waters	= Alt. 2 but requirements are seasonal for mid- and South Atlantic (see text)	= Alt. 2 but requirements are seasonal for South Atlantic (see text)	Expanded SAM (see text)	= Alt. 3 but with expanded SAM until 2008 and early elimination of DAM
	Groundline	• Sinking and/or neutrally buoyant groundline year-round by 2008				
	Other	• Fold in under existing ALWTRP regulations • Define southern boundary using definitions discussed under Southern Nearshore Lobster Waters and Offshore Lobster Waters • Apply all requirements to currently unregulated portion of Lobster Management Area 6 that is not included in exempted waters • SAM/DAM eliminated in 2008				

Exhibit 3-2
PROPOSED ALWTRP MANAGEMENT ALTERNATIVES 2 THROUGH 6
(Requirements in Addition to Current ALWTRP Requirements) [1]

Fishery/Region	Component	Alternative 2	Alternative 3 (Preferred)	Alternative 4	Alternative 5	Alternative 6 (Preferred)
Gillnet – Northeast, Anchored[4]	Weak links	• Weak links on all flotation devices and/or weighted devices attached to the buoy line • Increase number of 1,100-lb weak links per panel from one to five or more, depending on net size,* year-round	= Alt. 2 (but requirements are seasonal south of 40°N)	= Alt. 2	Expanded SAM (see text)	= Alt. 3 but with expanded SAM until 2008
	Groundline	• Sinking and/or neutrally buoyant groundline year-round by 2008				
	Other	• SAM/DAM eliminated in 2008 • All anchored gillnets must be anchored with the holding power of at least 22-lb Danforth-style anchor at each end of net string • Fold in Northeast anchored float gillnet fishery under existing ALWTRP regulations				
Gillnet – Northeast, Driftnet[5]	Weak links	• One 1,100-lb weak link per panel when fishing tended gear at night	= Alt. 2 (but requirements are seasonal south of 40°N)	= Alt. 2	Expanded SAM (see text)	= Alt. 3 but with expanded SAM until 2008
	General	• Fold in and regulate same as Mid-Atlantic driftnet • Seasonal closures in Cape Cod Bay (Jan. 1 to May 15) and Great South Channel (April 1-June 30)				
Gillnet – Mid-Atlantic, Anchored[6]	Weak links	• Weak links on all flotation devices and/or weighted devices attached to the buoy line • All nets must return to port with the vessel *or* contain five or more (rather than one) 1,100-lb. weak links per net panel, depending on size* (and be anchored at each end of net string with an anchor having the holding power of a 22-lb Danforth-style anchor, as previously required)	= Alt. 2 but requirements are seasonal (see text)	= Alt. 2	Expanded SAM (see text)	= Alt. 3 but with expanded SAM until 2008 and early elimination of DAM
	Groundline	• Sinking and/or neutrally buoyant groundline year-round by 2008				
	Other	• Time period for all requirements expanded to year-round (vs current period of Dec. 1 to March 31) • Include gillnets that are weighted to bottom but do not have an anchor on either end and gillnets that are anchored at each end but not weighted to the bottom • DAM eliminated in 2008 • Waters between 72°30'W and EEZ that are south of VA/NC border and north of SC/GA border folded into Mid-Atlantic anchored gillnet regulations				
Gillnet – Mid-Atlantic, Driftnet[6]	Weak links	• One 1,100-lb weak link per panel when fishing tended gear at night	= Alt. 2 but requirements are seasonal (see text)	= Alt. 2	Expanded SAM (see text)	= Alt. 3
	General	• Time period for all requirements expanded to year-round (vs current period of Dec. 1 to March 31) • Waters between 72°30'W and EEZ that are south of VA/NC border and north of SC/GA border folded into Mid-Atlantic drift gillnet regulations				
Shark Gillnet – Southeast[7]	General	• Extend 80°00' W longitude boundary and associated requirements to EEZ • Replace current time period (November 15 to March 31) as follows: • From SC/GA border to 29°00'N: Restrictions apply from November 15 to April 15 • From 29°N to 26°46.5'N: Restrictions apply from December 1 to March 31 (keep 27°51'N as southern line of "Restricted Area" during this time period) • Strikenet gear in Southeast U.S. Restricted Area must be removed immediately if right, humpback, or fin whale moves within 3 nautical miles (year-round) • Require use of vessel monitoring system in lieu of 100% observer coverage	= Alt. 2 but requirements are seasonal (see text)	= Alt. 2 but requirements are seasonal (see text)	Expanded SAM (see text)	= Alt. 3

Exhibit 3-2
PROPOSED ALWTRP MANAGEMENT ALTERNATIVES 2 THROUGH 6
(Requirements in Addition to Current ALWTRP Requirements) [1]

Fishery/Region	Component	Alternative 2	Alternative 3 (Preferred)	Alternative 4	Alternative 5	Alternative 6 (Preferred)
Coastal Gillnet – Southeast[8]	General	• Extend 80º00' W longitude boundary and associated requirements to EEZ • Implement gillnet restrictions (similar to Mid-Atlantic anchored gillnet fisheries) between SC/GA border and the NC/SC border • Replace current area/time management measures as follows: • From SC/GA border to 29º00'N: Restrictions apply from November 15 to April 15 • From 29º00'N to 27º51'N: Restrictions apply from December 1 to March 31 • Require gear modification similar to Mid-Atlantic gillnets that are weighted to bottom but do not have anchor at either end (e.g., weak links in net panels and on buoys; year-round)	= Alt. 2 but requirements are seasonal (see text)	= Alt. 2 but requirements are seasonal (see text)	Meet existing requirements for Mid-Atlantic gillnets	= Alt. 3
	Weak links	• Weak links on all flotation devices and/or weighted devices attached to the buoy line • All nets must return to port with the vessel *or* contain five or more (rather than one) 1,100-lb. weak links per net panel, depending on size* (and be anchored at each end of net string with an anchor having the holding power of a 22-lb Danforth-style anchor, as previously required)				
	Groundline	• Sinking and/or neutrally buoyant groundline year-round by 2008				
All Fisheries	Exempted Areas	• Areas landward of 72 COLREGS line, with exceptions for Boston Harbor, Gardiners Bay (NY), and portions of the Maine coast • No requirement for sinking and/or neutrally buoyant groundline in waters greater than 280 fathoms	→	→	→	→
	Gear Marking	• Remove current ALWTRP gear marking scheme (except net panel marking for shark gillnet gear) • Mark surface buoys with vessel or permit number • Mark buoy lines with one 4-inch mark every 10 fathoms or one 4-inch mark in the center of buoy lines 10 fathoms or less (shark vessels with buoy lines < 4 feet are exempt)	→	→	→	→

Notes:

1 See Section 1.2.1 for a description of the current ALWTRP requirements. Note that Alternative One is the No Action Alternative.

2 Northeast/Mid-Atlantic American lobster trap/pot fishery in the 2003 List of Fisheries.

3 Atlantic mixed species trap/pot fishery in the 2003 List of Fisheries. The trap/pot fisheries affected by this action could include other species (e.g., blue crab), although these species are caught primarily in exempt waters.

4 Northeast sink gillnet fishery in the 2003 List of Fisheries

5 Northeast drift gillnet fishery in the 2003 List of Fisheries

6 Mid-Atlantic coastal gillnet fishery in the 2003 List of Fisheries

7 Southeastern U.S. Atlantic shark gillnet fishery in the 2003 List of Fisheries

8 Southeast Atlantic gillnet fishery in the 2003 List of Fisheries

→ Requirement applies across all Alternatives

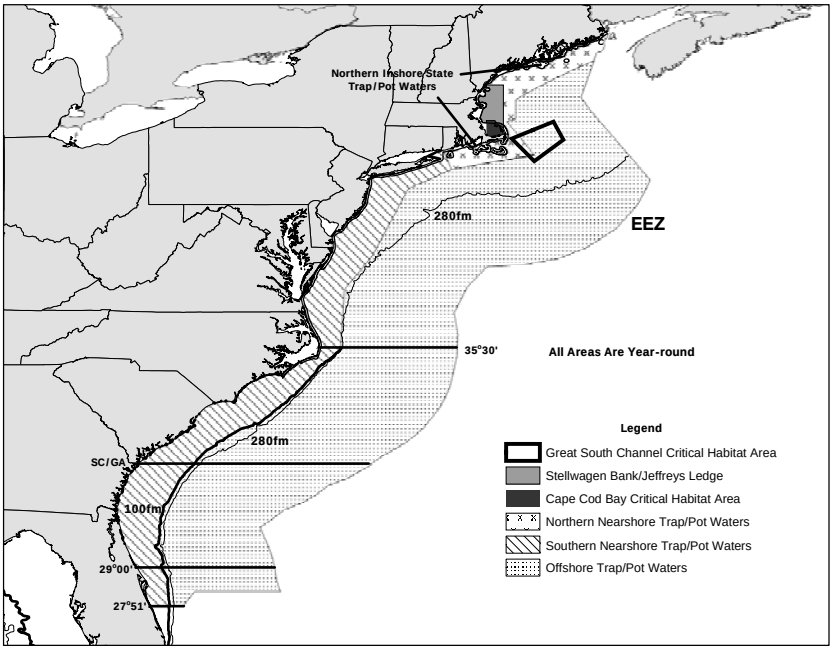
* The regulatory text will clarify that the placement of net panel weak links will be as follows: For all variation in panel size the following weak link requirements would apply: 1) weak links must be placed in the center of each of the up and down lines at both ends of each net panel; and 2) one floatline weak link must be placed as close as possible to each end of the net panel just before the floatline meets the up and down line. Also, for net panels of 50 fathoms or less in length, one floatline weak link must be placed at the center of the net panel, and for net panels greater than 50 fathoms, weak links must be placed continuously along the floatline separated by a maximum distance of 25 fathoms.

Graphics presenting the Alternative 2 management areas for trap/pot and gillnet fisheries are shown in Exhibit 3-3.

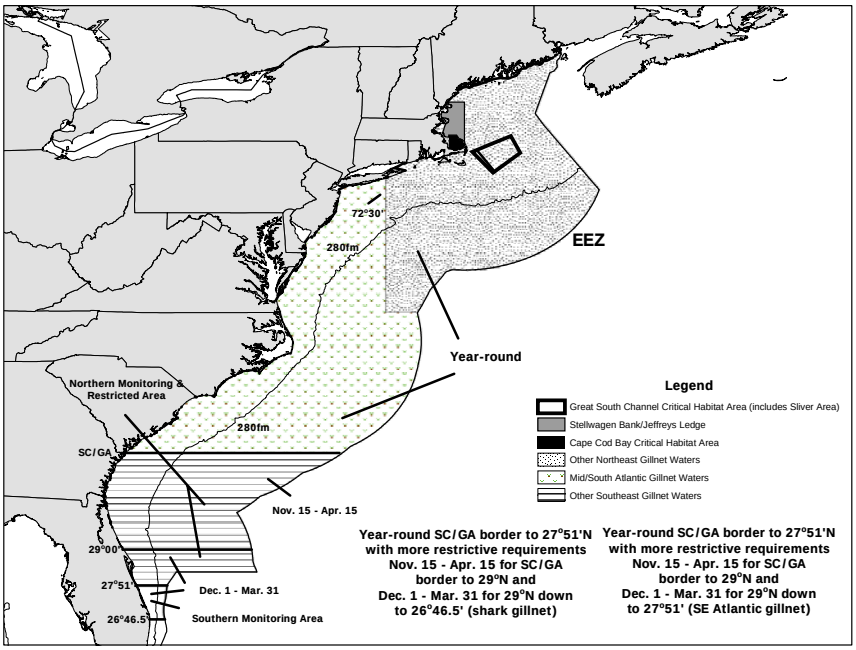
Exhibit 3-3

ALTERNATIVE 2 MANAGEMENT AREAS

Trap/Pot Fisheries Alternative 2



Gillnet Fisheries Alternative 2



Alternative 2 also would introduce a number of changes that are common to all the alternatives listed in Exhibit 3-2 (i.e., Alternatives 2 through 6). First, the proposed rules would remove the current ALWTRP gear marking system (except net panel marking rules applying to shark gillnet gear) and instead require that:

- fishermen mark surface buoys to identify the vessel number or permit number; and

- fishermen identify buoy lines with one four-inch mark every ten fathoms or, for lines shorter than ten fathoms, one four-inch mark in the center of the line (shark gillnet gear with buoy lines less than four feet would be exempt).

NMFS would also consider a regional and fishery-specific color scheme.

Second, Alternative 2 (as well as Alternatives 3-6) would specify a number of areas exempt from the proposed new requirements:

- The ALWTRP would exempt areas landward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972, as depicted or noted on nautical charts published by the National Oceanic and Atmospheric Administration [Coast Charts 1:80,000 scale], and as described in 33 CFR part 80).

- For Boston Harbor, Gardiners Bay (NY), and portions of the Maine coast, the ALWTRP would exempt waters landward of the coordinates provided in Appendix 3-B.

- Finally, the ALWTRP would not extend sinking and/or neutrally buoyant groundline requirements to waters deeper than 280 fathoms.

Exhibits 3-4 and 3-5 display the full set of exempted waters. Appendix 3-B provides the coordinates for all exempted areas as well as a discussion of the rational behind the exemptions.

Third, NMFS would reanalyze recent right whale data to determine whether the ALWTRP Critical Habitat Areas should be reconfigured. NMFS would revisit restrictions in ALWTRP Critical Habitat Areas after this research is completed; however, this DEIS does not analyze the effect of any potential changes in Critical Habitat restrictions. Gillnet vessels fishing in the Great South Channel Sliver Area would face the same requirements as those fishing in Northeast gillnet waters. Trap/pot vessels would face requirements similar to lobster trap/pot vessels, depending on the area of overlap with the ALWTRP management areas.

Alternative 2 (and Alternatives 3-6) would also clarify the regulatory language that implements the ALWTRP. Exhibit 3-6 summarizes these changes.

Exhibit 3-4

ALWTRP EXEMPTED WATERS: NORTHEAST

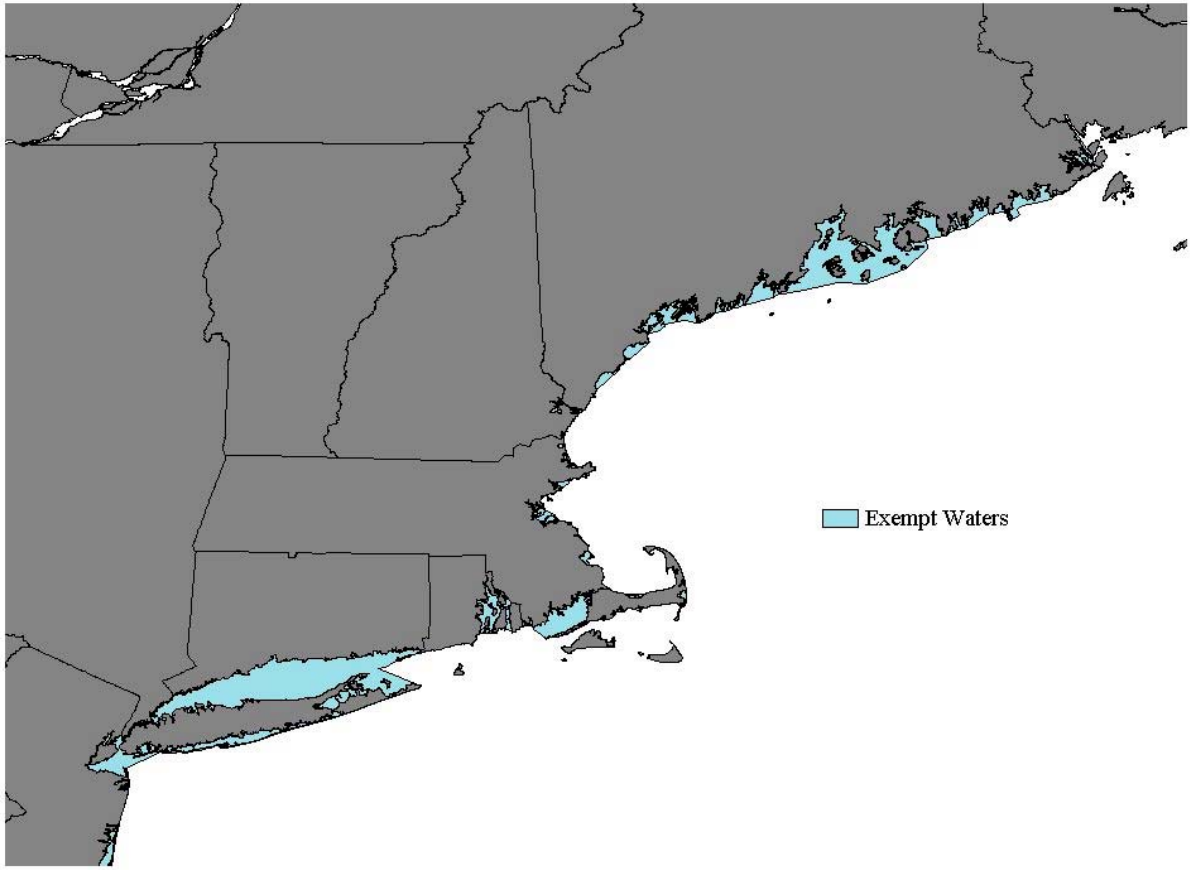


Exhibit 3-5

ALWTRP EXEMPTED WATERS: MID AND SOUTH ATLANTIC

Exhibit 3-6

PROPOSED REGULATORY LANGUAGE CHANGES FOR ALTERNATIVES 2-6

1. Make headings in the ALWTRP regulations consistent (e.g., "Weak Links on all Buoy Lines," "Buoy Weak Links" should be changed to "Weak Links" where appropriate).

2. Ensure that any mention of buoy line weak links includes the following guidance:
   i) Weak links must be designed such that the bitter end of the buoy line is clean and free of any knots when the link breaks;
   ii) Splices are not considered to be knots for the purposes of this provision; and
   iii) Each weak link must be installed as close to each individual buoy as operationally feasible.

3. Include that fishermen may not "have available for immediate use" gillnet or trap/pot gear unless it complies with ALWTRP-specific requirements.

4. Define "bitter end" in 50 CFR 229.2 as follows: "Bitter end means the loose end of a line that has detached from a weak link."

5. Define "bottom portion of the line" in 50 CFR 229.2 as follows: "Bottom portion of the line means, for buoy lines, the portion of the line in the water column that is closest to the fishing gear."

6. Change mention of "rope of appropriate diameter" to "rope of appropriate breaking strength" in the regulations when referring to the techniques for meeting the weak link requirements. It has been established that the diameter of rope should not be used as a mitigation measure.

7. Include reference in the regulations to the "Techniques for Making Weak Links and Marking Buoy Lines" brochure and how to obtain a copy to clarify what the NMFS approved techniques are.

8. In the regulatory language, where sinking and/or neutrally buoyant line is required for groundlines, prohibit the attachment of buoys, toggles, or other flotation devices.

9. Establish criteria for establishing a density standard for neutrally buoyant and sinking line, and a procedure for determining specific gravity of line, (See Appendix 3-C). Modify the sinking and neutrally buoyant line definitions at 50 CFR 229.2 accordingly.

10. NMFS would clarify the sections in the regulatory text describing placement of weak links in the floatline of gillnet panels. Specifically, where appropriate, clarify that weak links should be placed in the center of net panels up to and including 50 fathoms in length, or every 25 fathoms for longer panels.

11. In the regulations for SAM and other applicable areas, when more than one net panel weak link is required, clarify the location of the weak links for net panels up to and including 50 fathoms in length, as well as for those greater than 50 fathoms.

12. Change the Cape Cod Bay groundline requirements so fishermen may use "sinking and/or neutrally buoyant line" in groundlines during the restricted time period. Presently, from January 1 through May 15 in the Cape Cod Bay Critical Habitat Area, the regulations allow only "sinking line."

13. Where not already specified for buoy lines and groundlines, clarify the regulatory language to state that fishermen may use "neutrally buoyant <u>and/or</u> sinking line."

14. Define "sunrise" in 50 CFR 229.2 as follows: "Sunrise means the time of sunrise as determined for the date and location in The Nautical Almanac, prepared by the U.S. Naval Observatory," and define "sunset" in 50 CFR 229.2 as follows: "Sunset means the time of sunset as determined for the date and location in The Nautical Almanac, prepared by the U.S. Naval Observatory."

15. Change the "lobster trap/pot" and "lobster trawl" titles and definitions in 50 CFR 229.2 to "trap/pot" and "trap/pot trawl," respectively, so these are broader in scope and incorporate the current and proposed ALWTRP regulated fisheries.

16. Remove the Gillnet Take Reduction Technology List from the regulations, as reference to this was eliminated in 2002 (67 FR 1300, January, 2002), in order to avoid confusion.

17. Change "Cape Cod Bay Critical Habitat" to "Cape Cod Restricted Area" in "Other Provisions" of ALWTRP regulations.

18. Change the term "Southeast U.S. Restricted Area" to "Northern Monitoring and Restricted Area" and the term "Southeast U.S. Observer Area," for the portion that is not included in the "Restricted Area, " to "Southern Monitoring Area."

19. Add text in regulations that clarifies how to meet the requirement of anchoring with the holding power of a 22-lb Danforth-style anchor at each end of the net string.

20. Clarify that the Stellwagen Bank/Jeffreys Ledge Restricted Area overlaps the SAM area.

21. Move definition of a "straight set or to fish with gillnet gear in a straight set" from section of regulatory text containing restrictions applicable to southeast Atlantic gillnet gear in 50 CFR 229.32 and add it to definitions section in 50 CFR 229.2. The definition would be modified slightly to note the distinction between a straight set and a strikenet by adding "(not Strikenet)" to the end of the current definition to read as follows: "straight set or to fish with gillnet gear in a straight set means a set in which the gillnet gear is placed in a line in the water column, as opposed to a circular set in which the gillnet is placed to encircle an area in the water column (not Strikenet)." In addition, the definition for "strikenet or to fish with strikenet gear" found in 229.2 would be modified to mean "a method or technique of net deployment which is intended to encircle or enclose an area of water either with the net or by utilizing the shoreline to complete encirclement (not Straight set)."

3.1.3 Alternative 3 (Preferred)

Because of their migratory patterns, large whales are primarily present in Mid- and South Atlantic waters during particular months. Therefore, Alternative 3 would entail the same requirements as Alternative 2, but would call for seasonal rather than year-round requirements for fisheries in the Mid- and South Atlantic.[4] Specifically, this alternative would create the following four zones:

- **North**: The first region would lie north of a line extending from Watch Hill, Rhode Island (41°18.2'N and 71°51.5'W) south to 40°00'N and then east to the EEZ. This region would have requirements identical to those specified under Alternative 2.

- **Middle**: The second region would lie south of the line described above (41°18.2'N and 71°51.5'W, south to 40°00'N, and then east to the EEZ) and north of the South Carolina/Georgia border. ALWTRP requirements for vessels fishing in this region would be identical to those specified under Alternative 2, but would only apply from September 1 through May 31.

- **South**: The third region would include waters between the SC/GA border and 29°00'N. ALWTRP requirements for vessels fishing in this region would be identical to those specified under Alternative 2, but would only apply from November 15 through April 15.

- **Far South**: The fourth region would include waters between 29°00'N and 26°46.5'N. ALWTRP requirements for vessels fishing in this region would be identical to those specified under Alternative 2, but would only apply from December 1 through March 31.

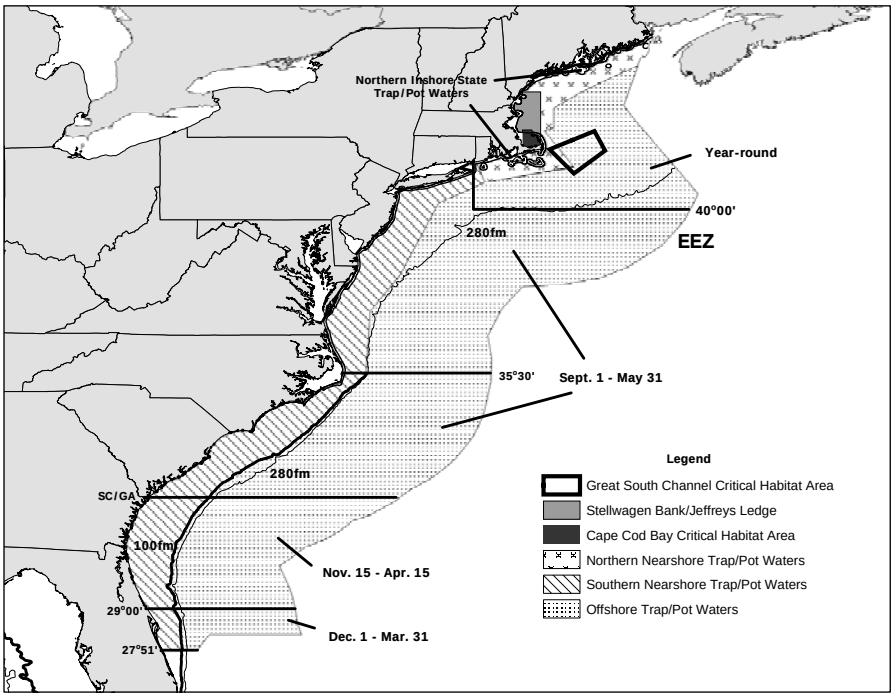
Exhibit 3-7 presents the Alternative 3 management areas for trap/pot and gillnet fisheries.

[4] NMFS established the areas and seasons in Alternatives 3, 4, and 6 through analysis of the North Atlantic Right Whale Sighting Database, supplemented by additional data on humpback and fin whale sightings. For right and humpback whales, the analysis indicates that the southern calving grounds (south of the SC/GA border) are occupied from late November through early April, but are largely unoccupied during the remainder of the year. In the Mid-Atlantic, whales can be found throughout the year, but sightings occur primarily between September and May. The northern feeding areas are occupied primarily from May through September, although whales are found there throughout the year. Fin whales generally do not occur in the Southeast or southern Mid-Atlantic, but are common north of Cape Hatteras all year.

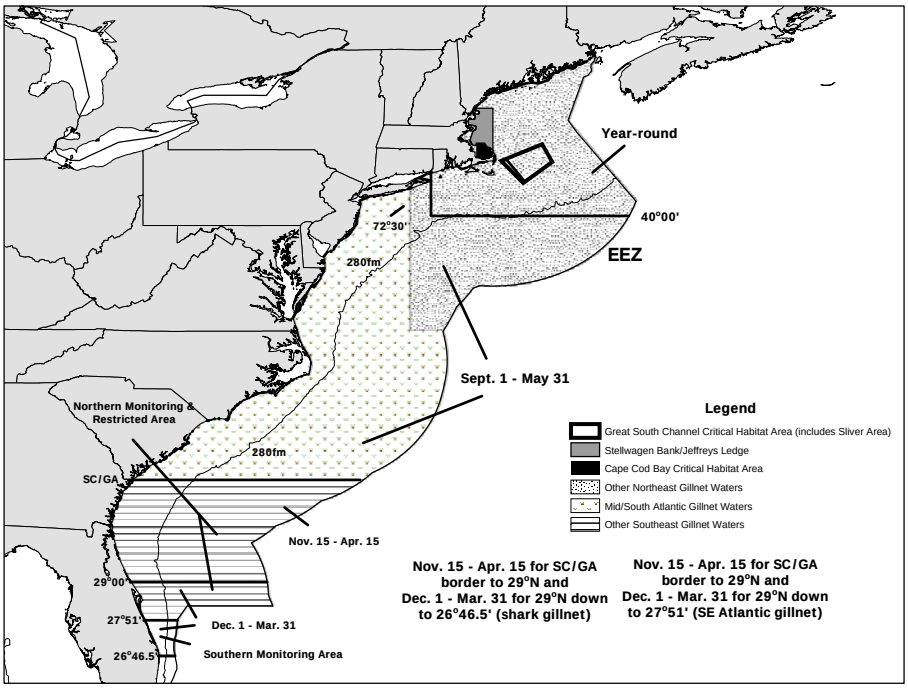
Exhibit 3-7

ALTERNATIVE 3 MANAGEMENT AREAS

Trap/Pot Fisheries Alternative 3 (Preferred)



Gillnet Fisheries Alternative 3 (Preferred)



3.1.4 Alternative 4

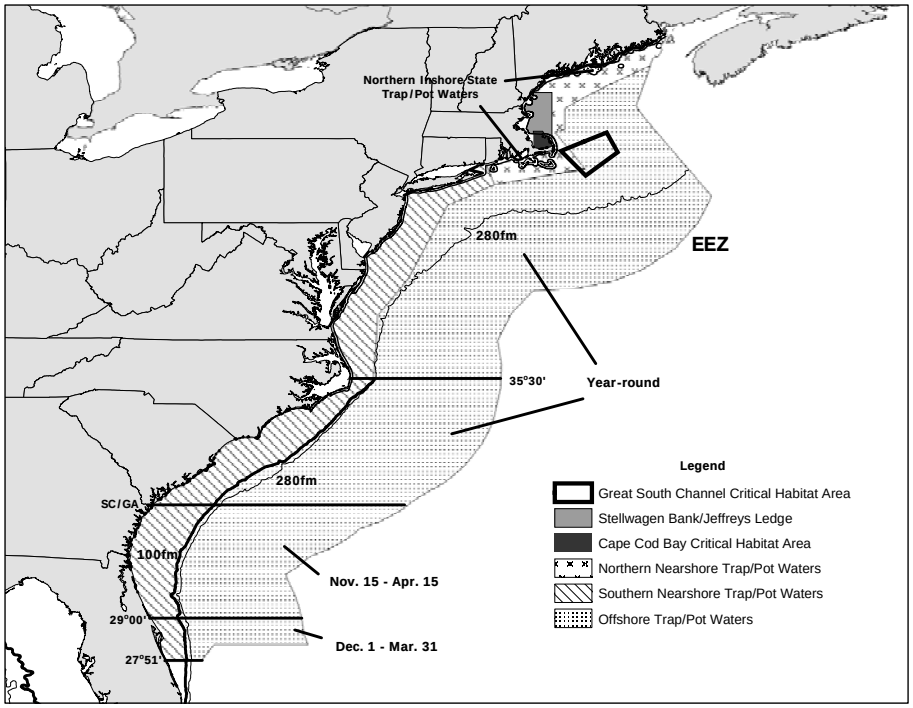
Alternative 4 would entail the same requirements as Alternative 2, but would call for seasonal rather than year-round regulation of fisheries in the South Atlantic (rather than the Mid- and South Atlantic as specified by Alternative 3). Specifically, ALWTRP requirements would apply between the SC/GA border and 29°00'N from November 15 through April 15, and between 29°00'N and 26°46.5'N from December 1 through March 31. All areas north of the SC/GA border would face year-round requirements.

Exhibit 3-8 presents the Alternative 4 management areas for trap/pot and gillnet fisheries.

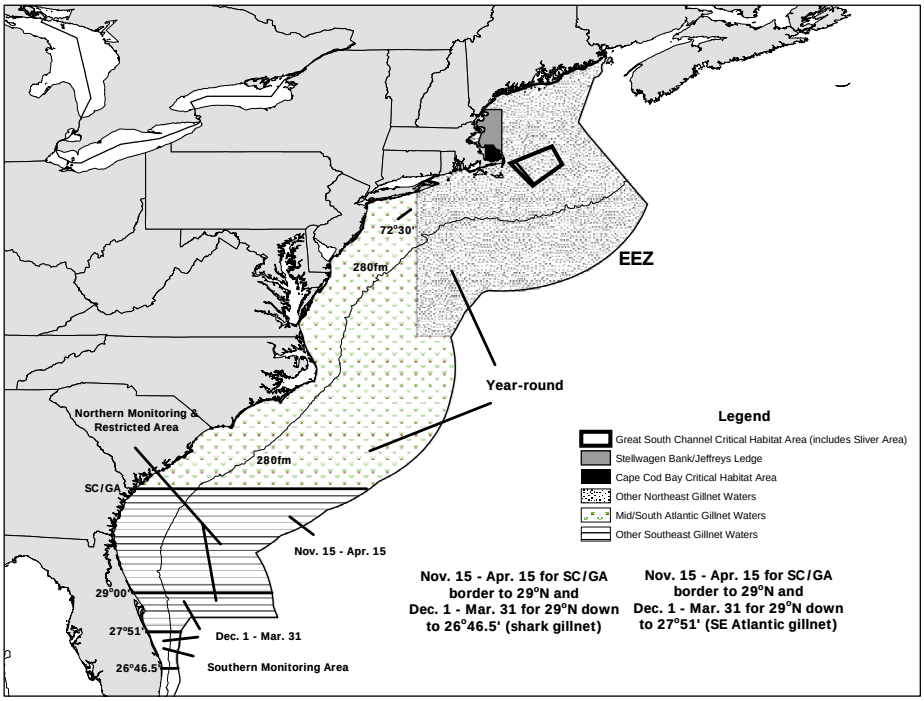
Exhibit 3-8

ALTERNATIVE 4 MANAGEMENT AREAS

Trap/Pot Fisheries Alternative 4



Gillnet Fisheries Alternative 4



3.1.5 Alternative 5

Alternative 5 would differ significantly from the alternatives described above, expanding the provisions of the existing seasonal area management (SAM) program. Specifically, the following changes would apply:

- The SAM East and SAM West zones would be expanded, consistent with the map shown in Exhibit 3-9. Additionally, the boundaries for the southeast area of SAM East would be modified.[5] The expanded SAM area would include the Great South Channel Critical Habitat area; therefore, trap/pot and gillnet gear would be subject to the SAM program inside critical habitat areas during time periods when the requirements for fishing inside these areas are no more conservative than the surrounding waters (i.e., when the protections of critical habitat areas disappear). However, the more restrictive Great South Channel Restricted Trap/Pot Area and Great South Channel Restricted Gillnet Area closures (April 1 through June 30) would supercede the SAM program. As a result, gear modifications for fishing with trap/pot and gillnet gear in the SAM area would apply in the Great South Channel Restricted Trap/Pot Area and the Great South Channel Restricted Gillnet Area from July 1 through July 31, and in the Great South Channel Sliver Restricted Area from May 1 through July 31.

- In SAM waters, ALWTRP rules would require the upper two-thirds of buoy lines to be made of sinking and/or neutrally buoyant line. For vessels fishing in SAM waters as currently defined, this provision would modify existing requirements by allowing the bottom third of the buoy line to be made of floating line. For vessels fishing in areas that would be newly incorporated into the SAM zone, this provision represents a new requirement.

[5] The proposed change in SAM boundaries is based upon two analyses conducted by the Northeast Fisheries Science Center (NEFSC). The first used spring (March through May) sighting data from 1999 to 2003 to assess whether the current SAM West and SAM East areas encompass all areas where right whales regularly congregate at that time of year. The second analysis considered March to July sightings data collected from 1975 to 2003 in the area between 40°00' N latitude and 45°00' N latitude from the Hague Line westward to the New England coast (or 73°00' W longitude). The results of the analyses reflect basic knowledge of right whale distribution in the Gulf of Maine. Whales occur at relatively high densities within Cape Cod Bay in March and April, then move eastward as the spring and summer progress. However, the additional survey data indicate that: (1) right whales regularly occur in March and April north of the Cape Cod Bay Critical Habitat and west of the existing SAM West, (2) right whales regularly occur south of SAM West and west of the Great South Channel Critical Habitat, (3) right whales are still present in SAM West in May (when SAM-related gear modifications are no longer required), and (4) there are very few or no sightings in the southeast corner of the SAM East area. Section 5.1.2.1 (Expanded SAM Under Alternatives 5 and 6) provides a detailed discussion of the rationale behind the expansion of the SAM boundaries.

- SAM gear requirements would also be modified to allow two buoy lines on trawls in SAM waters. Set restrictions in Northern Nearshore waters, Stellwagen Bank/Jeffrey's Ledge, and in Federal waters of Cape Cod Bay, May 16 to December 31, would change from one buoy line for trawls with five traps or fewer to one buoy line for trawls of four traps or fewer.

- The requirements and area modifications described under Alternative 2 would apply from September 1 to May 31 for vessels fishing between 40°00'N and the SC/GA border, November 15 to April 15 for vessels fishing between the SC/GA border and 29°00'N, and December 1 to March 31 for vessels fishing between 29°00'N and 26°46.5'N. The requirements would apply year-round for all other vessels (i.e., those in northern waters).

Alternative 5 would also bring the new fisheries addressed by Alternatives 2 through 4 under the ALWTRP; incorporate the same gear marking requirements, exempted areas, and regulatory language changes; and eliminate the DAM program six months after publication of the final rule. Alternative 5 would not create the broad-based gear modification requirements called for under Alternative 2 (sinking/neutrally buoyant line in groundline; the weak link/net panel configurations and anchoring requirements for gillnets).

Exhibit 3-10 presents the Alternative 5 management areas for trap/pot and gillnet fisheries.

3.1.6 Alternative 6 (Preferred)

Alternative 6 would combine elements of Alternatives 3 and 5. Buoy line weak link requirements and broad-based gear requirements (net panel weak links, sinking/neutrally buoyant groundline, anchoring, gear marking, etc.) would be introduced on the same schedule and with the same seasonal and geographic provisions as described under Alternative 3; however, DAM requirements would be eliminated six months after publication of the rule (rather than in 2008), and the expanded SAM zone and SAM regulations described in Alternative 5 would apply from six months after publication until 2008, when the SAM zones would be eliminated.

Exhibit 3-11 presents the Alternative 6 management areas for trap/pot and gillnet fisheries.

Exhibit 3-9

EXPANDED SAM ZONES
UNDER ALTERNATIVE 5

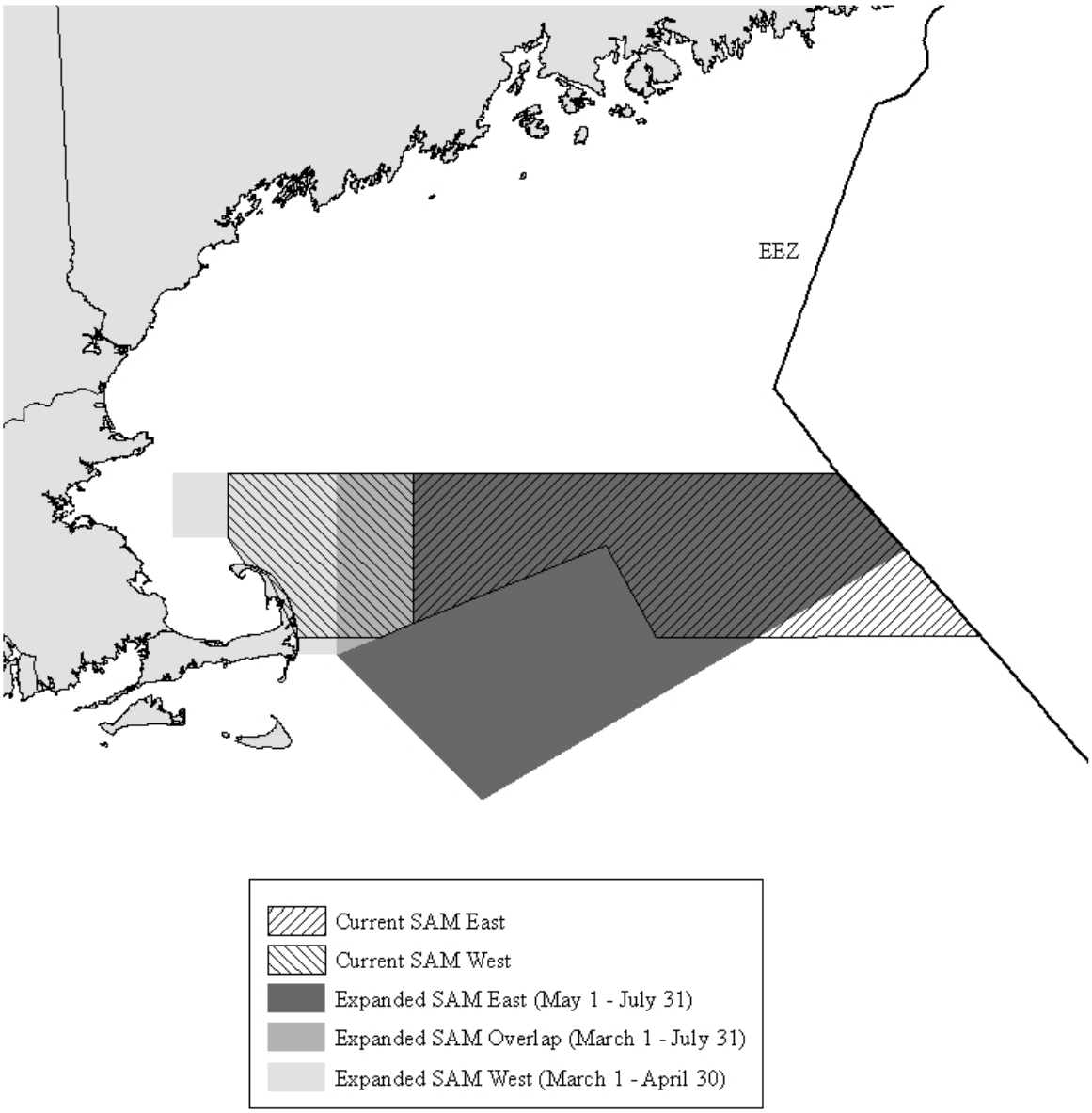
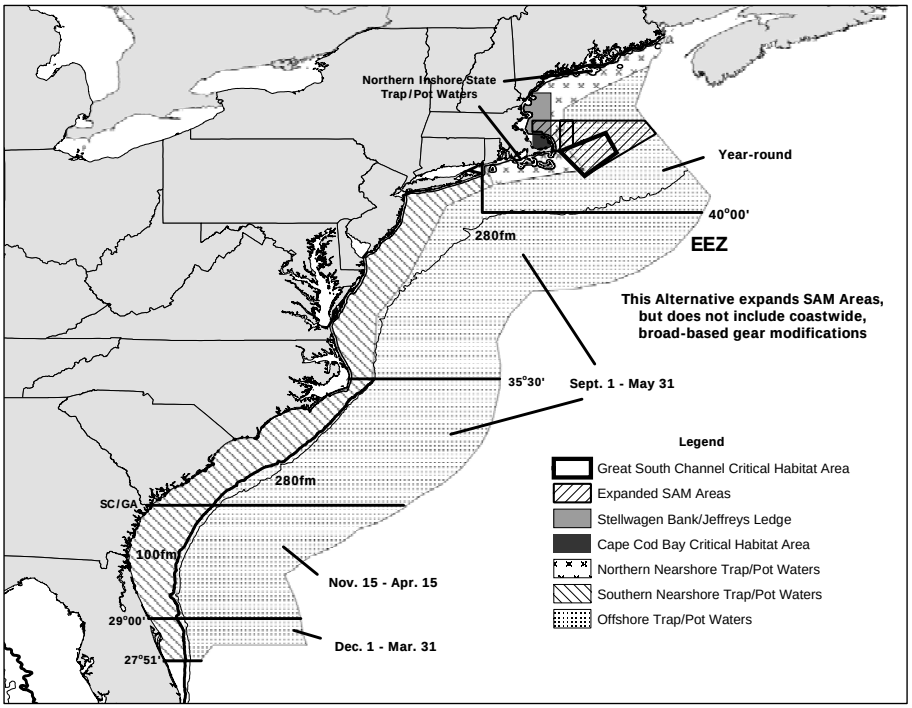


Exhibit 3-10

ALTERNATIVE 5 MANAGEMENT AREAS

Trap/Pot Fisheries Alternative 5



Gillnet Fisheries Alternative 5

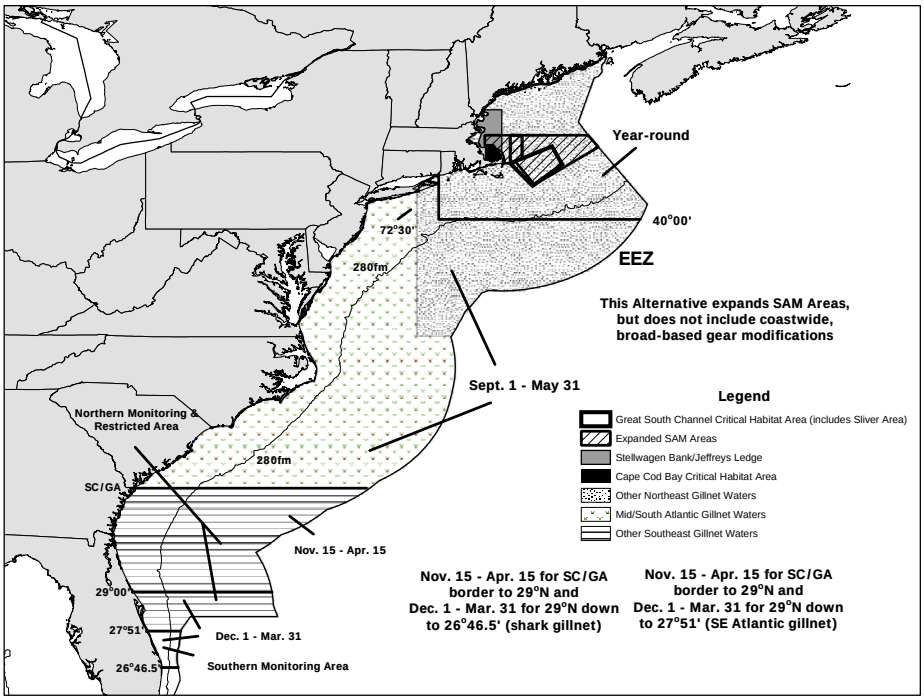
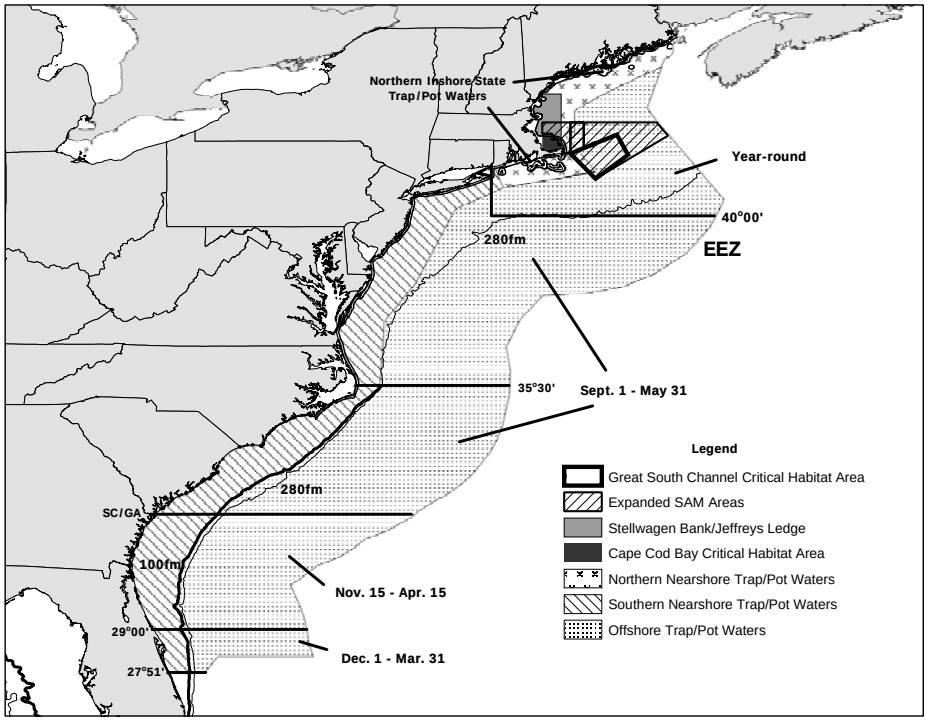


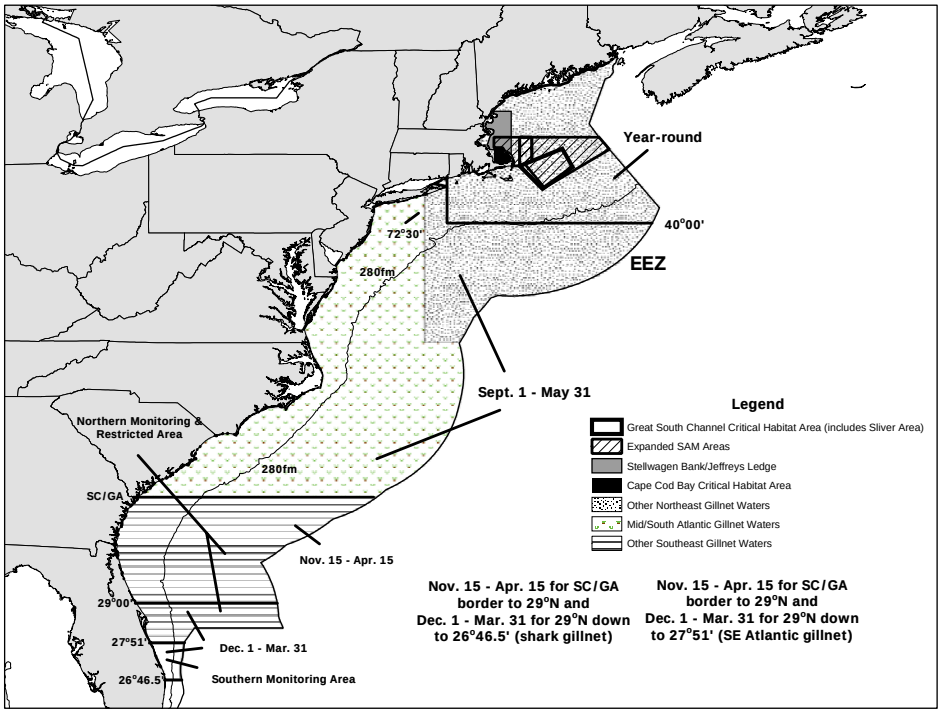
Exhibit 3-11

ALTERNATIVE 6 MANAGEMENT AREAS

Trap/Pot Fisheries Alternative 6 (Preferred)



Gillnet Fisheries Alternative 6 (Preferred)



3.2 ALTERNATIVES CONSIDERED BUT REJECTED

In the scoping efforts conducted for this rulemaking, stakeholders recommended a variety of approaches for reducing entanglement risk to large whales. Scoping discussions included the meeting of the full Take Reduction Team in April 2003 and subsequent ALWTRT subgroup meetings, as well as a series of public meetings held at key locations on the Atlantic coast. Appendix 3-A summarizes the comments received at the scoping meetings.

While NMFS solicited and considered all input from stakeholders, a number of approaches were rejected in the formulation of final regulatory alternatives. Exhibit 3-12 summarizes these approaches and briefly explains why NMFS chose not to integrate the approach into the regulatory alternatives under consideration. The rejected approaches are organized by fishery and region. Stakeholders identified many approaches that would apply to more than one fishery or region; hence, many of the concepts are repeated in the table. The alternatives described are not mutually exclusive; i.e., some were recommended in combination, despite the fact that they are listed and addressed separately in the table.

The rejected alternatives are wide-ranging in content. Concepts that recur frequently in the alternatives include the following:

- maintaining or eliminating the SAM and DAM programs, and the interaction between these decisions and year-round gear requirements;
- changing the SAM program's timing, spatial boundaries, or requirements;
- changing the designation of exempted geographic areas; and
- revising the time periods when key requirements are in effect.

Exhibit 3-12

ALWTRP ALTERNATIVES CONSIDERED AND RATIONALE FOR REJECTION

Fishery/Region/ Topic	Alternative Considered but Rejected	Primary Rationale for Rejection
Lobster – Northern Inshore and Nearshore[1]	Eliminate the DAM and SAM programs.	2
	Allow a 1,100 pound weak link at the junction between the buoy line and surface system, and 600 pound weak link at the surface on buoys in Northern Inshore and Northern Nearshore Lobster Waters.	9
	Prohibit coils of rope (i.e., shanks, wraps of excess buoy line just below the buoy which act as storage) on the buoy line.	10, A
	Phase in a percentage of non-floating groundline annually in "high risk" areas (to be defined) by a certain time period (e.g., increase use of nonfloating groundlines by 25% annually, 100% in four years).*(Percentage/year yet to be determined)*	6, 9
	Consider effort reductions occurring through Fishery Management Plans (FMPs), either by building in reductions or considering present reduction plans.	9, A
	Consider a requirement to anchor trawls on each end, reducing line profile between traps.	9
	Require weak links on all floatation devices on all buoy lines but not all weighted devices.	2
	Require buoy lines to be composed of floating line on bottom third and sinking or neutrally buoyant line on top two-thirds of each buoy line.	A
	Allow two buoy lines and floating line on lower third of each buoy line in SAM areas in 2004 and beyond.	4, A
	Eliminate DAM and SAM programs and implement sinking or neutrally buoyant line in groundline once a durable line is commercially available; implement in coordination with a buy-back program for floating line.	2, 9
	Eliminate DAM and SAM programs, and adopt specified regulations for "high risk" areas (to be defined) by 2006 including: • Year-round requirements; • Current weak link requirements; • Require non-floating groundline to include sinking, neutrally buoyant, or "low profile" (to be defined) line; • Allow two buoy lines; and • Allow floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of each buoy line. Also, commit to reducing groundline profile (i.e., "low profile" line) in other areas (e.g., rocky bottom areas such as waters east of Booth Bay, except for Mt. Desert Rock) by 2008.	3, 9, 15, A, B
	Maintain DAM program and consider an immediate temporal and/or spatial expansion of SAM area requirements until there are broad-based gear modifications such as implementation of sinking, neutrally buoyant, or "low profile" (to be defined) line in groundlines.	11, 12, B
	Eliminate DAM program and consider an immediate temporal and/or spatial expansion of SAM area requirements until there are broad-based gear modifications such as implementation of sinking, neutrally buoyant, or "low profile" (to be defined) line in groundlines.	11, B
	Maintain DAM program and consider an immediate temporal and/or spatial expansion of SAM area requirements until there are broad-based gear modifications such as implementation of sinking, neutrally buoyant, or "low profile" (to be defined) line in groundlines. Allow two buoy lines, and floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of each buoy line in SAM areas.	11, 12, B

Exhibit 3-12

ALWTRP ALTERNATIVES CONSIDERED AND RATIONALE FOR REJECTION

Fishery/Region/ Topic	Alternative Considered but Rejected	Primary Rationale for Rejection
Lobster – Northern Inshore and Nearshore[1] (Continued…)	Eliminate DAM program and consider an immediate temporal and/or spatial expansion of SAM area requirements until there are broad-based gear modifications such as implementation of sinking, neutrally buoyant, or "low profile" (to be defined) line in groundlines. Allow two buoy lines and floating line on the bottom third of each buoy line in SAM areas.	11, B
	Maintain DAM program and request voluntary removal of gear until there are broad-based gear modifications such as implementation of sinking, neutrally buoyant, or "low profile" (to be defined) line in groundlines.	C
	Allow 1,100 pound weak links on buoys in Grand Manan Channel due to extreme tides in the area.	13
	Allow 50% or greater floating line on buoy line as long as no floating line is at surface.	7, A
	In Northern Inshore Lobster Waters, maintain option list to acknowledge unique fishing practices along coast.	14
	Eliminate DAM program.	2
	Require multi-trap trawls, i.e., no single traps.	A
	Maintain SAM program requirements year-round.	4, 11, 13, A
	Mandatory DAM, including trap/pots with single buoy line with a 600-lb weak link and no floating groundline.	A, C
	Expand SAM south of Cape Cod, from Nantucket eastward to the boundary of Critical Habitat in the Great South Channel and then east from there to the Hague Line. The Northern boundary would include Jeffreys Ledge going from the shore of southern Maine eastward to the Hague Line. Initiate in 2004, and then year-round until non-floating line in groundline is implemented and risk reduced from vertical lines.	4, 11, 13, A
	Sinking or neutrally buoyant line between traps by January 2005; 600-lb weak link and sinking line in buoy line except for bottom third.	3, 15
	Adopt the below specified regulations by 2006: • Year-round requirements; • Current weak link requirements (on all floatation devices); • Require non-floating groundline to include sinking, neutrally buoyant, or "low profile" (to be defined) line; • One buoy line; and • Allow one-third floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of the buoy line.	3, 15, A, B
	Add "low profile" rope as an option to he Take Reduction Technology List.	B
Lobster – Offshore[1]	Eliminate the DAM and SAM programs.	2
	Eliminate DAM and SAM programs by 2009 (2007 if substantial financial assistance for industry to convert line) and require neutrally buoyant, sinking, or "low profile" (to be defined) line in groundlines, as well as floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of each buoy line.	2 (regarding 2009), A, B
	Phase in a percentage of non-floating groundline annually in "high risk" areas (to be defined) by a certain time period (e.g., 25% use of non-floating groundlines annually, 100% in four years).	6, 9
	Consider the Lobster Management Area 3 management plan (awaiting action by state/Federal authorities), which includes an approximately 20% active trap reduction with additional active and passive reductions (target is 50%).	9, A

Exhibit 3-12

ALWTRP ALTERNATIVES CONSIDERED AND RATIONALE FOR REJECTION

Fishery/Region/ Topic	Alternative Considered but Rejected	Primary Rationale for Rejection
Lobster – Offshore[1] (Continued…)	Require buoy lines to be composed of floating line on bottom third and sinking or neutrally buoyant line on top two-thirds of each buoy line.	A
	Prohibit coils of rope (i.e., shanks, wraps of excess buoy line just below the buoy which act as storage) on the buoy line.	16
	Eliminate DAM and SAM programs and implement sinking or neutrally buoyant line in groundline once a durable line is commercially available; implement in coordination with a buy-back program for floating line.	2, 9
	Until there are broad-based gear modifications such as implementation of sinking, neutrally buoyant, or "low profile" (to be defined) line in groundlines: • Maintain DAM program and request voluntary removal of gear; or • Require fishermen to remove one buoy line for the 15-day restricted period; and • Keep SAM program and allow two buoy lines and floating line on the bottom third of each buoy line.	A, B, C
	Maintain DAM program and consider an immediate temporal and/or spatial expansion of SAM area requirements until there are broad-based gear modifications such as implementation of sinking, neutrally buoyant, or "low profile" (to be defined) line in groundlines.	11, 12, B
	Eliminate DAM program and consider an immediate temporal and/or spatial expansion of SAM area requirements until there are broad-based gear modifications such as implementation of sinking, neutrally buoyant, or "low profile" (to be defined) line in groundlines.	11, B
	Maintain DAM program and consider an immediate temporal and/or spatial expansion of SAM area requirements until there are broad-based gear modifications such as implementation of sinking, neutrally buoyant, or "low profile" (to be defined) line in groundlines. Allow two buoy lines, and floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of each buoy line in SAM areas.	11, 12, B
	Eliminate DAM program and consider an immediate temporal and/or spatial expansion of SAM area requirements until there are broad-based gear modifications such as implementation of sinking, neutrally buoyant, or "low profile" (to be defined) line in groundlines. Allow two buoy lines, and floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of each buoy line in SAM areas.	11, B
	Eliminate DAM and SAM programs by 2008 and require neutrally buoyant, sinking, or "low profile" (to be defined) line in groundlines as well as floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of each buoy line.	A, B
	Prohibit coils, toggles (if allowed to fish one-third floating line on the bottom third of each buoy line), and knots on buoy lines.	16
	Eliminate DAM program.	2
	Expand SAM program requirements to year-round.	4, 11, 13, A
	Implement mandatory DAM including trap/pots with single buoy line with a weak link and no floating groundline.	A, C
	Expand SAM south of Cape Cod, from Nantucket eastward to the boundary of Critical Habitat in the Great South Channel and then east from there to the Hague Line. The Northern boundary would include Jeffreys Ledge going from the shore of southern Maine eastward to the Hague Line. Initiate in 2004, and then year-round until non-floating line in groundline is implemented and risk reduced from vertical lines.	4, 11, 13, A

Exhibit 3-12

ALWTRP ALTERNATIVES CONSIDERED AND RATIONALE FOR REJECTION

Fishery/Region/ Topic	Alternative Considered but Rejected	Primary Rationale for Rejection
Lobster – Offshore[1] (Continued…)	Prohibit coils of rope (i.e., shanks, wraps of excess buoy line just below the buoy which act as storage) on the buoy line and toggles.	16
	Adopt SAM restrictions, year-round, in all offshore lobster waters by 2008, including: • Groundlines and buoy lines must be made entirely of either sinking or neutrally buoyant line; • Weak link must be placed at all buoys with a maximum breaking strength of 1,500 lbs (on all floatation devices); • One buoy line per trawl; • Allow floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of the buoy line.	A
	Modify SAM areas by 2002 and allow two buoy lines and floating line on the bottom third of the buoy line.	4
Lobster – Southern Nearshore[1]	Eliminate the DAM and SAM programs.	2
	Require buoy lines to be composed of floating line on bottom third and sinking or neutrally buoyant line on top two-thirds of each buoy line.	A
	Eliminate DAM program by 2006 and require neutrally buoyant, sinking, or "low profile" (to be defined) line in groundlines, as well as floating line on bottom third and sinking or neutrally buoyant line on top two-thirds of each buoy line.	3, 15, A, B
	Consider effort reductions occurring through FMPs, Take Reduction Plans, and turtle regulations.	9, A
	Prohibit coils of rope (i.e., shanks, wraps of excess buoy line just below the buoy which act as storage) on the buoy line.	10, A
	Consider a requirement to anchor trawls on each end, reducing line profile between traps, due to habitat effects and gear loss considerations.	9
	Do not require sinking/neutrally buoyant line between traps/pots.	2
	Maintain DAM program and request voluntary removal of gear until there are broad-based gear modifications such as implementation of sinking, neutrally buoyant, or "low profile" (to be defined) line in groundlines.	C
	Eliminate DAM program by 2008 and require floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of each buoy line.	A
	Eliminate DAM program by 2008 (earlier with funding to convert line) and require neutrally buoyant, sinking, or "low profile" (to be defined) line in groundlines, as well as floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of each buoy line.	A, B
	Eliminate DAM program by 2006 and require neutrally buoyant, sinking, or "low profile" (to be defined) line in groundlines, as well as floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of each buoy line.	3, 15, A, B
	Expand DAM Program south of 40° North latitude.	13
	Do not require weak links on single pot gear (southern nearshore lobster waters).	2
	Expand time period to November 15 - April 15 (from December 1 - March 31) when whales are in the area (not year-round).	13
	Any requirement should have a gradual phase-in (do not implement a requirement all at once).	7
	Do not eliminate floating rope.	2
	Require multi-trap trawls, i.e., no single traps.	A
	Prohibit coils of rope (i.e., shanks, wraps of excess buoy line just below the buoy which act as storage) on the buoy line and toggles.	10, A

Exhibit 3-12

ALWTRP ALTERNATIVES CONSIDERED AND RATIONALE FOR REJECTION

Fishery/Region/ Topic	Alternative Considered but Rejected	Primary Rationale for Rejection
Lobster – Southern Nearshore[1] (Continued…)	Mandatory DAM including trap/pots with single buoy line, a 600-lb weak link, and no floating groundline.	A, C
	Eliminate DAM program.	2
	Introduce sinking or neutrally buoyant line between traps, 600-lb weak link, and sinking line in buoy line except for bottom third, by January 2005.	3, 15, A
	Adopt the following regulations for Southern Nearshore Lobster Waters by 2007: • Year-round requirements; • Weak link requirements of less than 600 lbs (on all floatation devices); • Require non-floating groundline to include sinking, neutrally buoyant, or "low profile" (to be defined) line; • Allow the immediate use of weights on the groundline; • Allow only one buoy line; and • Allow floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of the buoy line.	3, 15, A, B
Black Sea Bass, Scup, Conch/Whelk, and Shrimp (trap/pot)[2]	For the black sea bass fishery which operates south of the current ALWTRP lobster management areas: • Require modifications similar to the current Southern Nearshore Lobster Waters. In addition, require modifications currently being proposed for the Southern Nearshore Lobster Waters such as sinking, neutrally buoyant, or "low profile" (to be defined) line in groundlines, as well as floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of each buoy line. • Require modifications similar to the current Southern Nearshore Lobster Waters, including a requirement for floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of each buoy line. Do not require sinking, neutrally buoyant line, or "low profile" (to be defined) line in groundlines due to potential impacts to live bottom. • Do not require weak links on buoy line. • Prohibit coils of rope (i.e., shanks, wraps of excess buoy line just below the buoy which act as storage) on the buoy line.	2 (regarding not requiring weak links on buoy line) A, B
	Prohibit coils of rope (i.e., shanks, wraps of excess buoy line just below the buoy which act as storage) on the buoy line.	A
	Allow two buoy lines with floating line on bottom third and sinking or neutrally buoyant line on top two-thirds of each buoy line.	A
	Consider effort reductions occurring through FMPs, either by building in reductions or considering present reduction plans.	9, A
	Consider a requirement to anchor trawls on each end, reducing line profile between traps.	9
	Do not require sinking/neutrally buoyant line between traps/pots.	2
	Expand time period to November 15 - April 15 (from December 1 - March 31) when whales are in the area (not year-round).	13
	Any requirement should have a gradual phase-in (do not implement a requirement all at once).	7
	Do not eliminate floating rope.	2
	Do not require weak links on single traps.	2
	Mandatory DAM including trap/pots with single buoy line, a 600-lb weak link, and no floating groundline.	A, C

Exhibit 3-12

ALWTRP ALTERNATIVES CONSIDERED AND RATIONALE FOR REJECTION

Fishery/Region/ Topic	Alternative Considered but Rejected	Primary Rationale for Rejection
Black Sea Bass, Scup, Conch/Whelk, and Shrimp (trap/pot)[2] (Continued…)	Expand SAM south of Cape Cod, from Nantucket eastward to the boundary of Critical Habitat in the Great South Channel and then east from there to the Hague Line. The Northern boundary would include Jeffreys Ledge going from the shore of southern Maine eastward to the Hague Line. Initiate in 2004, and then year-round until non-floating line in groundline is implemented and risk reduced from vertical lines.	4, 11, 13, A
	Introduce sinking or neutrally buoyant line between traps, 600-lb weak link, and sinking line in buoy line except for bottom third, by January 2005.	3, 15, A
	Allow for 1,100-lb weak links on buoys, similar to gillnet gear.	13
	Eliminate DAM program.	2
Red Crab (trap/pot)[2]	Maintain 3,780 pound buoy line weak link requirement as currently required in the Final Rule implementing the red crab FMP.	2, 13
	Require 1,500 pound buoy line weak links.	D
	Allow two buoy lines with floating line on bottom third and sinking or neutrally buoyant line on top two-thirds of each buoy line.	A
	Prohibit coils and toggles (if allowed to fish floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of each buoy line) on buoy lines.	A
	Maintain the fishery as a separate fishery from lobster trap/pot in the ALWTRP regulations and do not use the lobster management areas to define the fishery.	E, D
	Eliminate DAM program.	2
	Maintain SAM program requirements year-round.	4, 11, 13, A
	Prohibit coils of rope (i.e., shanks, wraps of excess buoy line just below the buoy which act as storage) on the buoy line and toggles.	A
	Adopt SAM restrictions, year-round, in Offshore Waters by 2008: • Groundlines and buoy lines must be made entirely of either sinking or neutrally buoyant line; • Weak link must be placed at all buoys with a maximum breaking strength of 1,500 lbs (on all flotation devices); • One buoy line per trawl; • Allow floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of the buoy line.	A, D
Hagfish (trap/pot)[2]	Allow two buoy lines with floating line on bottom third and sinking or neutrally buoyant line on top two-thirds of each buoy line.	A
	Prohibit coils of rope (i.e., shanks, wraps of excess buoy line just below the buoy which act as storage) on the buoy line.	A
	Require multi-trap trawls (i.e., no single traps) for Northern Inshore and Nearshore Waters.	A
	Eliminate DAM program.	2
	Maintain SAM program requirements year-round.	4, 11, 13, A

Exhibit 3-12

ALWTRP ALTERNATIVES CONSIDERED AND RATIONALE FOR REJECTION

Fishery/Region/ Topic	Alternative Considered but Rejected	Primary Rationale for Rejection
Hagfish (trap/pot)[2] (Continued…)	Prohibit coils of rope (i.e. shanks, wraps of excess buoy line just below the buoy which act as storage) on the buoy line and toggles.	A
	Adopt the following in Northern Inshore and Nearshore Waters by 2006: • Year-round requirements; • Current weak link requirements (on all flotation devices); • Require non-floating groundline to include sinking, neutrally buoyant or "low profile" (to be defined) line; • One buoy line; • Allow buoy lines with floating line on bottom third and sinking or neutrally buoyant line on top two-thirds of each buoy line.	3, 15, A, B
	Adopt SAM restrictions, year-round, in Offshore Waters by 2008: • Groundlines and buoy lines must be made entirely of either sinking or neutrally buoyant line; • Weak link must be placed at all buoys with a maximum breaking strength of 1,500 lbs (on all flotation devices); • One buoy line per trawl; • Allow floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of the buoy line.	A
	Mandatory DAM including trap/pots with single buoy line, a 600-lb weak link, and no floating groundline.	A, C
	Expand SAM south of Cape Cod, from Nantucket eastward to the boundary of Critical Habitat in the Great South Channel and then east from there to the Hague Line. The Northern boundary would include Jeffreys Ledge going from the shore of southern Maine eastward to the Hague Line. Initiate in 2004, and then year-round until non-floating line in groundline is implemented and risk reduced from vertical lines.	4, 11, 13, A
	Introduce sinking or neutrally buoyant line between traps, 600-lb weak link, and sinking line in buoy line except for bottom third, by January 2005.	3, 15, A
Jonah Crab (trap/pot)[2]	Allow two buoy lines with floating line on bottom third and sinking or neutrally buoyant line on top two-thirds of each buoy line.	A
	Prohibit coils of rope (i.e., shanks, wraps of excess buoy line just below the buoy which act as storage) on the buoy line.	A
	Require multi-trap trawls (i.e., no single traps) for Northern Inshore and Nearshore Waters.	A
	Prohibit coils of rope (i.e. shanks, wraps of excess buoy line just below the buoy which act as storage) on the buoy line and toggles.	A
	Eliminate DAM program.	2
	Maintain SAM program requirements year-round.	4, 11, 13, A

Exhibit 3-12

ALWTRP ALTERNATIVES CONSIDERED AND RATIONALE FOR REJECTION

Fishery/Region/ Topic	Alternative Considered but Rejected	Primary Rationale for Rejection
Jonah Crab (trap/pot)[2] (Continued…)	Adopt the following in Northern Inshore and Nearshore Waters by 2006: • Year-round requirements; • Current weak link requirements (on all flotation devices); • Require non-floating groundline to include sinking, neutrally buoyant or "low profile" (to be defined) line; • One buoy line; • Allow buoy lines with floating line on bottom third and sinking or neutrally buoyant line on top two-thirds of each buoy line.	3, 15, A, B
	Adopt SAM restrictions, year-round, in Offshore Waters by 2008: • Groundlines and buoy lines must be made entirely of either sinking or neutrally buoyant line; • Weak link must be placed at all buoys with a maximum breaking strength of 1,500 lbs (on all flotation devices); • One buoy line per trawl; • Allow floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of the buoy line; • Consider exemption of floating groundlines at 250 fathoms or greater (reconsider if it is shown that whales feed at these depths).	A
	Mandatory DAM including trap/pots with single buoy line, a 600-lb weak link, and no floating groundline.	A, C
	Expand SAM south of Cape Cod, from Nantucket eastward to the boundary of Critical Habitat in the Great South Channel and then east from there to the Hague Line. The Northern boundary would include Jeffreys Ledge going from the shore of southern Maine eastward to the Hague Line. Initiate in 2004, and then year-round until non-floating line in groundline is implemented and risk reduced from vertical lines.	4, 11, 13, A
	Introduce sinking or neutrally buoyant line between traps, 600-lb weak link, and sinking line in buoy line except for bottom third, by January 2005.	3, 15, A
Gillnet – Northeast, Anchored[3]	Eliminate the DAM and SAM programs.	2
	Consider effort reductions occurring through FMPs, either by building in reductions or considering present reduction plans.	9, A
	Allow two buoy lines with floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of each buoy line.	A
	Prohibit coils of rope (i.e., shanks, wraps of excess buoy line just below the buoy which act as storage) on the buoy line.	A
	Eliminate DAM and SAM programs by 2006 and require neutrally buoyant line, sinking line or "low profile" line (to be defined) in groundlines, as well as floating line on the bottom third and sinking or neutrally buoyant on the top two-thirds of each buoy line.	3, 15, A, B

Exhibit 3-12

ALWTRP ALTERNATIVES CONSIDERED AND RATIONALE FOR REJECTION

Fishery/Region/ Topic	Alternative Considered but Rejected	Primary Rationale for Rejection
Gillnet – Northeast, Anchored[3] (Continued…)	Eliminate DAM and SAM programs by 2006 and require neutrally buoyant line, sinking line or "low profile" line (to be defined) in groundlines, SAM net panel weak link modifications, as well as floating line on the bottom third and sinking or neutrally buoyant on the top two-thirds of each buoy line.	3, 15, A, B
	Maintain DAM program, including a modification to allow its implementation in critical habitat areas during restricted time periods, and notify fishermen within 24 hours of the DAM trigger being met. Plus the following options: • Mandatory removal of gear; and/or • Require SAM gear modification in a DAM zone. Effective date would be five days after publication of the rule or other appropriate time period which factors in the weather and distance a vessel is from shore.	C, 12
	Maintain DAM and SAM programs.	12
	Until there are broad-based gear modifications such as implementation of sinking, neutrally buoyant, or "low profile" (to be defined) line in groundlines: • Maintain DAM program and request voluntary removal of gear; and • Keep SAM program and allow two buoy lines and floating line on the bottom third of each buoy line.	A, B, C
	Eliminate DAM program and consider an immediate temporal and/or spatial expansion of SAM area requirements until there are broad-based gear modifications such as implementation of sinking, neutrally buoyant, or "low profile" (to be defined) line in groundlines.	11, B
	Maintain DAM program and consider an immediate temporal and/or spatial expansion of SAM area requirements until there are broad-based gear modifications such as implementation of sinking, neutrally buoyant, or "low profile" (to be defined) line in groundlines.	11, 12, B
	Eliminate DAM program and consider an immediate temporal and/or spatial expansion of SAM area requirements until there are broad-based gear modifications such as implementation of sinking, neutrally buoyant, or "low profile" (to be defined) line in groundlines. Allow two buoy lines and floating line on the bottom third of each buoy line.	11, B
	Maintain DAM program and consider an immediate temporal and/or spatial expansion of SAM area requirements until there are broad-based gear modifications such as implementation of sinking, neutrally buoyant. or "low profile" (to be defined) line in groundlines. Allow two buoy lines and floating line on the bottom third of each buoy line.	11, 12, B
	Eliminate DAM and SAM programs by 2008 and require neutrally buoyant line, sinking line or "low profile" (to be defined) line in groundlines, as well as floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of each buoy line. Expand SAM net panel weak link modifications to "high risk" areas (to be defined).	A, B
	Eliminate DAM and SAM programs sooner than 2006 and require neutrally buoyant line, sinking line or "low profile" line (to be defined) in groundlines, as well as floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of each buoy line.	3, 15, A, B
	Prohibit coils of rope (i.e. shanks, wraps of excess buoy line just below the buoy which act as storage) on the buoy line and toggles.	A
	Eliminate DAM program.	2

Exhibit 3-12

ALWTRP ALTERNATIVES CONSIDERED AND RATIONALE FOR REJECTION

Fishery/Region/ Topic	Alternative Considered but Rejected	Primary Rationale for Rejection
Gillnet – Northeast, Anchored[3] (Continued…)	Mandatory DAM, including removal of gillnet gear.	C
	Expand SAM south of Cape Cod, from Nantucket eastward to the boundary of Critical Habitat in the Great South Channel and then east from there to the Hague Line. The Northern boundary would include Jeffreys Ledge going from the shore of southern Maine eastward to the Hague Line. Initiate in 2004, and then year-round until non-floating line in groundline is implemented and risk reduced from vertical lines.	4, 11, 13, A
	Expand SAM program requirements to year-round.	4, 11, 13, A
	Adopt SAM restrictions, year-round, to all gillnets by 2006: • Groundlines and buoy lines must be made entirely of either sinking or neutrally buoyant line; • Weak link must be placed at all buoys with a maximum breaking strength of 1,100 lbs (on all floatation devices); • One buoy line per string; • Allow floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of the buoy line; • All anchored gillnets, regardless of the number of 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; and • Each net panel must have a total of five weak links with a maximum breaking strength of 1,100 lbs (498.9 kg). Net panels are typically 50 fathoms in length, but the weak link requirements 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 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.	3, 15, A
Gillnet – Mid-Atlantic, Anchored[4]	Eliminate the DAM program.	2
	Eliminate DAM program by 2006 and require, year-round, neutrally buoyant line, sinking or "low profile" (to be defined) line in groundlines, and floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of each buoy line.	3, 15, A, B
	Eliminate DAM program by 2008 (earlier with funding to convert line) and require, year-round, neutrally buoyant line, sinking or "low profile" (to be defined) line in groundlines, and one-third floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of each buoy line. Exclude those gillnets which are weighted to the bottom of the ocean floor but do not have an anchor attached on either end by: (1) revising the anchored gillnet definition, or (2) creating a new definition for these gillnets. For this gillnet type, expand current anchored gillnet requirements from December 1 to March 31 to a longer time period, on one or both ends, but not year-round, when whales are known to occur seasonally in the area.	A, B, 2 (regarding excluding gillnet gear from requirements)

Exhibit 3-12

ALWTRP ALTERNATIVES CONSIDERED AND RATIONALE FOR REJECTION

Fishery/Region/ Topic	Alternative Considered but Rejected	Primary Rationale for Rejection
Gillnet – Mid-Atlantic, Anchored[4] (Continued…)	Define those gillnets which are weighted to the bottom of the ocean floor but do not have an anchor attached on either end by: (1) revising the anchored gillnet definition, or (2) creating a new definition for these gillnets. For this gillnet type, don't regulate as an anchored gillnet fishery and consider the following options: • Implement requirements similar to the Mid-Atlantic driftnet fishery (e.g., no fishing with driftnet gear at night unless that gear is tended; all driftnet gear set by a vessel must be removed from the water and stowed on board the vessel before returning to port); • Prohibit fishing these types of nets at night; • Expand requirements from December 1 to March 31 to a longer time period, on one or both ends, but not year-round, when whales are known to occur seasonally in the area.	13, 16
	Consider effort reductions occurring through FMPs, Take Reduction Plans, and turtle regulations.	9, A
	Prohibit coils of rope (i.e., shanks, wraps of excess buoy line just below the buoy which act as storage) on the buoy line.	A
	Maintain DAM program and request voluntary removal of gear until there are broad-based gear modifications such as implementation of sinking, neutrally buoyant, or "low profile" (to be defined) line in groundlines, and floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of each buoy line.	C
	Eliminate DAM program by 2006 and require, year-round, neutrally buoyant, sinking or "low profile" (to be defined) line in groundlines, as well as one-third floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of each buoy line. Exclude those gillnets which are weighted to the bottom of the ocean floor but do not have an anchor attached on either end by: 1) revising the anchored gillnet definition, or 2) creating a new definition for these gillnets. For this gillnet type, expand current anchored gillnet requirements from December 1 - March 31 to a longer time period (on one or both ends of the period) when whales are known to occur in the area.	3, 15, A, B, 2 (regarding excluding gillnet gear from requirements)
	Expand DAM Program south of 40° North Latitude.	13
	Require non-anchored gillnets (other than driftnets) to be anchored or develop another vertical line substitute.	10, A
	Expand time period to November 15 - April 15 (from December 1 - March 31) when whales are in the area (not year-round).	13
	Define nets that are not truly anchored (i.e., stab nets) and do not require these nets to be anchored.	7, E
	Do not combine gillnets that are not truly anchored (i.e., stab nets) with the driftnet fishery. Require that fishermen bring these nets in or anchor them when leaving overnight.	7, E
	Do not eliminate floating rope.	2
	Prohibit coils of rope (i.e. shanks, wraps of excess buoy line just below the buoy which act as storage) on the buoy line and toggles.	A
	Mandatory DAM including removal of gillnet gear.	C

Exhibit 3-12

ALWTRP ALTERNATIVES CONSIDERED AND RATIONALE FOR REJECTION

Fishery/Region/ Topic	Alternative Considered but Rejected	Primary Rationale for Rejection
Gillnet – Mid-Atlantic, Anchored[4] (Continued…)	Expand SAM program requirements to year-round.	4, 11, 13, A
	Apply SAM restrictions, year-round, to all gillnets by 2006: • Define those gillnets which are weighted to the bottom of the ocean floor but do not have an anchor attached and implement weak link and non-floating line requirements as outlined below; • Groundlines and buoy lines must be made entirely of either sinking or neutrally buoyant line; • Weak link must be placed at all buoys with a maximum breaking strength of 1,100 lbs (on all floatation devices); • One buoy line per string; • Allow floating line on the bottom third and sinking or neutrally buoyant line on the top two-thirds of the buoy line; • All gillnets must return to port with the vessel or be securely anchored, regardless of the number of panels, with the holding power of at least a 22-lb (10.0 kg) Danforth style anchor at each end of the net string; and • Each net panel must have a total of five weak links with a maximum breaking strength of 1,100 lbs (498.9 kg). Net panels are typically 50 fathoms in length, but the weak link requirements 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 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.	3, 15, A, 17
	Require non-floating line in groundline, net panels with five weak links of no more than 1,100 lbs each, and anchored at each end with the holding power of at least a 22-pound Danforth-style anchor. Requirements apply November 15-March 31.	13 (regarding seasons), 17
Mid-Atlantic Drift Gillnet[4]	Expand requirements to year-round: • No fishing with driftnet gear at night unless that gear is tended; and • All driftnet gear set by a vessel must be removed from the water and stowed on board the vessel before returning to port.	7
	Expand requirements to November 15-March 31 (from current December 1-March 31).	13
Shark Gillnet – Southeast[5]	For the period November 15 through November 30, modify definition of "night" to mean one hour after sunset and one hour prior to sunrise.	2
	Exempt 5-inch or greater stretch mesh gillnet from the current ALWTRP restrictions from March 1 through March 15 for the area 29° North latitude to the southern end of the Restricted area.	2
	Exempt 5-inch or greater stretch mesh gillet from straight set restrictions from November 15 through November 30 for the area 29° North latitude to the southern end of the Restricted area.	18
	Exempt 5-inch or greater stretch mesh gillet from the current night definition restrictions from November 15 through November 30 for the area 29° North latitude to the southern end of the Restricted area.	7 (in reference to strikenet restrictions)
	Consider using Vessel Monitoring Systems (VMS) in lieu of observer coverage. Consider the following options: • Require VMS during the North Atlantic right whale calving season (November 15- March 31) in lieu of 100 percent observer coverage; or • Require VMS year-round in lieu of 100 percent observer coverage.	7 (for VMS in calving season) 13 (for seasonal time period)
	Develop a DAM program to protect aggregations of right whales.	13

Exhibit 3-12

ALWTRP ALTERNATIVES CONSIDERED AND RATIONALE FOR REJECTION

Fishery/Region/ Topic	Alternative Considered but Rejected	Primary Rationale for Rejection
	From November 1 to April 1, implement gear modifications similar to those for Mid-Atlantic anchored gillnet gear.	9
Coastal Gillnet – Southeast[6]	For the period November 15 through November 30, modify definition of "night" to mean one hour after sunset and one hour prior to sunrise.	2
	Exempt 5-inch or less stretch mesh gillnet from the current ALWTRP restrictions from March 1 through March 15 for the area 29° North latitude to the southern end of the Restricted area.	2
	Develop a DAM program to protect aggregations of right whales.	13
ALWTRP Critical Habitat Areas	Restrict gillnet fishing in the ALWTRP Great South Channel Sliver Area during the restricted time period (April 1 through June 30) through a closure.	F
	Restrict gillnet fishing in the ALWTRP Great South Channel Sliver Area during the restricted time period (April 1 through June 30) through a gear modification (e.g., SAM gear modifications or SAM net panel modification only).	F
	Change the ALWTRP Cape Cod Bay Critical Habitat restricted area from January 1-May 15 to January 1-April 30 to be consistent with the time period used by the Commonwealth of Massachusetts.	F
	Reanalyze recent right whale sightings data to determine whether the ALWTRP Critical Habitat Areas should be reconfigured.	F
	Revisit restrictions in ALWTRP Critical Habitat Areas following reanalysis of sightings data.	F
	Remove current restrictions and eliminate floating rope in groundlines.	F
	Allow the DAM program to be effective in Critical Habitat Areas.	F
Exempted Areas	Exempt the sinking, neutrally buoyant, or "low profile" (to be defined) line in groundline requirement off of the shelf edge, rocky areas (e.g., rocky areas off Georges Bank, 17-fathom rocks off NJ), and near wrecks.	2, 9, B
	Exempt the portion of Lobster Management Area 6 that is not included in the exempted waters (i.e., Long Island Sound) and is presently not regulated.	2
	Exempt low-profile groundline requirements for offshore lobstering in deep water extending from the 100-fathom curve (along the Continental shelf and into the canyons), as well as the area encompassing the following points: 43° 12 N 67° 38 W 43° 20 N 68° 00W 43° 12N 68° 20 W 42° 25 N 67° 45 W 42° 25 N 67° 23 W	2, 9
	Exempt Grand Manan Channel from groundline requirements as the tide already reduces profile of line.	9

Exhibit 3-12

ALWTRP ALTERNATIVES CONSIDERED AND RATIONALE FOR REJECTION

Fishery/Region/ Topic	Alternative Considered but Rejected	Primary Rationale for Rejection
Exempted Areas (Continued…)	Exempt the black sea bass trap/pot fishery that occurs south of the NC/SC border from any ALWTRP groundline requirements.	5
	Exempt areas proposed by the Maine Department of Marine Resources. Proposed areas are those landward of a line which connects the points below: 1. Odiornes Pt. Portsmouth NH: 43°02.55′ N 70°43.33′ W 2. 2KR Whistle – Kittery Point: 43°02.93′ N 70°41.47′ W 3. 2MR – Murray Rock: 43°04.06′ N 70°36.70′ W 4. RW CP – Cape Porpoise: 43°20.23′ N 70°23.64′ W 5. RW WI –Wood Island: 43°27.63′ N 70°17.48′ W 6. C 1 – East Hue and Cry: 43°31.94′ N 70°08.68′ W 7. N BS – Bulwark Shoal: 43°36.04′ N 70°03.98′ W 8. R20 ML- Mile Ledge: 43°41.44′ N 69°45.27′ W 9. R 2BR – Bantam Ledge: 43°43.64′ N 69°37.58′ W 10. C PL 47 – Pemaquid Ledge: 43°48.96′ N 69°31.15′ W 11. R22 OM – Old Man Ledge: 43°55.00′ N 69°18.86′ W 12. RG 1B – Two Bush Channel: 43°56.72′ N 69°04.89′ W 13. R 2A – South Vinalhaven I: 43°59.83′ N 68°50.06′ W 14. R2 – Roaring Bull Ledge, Isle Au haut: 43°59.36′ N 68°37.95′ W 15. Southern point Great Duck I: 44°08.36′ N 68°14.75′ W 16. R 8BI – Baker I: 44°13.55′ N 68°10.71′ W 17. R 2S – Schoodic Point: 44°19.08′ N 68°02.05′ W 18. N 2 – Petit Manan: 44°21.66′ N 67°51.78′ W 19. R 2SR – Seahorse Rock, west Great Waas I: 44°25.74′ N 67°38.39′ W 20. Freeman Rock, east Great Waas I: 44°27.77′ N 67°32.86′ W 21. R2LR, Cutler: 44°37.70′ N 67°09.75′ W 22. R2BE, Bailys Mistake: 44°45.51′ N 67°02.87′ W 23. N2, Morton Ledge: 44°47.36′ N 66°59.25′ W 24. G1, West Quoddy: 44°48.64′ N 66°56.43′ W 25. 2Q, Quoddy Narrows: 44°49.67′ N 66°57.77′ W	2
	Allow proposed Maine exemptions, but enable DAM program to deal with large whale sightings within the exempted areas.	12
	With respect to the Maine Department of Marine Resources Exemption line: • Use the Isle of Shoals rather than the 2 KR buoy. • Exempt landward of the line from S. of Pt. Duck to Scutter Pt. • Exempt Cape Elizabeth to Cape Small and other headland to headland areas.	2
	Exempt state waters, except for Mt. Desert Rock, from groundline requirements since they are not feeding areas.	1, 9
	Exempt Mt. Desert Rock from groundline requirements as the tide already reduces profile of line.	9

Exhibit 3-12

ALWTRP ALTERNATIVES CONSIDERED AND RATIONALE FOR REJECTION

Fishery/Region/ Topic	Alternative Considered but Rejected	Primary Rationale for Rejection
Exempted Areas (Continued…)	Exempt sheltered harbors, riverine areas and large bays, except for Casco Bay, Passamaquoddy Bay, and Chesapeake Bay.	13
	Move current exemption line for Narragansett Bay, RI, south to the COLREGS line, but do not move current Sakonnet River, RI, line north to the COLREGS line.	G
	Exempt deep waters (>125 fa) and rocky bottom area in the Mid-Atlantic.	2, 9
Gear Marking	Eliminate current Federal gear marking requirement.	1
	Status quo (no change) until additional research and work is conducted on this issue. Investigate the development of a bar code or implanted smart tag that can be imbedded in the line/surface buoy system. This smart tag may be similar to the RFID (radio frequency identification) tags used in the West Coast crab fishery. The code/tag should be able to be fixed to the line/buoy system by the manufacturer during production or by the fishermen after the line /gear has been purchased. The code/tag can identify the fishermen who can then be interviewed for detailed information or the code/tag can carry specific gear/fishery/area information.	1 (regarding status quo) 9
	Consider different gear marking requirements/strategies than are currently required throughout the ALWTRP management. Considerations include the following: • The gear marking system should mark the buoy lines and surface buoys to identify the fishery and the area fished; this will help identify where risk is greatest. • It is most important to know what part of the gear is involved in entangling the whale and less important to know the geographical area. A specific color should be used to identify sinking/neutrally buoyant groundline to determine whether line-entangled whales are caught in non-floating groundline or buoy line. • Implemented over time and coordinated with rope manufacturers, groundlines and buoy lines should have specific identifying colors. This would allow a quick visual cue regarding gear in which animals are entangled. • All manufactured neutrally buoyant line should be marked to identify it as such, helping determine if this line is successful in reducing the number of entanglements. • Neutrally buoyant line should be marked as such to allow identification for enforcement efforts. • Develop a stainless steel or nylon type band that can be crimped around a line and coded with fishermen identification or fishery/gear/area information for all fixed gear fisheries and waters along eastern seaboard. • Require that all fixed gear (pots/traps/gillnets) be identified with a tag in both state and Federal waters. • Ensure any gear marking scheme is reasonable and cost-effective. • Investigate gear marking currently in place for various FMPs and TRPs. • Implement gear-marking requirements only in areas that are given a “pass” for certain modifications/requirements under the ALWTRP regulations.	9
	Line should have color coding which varies based on its breaking strength.	9
	Mark groundline and end/buoy lines differently. For example, core colored by manufacturer (do not color outside of line) and implement a long phase-in (8-10 years).	9
	Develop a scheme that permits easy visual determination of the part of the gear system in which the line originated.	7, 9
	All non-floating line should be marked with a similar color or with a similar marking system.	9

Exhibit 3-12

ALWTRP ALTERNATIVES CONSIDERED AND RATIONALE FOR REJECTION

Fishery/Region/ Topic	Alternative Considered but Rejected	Primary Rationale for Rejection
Gear Marking (Continued…)	Implement technique where owner/vessel can be identified. Also, identify gear characteristics such as sinking line, floating line, gillnet bridle, and area.	9
	Only mark "low-profile" line.	9, B
ALWTRP Regulatory Language Changes	Modify the definition of sinking and neutrally buoyant line and combine these terms into one called "non-floating" line.	H
	Add a new definition for "low profile" line (e.g., 2 feet off the bottom of a test tank).	B
	Define "low-profile" but use the natural environment to define this rather than a test tank.	B
	Define "low-profile" and give fishermen options other than just lead weights, which can pose a safety risk (e.g., any regulation should include the words "operationally feasible").	B
	Clarify in the regulations for NE Gillnet Waters and SAM gear modifications that a net panel is up to and including 50 fathoms, in order to specify the location of the floatline weak links.	16
General Considerations for Reducing Risk Associated with Vertical Line	Consider and/or implement fishing effort reductions.	9, A
	Eliminate latent Federal permits, especially in areas where lobster stocks are crashing.	9, A
	Consider difference in density of buoys along coast.	9, A
	Multi-trap trawls, no single traps.	A
	Reduce effort by reducing the number of fishermen or total number of pots fished but not by limiting the number of traps/trawl or requiring longer trawls.	9, A
	Investigate remote release systems.	9, A
	Require risk-averse buoys by 2009 or else require use of a single buoy line in most areas and potential closure to gear with vertical lines in the SAM area.	A
ALWTRP Boundaries & Seasonality	Require ALWTRP regulations to be in effect out to the100 fathom line only.	2, I
	Require ALWTRP regulations to be in effect out to the 100 nm line only.	2, J
	When determining seasonal ALWTRP restrictions, keep the Northern Boundary at Long Island, New York.	K
	When determining seasonal ALWTRP restrictions, use Cape Cod Bay as the Northern Boundary.	L
	When determining seasonal ALWTRP restrictions, use the Virginia-North Carolina border for the Southern Boundary.	M
	When determining seasonal ALWTRP restrictions, use Cape Hatteras for the Southern Boundary.	N

Notes:
[1] Northeast/Mid-Atlantic American lobster trap/pot fishery in the 2003 List of Fisheries.
[2] Atlantic mixed species trap/pot fishery in the 2003 List of Fisheries. The trap/pot fisheries affected by this action could include other species (e.g., blue crab), although these species are caught primarily in exempt waters.
[3] Northeast sink gillnet fishery in the 2003 List of Fisheries
[4] Mid-Atlantic coastal gillnet fishery in the 2003 List of Fisheries
[5] Southeastern U.S. Atlantic shark gillnet fishery in the 2003 List of Fisheries
[6] Southeast Atlantic gillnet fishery in the 2003 List of Fisheries

Rationale:
1. Limited risk reduction benefit for large whales
2. Not adequately protective of large whales
3. Excessive economic/compliance burden
4. Preference for long-term (rather than short-term) rulemaking
5. Inequitable (i.e., favors one fishery over another)
6. Too difficult to enforce
7. Redundant with current or proposed requirements
8. Technologically infeasible
9. Further research/investigation needed
10. Reported as operationally difficult for some areas
11. SAM requirements modified to be consistent with current Cape Cod Bay Critical Habitat and Dynamic Area Management (DAM) gear modification requirements when area is expanded both temporally and spatially. Also see note "A" below.
12. DAM program eliminated when broad-based requirements implemented or when SAM areas expanded
13. Not supported by available information
14. Not able to implement through present action
15. Time needed for manufacturers to produce adequate supplies to service industry
16. Current fishing practice
17. Five weak links on net panels are proposed when vessels are returning to port without their gear and are required to anchor their nets
18. No such restrictions are currently in place for the fishery

Additional Notes:

A. NMFS will be considering management options to reduce risk associated with vertical lines through a future rulemaking action. At this time, NMFS believes that addressing the risk associated with floating groundline by requiring the use of sinking and/or neutrally buoyant groundline will reduce interactions between large whales and commercial fishing gear and reduce serious injury and mortality of large whales due to incidental entanglement in commercial fishing gear. NMFS and others are currently researching other ways to reduce risk associated with vertical lines, such as investigating the profiles of vertical line with different buoy line configurations (e.g., sinking/neutrally buoyant vs. floating) as well as other modifications (e.g., requiring a minimum number of traps per trawl in certain areas). NMFS and others are also investigating how whales utilize the water column, including the foraging ecology and diving behavior of whales, which will help to determine the appropriate mitigation strategies to reduce entanglement risk of vertical line. NMFS is presently developing management options to further discuss with the ALWTRT and is investigating effort reductions that are occurring through fishery and protected species management plans. Thus, before requiring the implementation of broad-based measures, NMFS believes more information and discussions are needed in order to effectively reduce the risk associated with the profile of vertical line.

B. Further research and analysis is needed on whether lowering the profile of groundline to depths other than the ocean bottom reduces the potential for large whale entanglement, as well as the appropriate depth and areas where groundlines could be reduced. Specifically, further information is needed on prey distribution, as well as large whale distribution and behavior. Further information and research on the methods for reducing the profile of groundline is also needed. "Low profile" line would need to be defined in such a way that is enforceable, is operationally feasible for fishermen, and which reduces risk of entanglement. Presently, NMFS and others are researching these issues. NMFS may consider allowing "low profile" groundline in the future. NMFS is soliciting comments and information on any of the issues noted above that are related to "low profile" groundline.

C. Under the current DAM program, NMFS has three options: 1) require the removal of lobster trap/pot and anchored gillnet gear; 2) allow modified lobster trap/pot and anchored gillnet gear; and/or 3) issue an alert to fishermen requesting the voluntary removal of lobster trap/pot and anchored gillnet gear and requesting that no additional gear be set during the restricted period. NMFS considers several factors when deciding whether to implement restrictions including, but not limited to, the location of the DAM zone with respect to other fishery closure areas, and a review of recent right whale entanglement and mortality data. Any change to the program would require a short-term action. Additionally, any proposed change would need to offer protection equivalent to or greater than the current DAM program. Also see Rationale Number 4.

D. The red crab fishery is typically conducted at depths in excess of 2,000 feet and the gear deployed to fish in these conditions must be adapted accordingly to endure the elements. Individual trawls can contain up to 200 traps, and the buoy lines required to set and haul this gear must be able to withstand significant loads. As a result, the buoy lines use rope that is larger in both diameter and length than other offshore trap/pot fisheries, and require the support of a more buoyant surface system. Therefore, to prevent the buoys from being pulled underwater by the size and weight of the buoy lines, up to 2,400 pounds of positive buoyancy must be attached to the surface end of the buoy lines, often with individual buoys having 800 pounds of buoyancy each. Moreover, the hydrodynamic forces resulting from currents and wave activity may affect the buoy and, coupled with the buoyancy component, could increase the load on each buoy significantly above 800 pounds. A 1,500 pound weak link requirement would not provide an adequate factor of safety for this situation.

E. NMFS tried to recognize unique differences in fisheries and areas whenever possible when developing proposed requirements.

F. NMFS is currently re-evaluating whether critical habitat boundaries should be modified. NMFS will re-evaluate restrictions in critical habitat areas after this time.

G. Neither line was moved because the exemption lines were already set at the COLREGS line. NMFS will continue to use the COLREG lines as the exemption lines.

H. Public scoping indicates that industry prefers keeping two terms to distinguish between line types.

I.* Though the bulk of the Mid-Atlantic right and fin whale sightings occurred between the shore and the 100 fathom line, this coincides with the majority of the survey effort. Thus, it is likely that there are many animals offshore as well. Humpback whales were almost as likely to be seen past 100 fathoms as within the 100 fathom contour. The most risk averse approach is to protect the animals out to the EEZ.

J. Moving the boundary offshore to 100 nm protects many of the animals sighted, but some are still seen between 100 nm and 200 nm offshore. The most risk averse approach is to protect the animals out to the EEZ.

K. This boundary line is used to separate the MMPA List of Fisheries Northeast Sink Gillnet & Mid-Atlantic Coastal Gillnet fisheries, but is not supported by the whale sightings data, and provides little benefit to the whales biologically.

L. Though the majority of right whale sightings in the summer occur to the east and north of Cape Cod, humpbacks are commonly seen west of this location in both summer and winter. Thus, as this boundary is for the year-round requirements, it is most risk averse to move the boundary farther to the west for any seasonal requirement.

M. Though this is a convenient political boundary which separates the Northeast and Southeast NMFS regions, it has no biological or whale sightings basis.

N. Though this boundary would work biologically, because of the seasonal shift in the distribution of right whales, it is more risk averse to push the boundary farther south, as some animals are still seen in this area outside of the winter season (November-April).

* For notes I through N, the dataset used in the analysis of ALWTRP boundaries was drawn from the December 2003 version of the North Atlantic Right Whale Sighting Database curated by the University of Rhode Island. It is inclusive of most of the sightings data collected through 2002 with some from 2003, and includes a total of 21,977 right whale sightings records from the 18th century through 2003. It also includes 4,414 humpback and 8,098 fin whale sightings records.

3.3 REFERENCES

Johnson, A., G. Salvador, J. Kenney, J. Robbins, S. Kraus, S. Landry, and P. Clapham, Analysis of fishing gear involved in entanglements of right and humpback whales, *Marine Mammal Science* (in press), 2005.

Mate, B.R., S.L. Nieukirk, and S.D. Kraus, Satellite-monitored movements of the northern right whale, *Journal of Wildlife Management,* 61(4): 1997.

Appendix 3-A

SUMMARY OF SCOPING COMMENTS

NMFS held a 30-day scoping/public comment period following the June 30, 2003 publication in the *Federal Register* of the agency's Notice of Intent to prepare an Environmental Impact Statement (EIS) for the Atlantic Large Whale Take Reduction Plan (ALWTRP). Eighteen sets of written comments were submitted to the agency. In addition to written comments, NMFS held six public hearings during the 30-day scoping/public comment period along the Atlantic Coast. The public hearings were held as follows:

- Fairhaven, Massachusetts on July 7, 2003,
- Cape May, New Jersey on July 9, 2003,
- Washington, North Carolina on July 10, 2003,
- Portland, Maine on July 14, 2003,
- Ellsworth, Maine on July 15, 2003, and
- Fort Pierce, Florida on July 17, 2003.

NMFS received oral testimony during these public hearings. Due to the large number of oral comments, they are organized according to the following specific topics:

- Gear Modifications,
- Gear Marking,
- Gillnet Fisheries,
- Lobster Trap/Pot Fisheries,
- Other Trap/Pot Fisheries,
- Dynamic Area Management and Seasonal Area Management,
- Exemptions and Closures,
- Critical Habitat,
- Observer Coverage and Vessel Monitoring Systems, and
- General Comments.

This appendix summarizes the written and oral comments, presenting them in two separate tables. Each comment is assigned to one of five categories:

- **Analyzed**: Comment is addressed in the DEIS.

- **Proposed Alternatives**: Comment is an element in one or more of the proposed alternatives.

- **Rejected Alternatives**: Comment relates to regulatory alternatives considered but rejected by NMFS.

- **Outside of Scope**: Comment falls outside the scope of the current regulatory action.

- **Duly Noted**: NMFS acknowledges the comment, but responding is difficult because the commentor did not articulate specific concerns; did not suggest concrete alternatives; or did not substantiate the position advocated.

When appropriate, the reader is referred to the section or chapter of the DEIS that addresses the comment

The Response to Comments received during the public comment period for the Notice of Intent to prepare an EIS should be considered as a whole, for it collectively reflects NMFS' consideration of public comments. In some cases, NMFS has combined or paraphrased comments. All comments received during the public comment period and the public hearings have been fully considered. NMFS has addressed all written and oral comments. Please note that some commenters submitted written comments and offered oral testimony; thus, some of the comments are duplicative. In these cases, NMFS summarized the comments and responses in both the written and oral comments.

Exhibit 3A-1

SUMMARY OF WRITTEN SCOPING COMMENTS RECEIVED

Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
1	Adopt seasonal closures to prohibit lobster and gillnet fishing in all designated right whale critical habitats during times when whales are known to congregate in those areas.	Proposed Alternatives	Section 3.1
	Require neutrally buoyant or sinking line between all lobster traps in a trawl.	Proposed Alternatives	Section 3.1
	Implement a dynamic management approach to suspend fishing when whales are observed feeding.	Rejected Alternatives	Section 3.2
	Be consistent with previous biological opinions issued for fisheries regulated under the ALWTRP.	Duly Noted	
	The commenter urged the agency to clearly identify the whale protection standards it is required to achieve under applicable statutes.	Analyzed	Chapter 2
	The commenter requested that NMFS analyze and report all available data regarding Atlantic large whale natural history and fisheries interactions in the draft EIS in a way that identifies regulatory measures that are necessary to meet these standards.	Analyzed	Section 4.1
	The commenter requested that the following topics be analyzed: the amount and types of fishing gear used during different seasons; potential gear modifications; locations where gear is currently used or excluded; assessment of the effectiveness of all management measures implemented to date and ways to increase their effectiveness; and alternative management measures.	Analyzed	Chapter 3, Chapter 6
2	One commenter asked that NMFS provide an analysis of the effectiveness of current management measures, specifically the Dynamic Area Management (DAM), Seasonal Area Management (SAM), and disentanglement programs), in the draft EIS.	Outside of Scope	
	The commenter urged NMFS to provide information on the status of gear research and all proposed and current technologies.	Outside of Scope	
	In addition, they would like NMFS to analyze state and Federal funding options, which can be utilized to assist fishermen in changing over to “whale safe” gear.	Outside of Scope	
	Lastly, the commenter solicited NMFS to provide a comprehensive analysis of vessel impacts and potential “non-point” impacts to whales including pollution, habitat alteration and destruction by industrial fishing, mining, oil and gas activities, industrial runoff, coastal development, and ocean dumping.	Analyzed	Chapter 9
3	Several commenters supported eliminating the DAM program and modifying the SAM program regulations to be consistent with those of Cape Cod Bay Critical Habitat; they do not support temporal and/or spatial expansion of SAM areas.	Rejected Alternatives	Section 3.2
	A specific exemption area based on rocky bottom habitat.	Rejected Alternatives	Section 3.2

Exhibit 3A-1

SUMMARY OF WRITTEN SCOPING COMMENTS RECEIVED

Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
	Several commenters expressed support for exempting certain groundline requirements in deep water areas.	Proposed Alternatives	Section 3.1
	The commenters asked that all considerations relative to reconfiguring critical habitat areas are fully analyzed to determine effectiveness in the draft EIS.	Outside Scope	
	Several commenters urged reassessing gear marking requirements and mandating that only new, required "low profile" line be marked.	Proposed Alternatives	Section 3.1
	Lastly, the commenters noted that NMFS should work in conjunction with on-going research projects.	Duly Noted	
4	With respect to the southern nearshore (and inshore) lobster waters and black sea bass pot fishery, two commenters expressed support for the status quo, or no action, option.	Proposed Alternatives	Section 3.1
5	One commenter expressed support for the short and long-term options developed at an ALWTRT subgroup meeting and urged NMFS to continue working with these established subgroups.	Proposed Alternatives	Section 3.1
	In addition, because there is no evidence of large whale residence during the summer months in Narrangansett Bay, the commenter requested that NMFS move the current exemption line for Narragansett Bay south to be consistent with the COLEREGs line.	Proposed Alternatives	Section 3.1
6	Several commenters requested that NMFS change the calendar restrictions in the southern range of the Southeast US Restricted Area south of 29 degrees North as large whale sightings appear to be a rare event during these times. Specifically, the commenters would like the start date to change from December 1 to November 15 and the end date to change from March 31 to March 15.	Rejected Alternatives	Section 3.2
7	Several commenters urged NMFS to provide a thorough justification of the costs and benefits of any proposed measures pursuant to the ALWTRP, specifically considering cumulative impacts of current fishery management plans and other protected species regulations that have reduced fishing effort. The commenters believe that North Carolina is a transient zone for large whales and not primary habitat and, therefore, further regulations in this area are not warranted.	Analyzed	Chapter 5 (EIA) Chapter 9 (CEA)
	In addition, these commenters supported the elimination of the DAM program and using the COLREGS line to exempt Delaware Bay from ALWTRP regulations.	Proposed Alternatives	Section 3.1
8	Several commenters were concerned that Mid-Atlantic fisheries were incorporated under the ALWTRP for consistency and threat of litigation rather than actual harm to large whales.	Duly Noted	
	The commenters requested that NMFS provide a thorough justification of costs and benefits of all proposed measures pursuant to the ALWTRP.	Analyzed	Chapters 5 through 9

Exhibit 3A-1

SUMMARY OF WRITTEN SCOPING COMMENTS RECEIVED

Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
	With regard to Mid-Atlantic gillnet and pot fisheries, the commenters encouraged the agency to consider available regional interaction data when defining "high risk" and "low risk" areas in order to determine whether the Mid-Atlantic region is a "high risk" area for large whales and to develop commensurate regulations.	Proposed Alternatives	Section 3.1
	The commenters supported several options from the draft EIS, specifically, eliminating the DAM program and using the COLREGS line to exempt Delaware Bay from ALWTRP regulations.	Proposed Alternatives	Section 3.1
	The commenters supported defining anchored gillnets as any gillnet with an anchor(s) present.	Proposed Alternatives	Section 3.1
	Regarding Mid-Atlantic pot fisheries, several commenters requested that NMFS consider a deep water (>125 fathoms) and rocky bottom area exemptions.	Proposed Alternatives	Section 3.1
	These commenters do not support a universal sinking line requirement for groundlines because they believe the benefit to large whales in the Mid-Atlantic region is not commensurate with the financial burden placed on industry.	Analyzed	Chapters 5 through 9
	The commenters expressed support for cooperative research efforts to lower the profile of groundlines, provided that fishermen can successfully locate and retrieve gear via grappling, and to test various line types.	Duly Noted	
	Relating to economic impact, the commenters urged the agency to consider the several issues in the DEIS. First, the commenters requested that the agency analyze the economic impact of each option as it relates to large whales (e.g., observed interactions by gear type, region, etc.) and regulatory burden to the industry.	Analyzed	Chapter 6
	Next, when estimating the costs of options that require changing line type, the commenters urged the agency to first take into account the monetary loss of existing line inventory, initial replacement costs, and annual replacement costs.	Analyzed	Chapter 6
	The commenters requested that when calculating the ability of the industry to recover economic losses due to gear mitigation measures, NMFS consider price per pound of target species, current impacts of fishery management plans, and alternative fisheries available.	Analyzed	Chapter 9
	Furthermore, these commenters requested that annual gear loss due to reduced grappling effectiveness be analyzed in the draft EIS.	Analyzed	Chapter 6
	The commenters suggested that providing regionally based exemption areas that NMFS' deems appropriate and justifiable will help mitigate negative socioeconomic impacts.	Proposed Alternatives	Section 3.1

Exhibit 3A-1

SUMMARY OF WRITTEN SCOPING COMMENTS RECEIVED

Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
	Finally, these commenters requested that cumulative impacts from fishery management plans and protected species regulations are considered when estimating negative fiscal impacts and cost recovery strategies.	Analyzed	Chapter 9
9	One commenter urged NMFS to require all commercial fishing industry personnel to complete training in marine debris awareness and elimination as well as to require all commercial fishing industry personnel responsible for navigation to attend training on ship strike avoidance and reporting because NMFS imposes these requirements on other Federal agencies, but not the sectors it regulates directly. Furthermore, the commenter suggested that NMFS develop a strategic plan to provide incentives to commercial fishermen who retain and appropriately dispose of any and all marine debris within the course of their operations.	Outside of Scope	
10	One commenter supported the implementation of exempted areas similar to current and proposed areas for the appropriate ALWTRP lobster management areas as it applies to black sea bass, scup, conch/whelk and shrimp trap/pot fisheries in Long Island Sound.	Proposed Alternatives	Section 3.1
11	Several commenters urged NMFS to be flexible when writing new regulations under the ALWTRP. The commenters asked NMFS not to consider any regulations that pose a high safety risk to fishermen or which are not operationally feasible for industry.	Duly Noted	
	The commenters remarked on several of the options presented during scoping. Specifically, the commenters support eliminating the DAM and SAM programs because they believe the programs pose a safety risk to industry and are unreasonable to comply with.	Proposed Alternatives	Section 3.1
	Next, they support the use of weak links on all flotation devices as well as buoy lines comprised of two-thirds sink line and one-third float rope.	Proposed Alternatives	Section 3.1
	The commenters do not support the elimination of floating groundlines mainly because they believe it would increase gear losses.	Analyzed	Chapter 6
	However, the commenters do support lowering the profile of groundline to a certain height off the bottom, which has yet to be determined, in high risk areas.	Duly Noted	
	Regarding exempted areas, the commenters support the proposal submitted by the state of Maine and urge NMFS to explore exempted areas based on entanglement risk.	Proposed Alternatives	Section 3.1
	The commenters support maintaining the status quo option for right whale critical habitat, but also supports adjusting the time period of existing critical habitat so as to be consistent with the Commonwealth of Massachusetts.	Rejected Alternatives	Section 3.2
	These commenters do not support additional gear marking requirements; however, if they are deemed necessary, the commenters suggest asking manufacturers to produce rope with marking embedded in the core.	Rejected Alternatives	Section 3.2

Exhibit 3A-1

SUMMARY OF WRITTEN SCOPING COMMENTS RECEIVED

Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
	The commenters do not support banning the use of rope coils on the buoy lines.	Rejected Alternatives	Section 3.2
	Regarding trawls, these commenters believe that lobstermen fishing five or more traps in Federal waters should be allowed to have two buoy lines.	Proposed Alternatives	Section 3.1
	In terms of the implementation schedule for new regulations under the ALWTRP, the commenters urge NMFS to consider different phase in times for gear modifications even though they do support the 2008 deadline referenced in the scoping document.	Proposed Alternatives	Section 3.1
12	One commenter recommended that regulations be changed to allow trawls with five or more traps to utilize two endlines.[6]	Proposed Alternatives	Section 3.1
	The commenter supports adding all fixed gear trap/pot fisheries not currently included under the ALWTRP.	Proposed Alternatives	Section 3.1
	The commenter supports using gear modifications and seasonal requirements to eliminate the SAM and DAM programs by 2006.	Proposed Alternatives	Section 3.1
	The commenter is concerned about operational issues posed by weak links on leadlines or other weights used to reduce the profile of groundline.	Duly Noted	
	The commenter supports expansion of exempted areas.	Proposed Alternatives	Section 3.1
	Commenter supports maintaining current critical habitat exempted areas and supports reanalyzing data with the possibility of reconfiguring boundaries.	Outside of Scope	
	Commenter supports maintaining status quo gear marking system until further research is conducted. Commenter believes that changes should be implemented over time and coordinated with gear manufacturers to reduce costs and operational challenges. They also recommend a gear marking scheme where the core of the line is marked to delineate specific parts of the gear (e.g., endline, groundline) as well as fishery and geographic region.	Duly Noted	
	Commenter objects to regulatory language change prohibiting flotation devices on groundlines. Recommends defining "low profile" line based on results from Maine's state remotely operated vehicle surveys.	Duly Noted	

[6] Comments were noted exactly as they were received. When used, the term "endline" is synonymous with "buoy line."

Exhibit 3A-1

SUMMARY OF WRITTEN SCOPING COMMENTS RECEIVED

Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
13	One commenter suggested several specific recommendations to NMFS. First, the commenter urged NMFS to make realistic entanglement rate statistics widely available to the public and the media. The commenter noted that there are sources other than the NMFS Large Whale Entanglement Reports available for entanglement information.	Analyzed, Duly Noted	Chapter 2
	Next, the commenter suggested that NMFS remove disentanglement as a take reduction measure under the ALWTRP.	Duly Noted	
	The commenter also supported eliminating all time/area management measures (e.g., DAM, SAM, and critical habitat) in lieu of gear modifications, such as eliminating floating rope via a Federal buyback program.	Proposed Alternatives	Section 3.1
	In addition, the commenter supported a gear marking scheme that readily allows for distinction between different parts of the gear system.	Duly Noted	
14	One commenter supported the elimination of the DAM and SAM programs for the Northern inshore and nearshore lobster fishery and the Northeast anchored gillnet fishery.	Proposed Alternatives	Section 3.1
	Regarding low-profile groundline, the commenter supported development and implementation by 2008.	Proposed Alternatives	Section 3.1
	Regarding low-profile groundline, include an annual phase-in period for “high risk” areas of Maine’s nearshore tidal and rocky habitats.	Rejected Alternatives	Section 3.2
	In addition, the commenter strongly supported expanding proposed exempted areas off the coast of Maine, given few sightings of right whales in these areas.	Proposed Alternatives	Section 3.1
15	One commenter suggested that NMFS examine recommendations and current measures of both the ALWTRP and the Area 1 rules for the northern inshore, nearshore, and offshore lobster waters.	Duly Noted	
	The commenter supported replacing the DAM and SAM programs with reduction of fishing effort and gear modifications, specifically by lowering the profile of all rope.	Proposed Alternatives	Section 3.1
	If fishing effort were reduced, the commenter noted that geographical historical participation should be considered.	Duly Noted	
	This commenter is opposed to one buoy line per trawl because it will increase gear loss.	Duly Noted	
	The commenter supports 600lb weak links in the Grand Manan channel.	Rejected Alternatives	Section 3.2
	The commenter supports the prohibition on coils of rope, and keeping buoy lines as knotless as possible.	Proposed Alternatives	Section 3.1

Exhibit 3A-1

SUMMARY OF WRITTEN SCOPING COMMENTS RECEIVED

Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
	Finally, the commenter supported the Maine Department of Resources proposed exempted areas inside headlands provided this does not cause additional gear congestion by fishermen who are trying to avoid ALWTRP regulations.	Duly Noted	
16	Several commenters urged NMFS to implement year-round risk reduction measures throughout the range of right whales.	Proposed Alternatives	Section 3.1
	The commenters urged NMFS to develop a contingency plan in the event that the proposed risk reduction measures prove unsuccessful.	Duly Noted	
	The commenters provided several recommendations on the DAM and SAM programs, critical habitat, and specific fisheries covered under the ALWTRP. Regarding the DAM program, the commenters recommend that all future DAM actions be mandatory and that NMFS expedite the process of declaring a DAM zone. They support mandatory removal of all gillnet gear from DAM zones as well as use of trap/pot gear only with a single endline that contains a 600 pound weak link and no floating groundline.	Rejected Alternatives	Section 3.2
	The commenter also proposed extending DAM zones farther south than the current limit of 40 degrees latitude.	Duly Noted	
	Regarding the SAM program, the commenters recommended extending risk reduction measures in both time and space to encompass whales that use SAM areas before or after SAM is effective and to provide protection in other high use areas, e.g., Jeffrey's Ledge. The commenters suggest implementing year round SAM areas by the 2004 fishing season and until all fisheries phase out non-floating line and until risk from vertical lines in the water column is reduced.	Rejected Alternatives	Section 3.2
	Commenters strongly support reconfiguring the boundaries of critical habitat using current survey and sightings data.	Proposed Alternatives	Section 3.1
	Furthermore, the commenters propose adding the "sliver" area to Great South Channel critical habitat and banning all gillnetting in this area during the critical habitat closure.	Proposed Alternatives	Section 3.1
	The commenters proposed including all trap/pot fisheries that utilize a buoy to the surface under the ALWTRP regulations.	Proposed Alternatives	Section 3.1
	The commenters support simultaneous implementation of the same risk reduction measures for northern nearshore/inshore and southern nearshore waters.	Proposed Alternatives	Section 3.1
	Additionally, the commenters urged that all risk reduction options listed on the ALWTRP Lobster Take Reduction Technology List be required for all northern nearshore/inshore and southern nearshore waters.	Proposed Alternatives	Section 3.1
	Commenters recommended including non-shellfish trap/pot fisheries (e.g., black sea bass, scup, hagfish) under the ALWTRP. Commenters believe these fisheries should adhere to the same requirements as crab, lobster, and other shellfish fisheries.	Proposed Alternatives	Section 3.1

Exhibit 3A-1

SUMMARY OF WRITTEN SCOPING COMMENTS RECEIVED

Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
	However, commenters supported exempting single pots from weak link requirements.	Duly Noted	
	Commenters supported exempting offshore trap/pot fishermen from non-floating groundline requirements provided they are fishing in waters greater than 250 fathoms.	Proposed Alternatives	Section 3.1
	Regarding gillnets, the commenters recommend requiring all gear to have non-floating groundline, five weak links not greater than 1100 pounds per net panel, and at least a 22 pound Danforth style anchor at each end. Commenters felt that once gillnets which are weighted to the bottom but not anchored are redefined, restrictions should be similar to the Mid-Atlantic driftnet fishery.	Proposed Alternatives	Section 3.1
	Regarding Mid-Atlantic drift gillnets and sink nets, the commenters suggest implementing restrictions similar to the southeast, i.e., November 15-March 31.	Proposed Alternatives	Section 3.1
	Regarding the shark gillnet fishery, the commenters support current restrictions for southeastern gillnet and driftnet fisheries as well as the use of vessel monitoring systems to reduce (but not replace) the use of observers.	Proposed Alternatives	Section 3.1
	However, the commenters do not support exempting certain mesh sizes or reducing time or area in which regulations apply.	Duly Noted	
	In terms of gear marking, they suggest that all non-floating line be of a similar color, or with a similar marking system, to allow for simple identification of gear involved in entanglements.	Duly Noted	
	Additionally, the commenters suggest marking buoys such that owner and/or vessel can be identified.	Proposed Alternatives	Section 3.1
	The commenters recommend that NMFS accelerate gear research to reduce risk posed by vertical lines in the water column.	Duly Noted	
	Lastly, the commenters urged NMFS to undertake additional research, e.g., surveying Maine's coastal areas, the Mid-Atlantic, and offshore areas.	Duly Noted	
17	One commenter supported the status quo (no change) option for gear modifications to the lobster trap/pot fishery.	Duly Noted	
18	Several commenters suggested that NMFS should develop comprehensive management alternatives, not just gear modifications, that can be meaningfully compared to one another.	Proposed Alternatives	Section 3.1
	These commenters recommended that NMFS develop and secure funds for a fishing line recycling and/or buy-back program to replace floating groundline with non-floating line.	Duly Noted	
	Regarding the DAM program, these commenters supported eliminating it and focusing instead on more aggressive gear modifications.	Proposed Alternatives	Section 3.1

Exhibit 3A-1

SUMMARY OF WRITTEN SCOPING COMMENTS RECEIVED

Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
	One commenter provided a series of options, based on several guiding principles (e.g., strengthening existing gear modifications, expanding SAM areas and requirements, and reducing buoy lines).	Proposed Alternatives	Section 3.1

Category Key:
Analyzed = Comment is addressed in the DEIS.
Proposed Alternatives = Comment is an element in one or more of the proposed alternatives.
Rejected Alternatives = Comment relates to regulatory alternatives considered but rejected by NMFS.
Outside of Scope = Comment falls outside the scope of the current regulatory action.
Duly Noted = NMFS acknowledges the comment, but responding is difficult because the commenter did not articulate specific concerns; did not suggest concrete alternatives; or did not substantiate the position advocated.

Exhibit 3A-2

SUMMARY OF ORAL SCOPING COMMENTS RECEIVED DURING EIS SCOPING PROCESS

Topic Area	Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
Gear Modifications	1	One commenter stated that weak links should be lowered below 3,780 pounds for the offshore red crab fishery.	Proposed Alternatives	Section 3.1
	2	One commenter stated that requirements for black sea bass pots should not be same as those for lobster pots since the black sea bass pots are so light that a breakaway or weak link would serve no purpose due to the lack of resistance from the pot.	Rejected Alternatives	Section 3.2
	3	One commenter stated that sinking lines would be a problem for black sea bass pots as they would have a tendency to get entangled in the coral and to have a greater environmental impact than the lines currently used.	Analyzed	Chapter 5
	4	One commenter stated that sinking line on the buoy line would not affect lobster fishermen. This change could be made without putting lobstermen out of business. Only sinking groundline would create problems.	Analyzed	Chapter 7
	5	One commenter did not support a requirement for sink line. Several commenters stated that upper two-thirds of the buoy line as sink line is the most that would be supported for certain areas, not all areas, of the lobster fishery.	Rejected Alternatives	Section 3.2
	6	One commenter supported a requirement that fishermen would bring their nets ashore if they were using sink gillnets or nets that were held to the bottom by the lead line. If they were to leave the nets overnight, the commenter supported requiring them to anchor them and using weak links, etc.	Duly Noted	
	7	One commenter supported a measure that would require any gillnets left out to be anchored year-round, rather than just during the winter months.	Proposed Alternatives	Section 3.1
	8	One commenter cautioned against requiring lead line weighing a specific amount per yard as it may sink the gillnet boats.	Duly Noted	
	9	One commenter would like to see NMFS develop a long-term plan for the Mid-Atlantic regarding risk reduction of vertical lines by 2008.	Proposed Alternatives	Section 3.1
	10	One commenter stated that NMFS most likely does not have the budget for enforcement to be out measuring every one of each fishermen's endlines. Thus, NMFS needs the fishermen to be on board with what they are proposing to do. To help ensure cooperation, the fishermen need options available to them.	Outside of Scope	

Exhibit 3A-2

SUMMARY OF ORAL SCOPING COMMENTS RECEIVED DURING EIS SCOPING PROCESS

Topic Area	Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
Gear Modifications (Continued….)	11	One commenter cautioned NMFS regarding any regulation that specified a number of traps on a trawl. The commenter explained that the smaller vessels and older fishermen could not handle large trawls.	Duly Noted	
	12	Several commenters stated that one buoy line per trawl or string would create too much loss of gear and ghost gear on the bottom.	Analyzed	Chapter 6
		In addition, one commenter stated that ghost gear would kill thousands of lobsters and bycatch needlessly.	Analyzed	Chapter 5
		No one would know where the other person's gear is if there is only one buoy per trawl. Thus, everyone would be forced to fish pairs, which also would not work well with only one buoy line.	Proposed Alternatives	Section 3.1
	13	One commenter stated that the regulations should keep all three terms: floating line, sinking line, and neutrally buoyant line.	Proposed Alternatives	Section 3.1
	14	One commenter stated that asking the fishermen whether they would want to create a low profile line serves no purpose. The commenter stated that NMFS is wasting the fishermen's time and resources by requiring actions, such as gear marking, that are not serving the agency's needs. The commenter stated that before the fishermen propose a specific type of line, they need to know from NMFS what the whales do at the bottom and how close they get to the bottom.	Duly Noted	
	15	Several commenters supported a phase-in of sinking or neutrally buoyant line by 2006.	Proposed Alternatives	Section 3.1
	16	One commenter stated that research needs to be fast-tracked on vertical lines.	Duly Noted	
	17	One commenter stated that five trap trawls should be allowed in Federal waters in Area 1. With pairs, which are allowed, there is one trap per vertical line. Thus, a five trap trawl would have two and a half traps per vertical line, which would reduce the number of vertical lines per trap in the water. The commenter stated that fishermen who fished five trap trawls had to go to pairs because they did not want to go to six trap trawls, which increases the number of vertical lines in the water.	Proposed Alternatives	Section 3.1

Exhibit 3A-2

SUMMARY OF ORAL SCOPING COMMENTS RECEIVED DURING EIS SCOPING PROCESS

Topic Area	Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
Gear Modifications (Continued….)	18	One commenter stated that one buoy line for a five trap trawl, which is currently legal, is not practical due to heavy traffic. Every time a buoy was lost, five traps would be lost, which would increase ghost gear. Thus, fishermen would go to fishing pairs or longer strings.	Proposed Alternatives	Section 3.1
	19	One commenter added that when the regulation went into effect previously, he could no longer fish four trap trawls with two endlines. Thus, he went to fishing two pairs for each four trap trawl, which increases the number of vertical lines in the water by a factor of two.	Proposed Alternatives	Section 3.1
	20	One commenter stated that he did not support having breakaways on the buoy surface apparatus due to the loss of buoys. In addition, a knotless buoy line would translate into losing five or six fathoms of line when, for example, a tanker gets the buoy. Thus, you would have to splice five or six fathoms of rope every time and never get anything hauled.	Duly Noted	
	21	One commenter stated that requiring breakaways on toggles would be a needless expense. The commenter stated that where fishermen use toggles is inshore; toggles are not used offshore where whales are most likely located.	Rejected Alternatives	Section 3.2
	22	One commenter stated that the breakaways are helpful in that when fishing pairs with no sinking line between traps, gear recovery chances are heightened by a large degree.	Duly Noted	
	23	One commenter did not support the requirement of a particular weight size being written into law. In addition, requiring the use of a weight in the middle of a groundline could easily capture a person's finger on his glove or on his hand. Thus, this would be a liability and a safety issue.	Duly Noted	
	24	One commenter stated that to change 25 percent of line in a year would require a big increase in the price of lobsters.	Analyzed	Chapters 6, 7
	25	One commenter stated that the weakened gear required is easily tampered and/or broken by ships, barges, and sailboats. The commenter requested that NMFS mention and/or warn people that the fishermen are trying to do their part for the large whale species, so please do respect their efforts and give them courtesy of trying to stay out of the gear. In addition, the commenter stated that this announcement would aid in reducing the ghost gear problem.	Duly Noted	

Exhibit 3A-2

SUMMARY OF ORAL SCOPING COMMENTS RECEIVED DURING EIS SCOPING PROCESS

Topic Area	Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
Gear Modifications (Continued….)	26	One commenter stated that the weak link with the hog rings does work based on hauling up a lot of gear with all of the float gear being completely gone.	Duly Noted	
	27	One commenter stated that he would not be in favor of tying any type of lead onto his line.	Duly Noted	
	28	One commenter stated that when fishing in deeper waters in Down East Maine with the large tide, he uses more than 50 percent float rope and the rest of the rope used is sinking line. Thus, the one-third float rope proposal would not work for the fisheries in this area. Several commenters stated that such a requirement (one-third float rope) should not be applied universally since more than one-third floating rope is sometimes required to prosecute the fishery in some areas. The agency should consider specific areas where this would not be operationally feasible.	Rejected Alternatives	Section 3.2
	29	One commenter supported lower profiles of the line. Several commenters stated that the Maine DMR and the fishermen would be happy to experiment with low profile line.	Proposed Alternatives	Section 3.1
	30	One commenter stated that the elimination of float rope would put fishermen out of business and people would fight such a regulation.	Analyzed	Chapters 6, 7
	31	One commenter stated that anchoring trawls at both ends and pulling taut has the effect as would using a low profile line. Thus, no new management measure is needed regarding low profile line.	Duly Noted	
	32	Several commenters stated that sink line would wear too much when used in areas around wrecks or rocky (hard) bottom areas. The wear would result in many lost traps.	Duly Noted	
		In addition, one commenter claimed that using sink line in such areas would put lobstermen out of business due to the loss of traps.	Analyzed	Chapter 6, 7
		One commenter also suggested that loss of traps and sinking line would result in more environmental harm.	Analyzed	Chapter 5
		Furthermore, one commenter stated that the tides in Down East Maine are too great to use sinking line.	Duly Noted	

Exhibit 3A-2

SUMMARY OF ORAL SCOPING COMMENTS RECEIVED DURING EIS SCOPING PROCESS

Topic Area	Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
Gear Modifications (Continued….)	33	One commenter also stated that sinking line is dangerous because when you pull a knot out of sinking line, traps would come up all at once as opposed to when removing knots from poly line. In addition, the sinking rope is like a piece of wire and cannot be tucked or spliced back together. This would add more time when setting/hauling the traps. Since the rope can not be tucked or spliced back together new rope would have to be purchased each year, which would further strain the lobster fishery.	Duly Noted	
		The commenter suggested that NMFS provide aid in getting the fishermen the required rope.	Outside of Scope	
	34	One commenter stated he was against using a single buoy for traps.	Duly Noted	
	35	One commenter stated he was against a requirement of a knotless buoy line.	Duly Noted	
	36	One commenter stated that requiring a changing of line should be gradually phased-in. For example, require fishermen to change the line of his runners 25 percent the first year, 50 percent the second year, etc. Such a phase-in would also allow NMFS a chance to find out what brand rope is most feasible to use. One commenter stated that the fishermen want to know that whichever rope is mandated should have already been tested and proven to work.	Proposed Alternatives	Section 3.1
	37	One commenter raised the issue of what is going happen if everyone on the coast goes to sinking rope and whales are still being entangled.	Outside of Scope	
	38	One commenter supported gear modifications and would continue to do so. The commenter stated that the worst thing that the agency could do would be to stop the ongoing work on gear modifications with the state and the industry.	Duly Noted	
	39	One commenter stated that weak links for single pot gear are not practicable.	Duly Noted	
	40	One commenter stated that a provision for an adequate weighting of non-anchored driftnets is needed to make the weak links effective or look toward vertical line modifications as some substitutes.	Duly Noted	
	41	One commenter would like to see a financial analysis of what it would cost for the various proposed gear modification options and management measures along the eastern seaboard. Included in this analysis should be a range of costs and sources of income that could be brought to bear on these measures.	Analyzed	Chapter 6

Exhibit 3A-2

SUMMARY OF ORAL SCOPING COMMENTS RECEIVED DURING EIS SCOPING PROCESS

Topic Area	Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
Gear Modifications (Continued….)	42	One commenter requested that as part of a buyback program of poly line that NMFS describe how the poly would be recycled or what use would be found for the material.	Outside of Scope	
	43	One commenter recommended that the definition of neutrally buoyant line be scratched since it is too weak. The commenter suggested that neutrally buoyant line is simply a lightweight version of sink line. The commenter would support a line if industry can come up with a line that stays a couple of feet off the bottom and does not float up into an arc.	Duly Noted	
	44	One commenter suggested using metal weights, as many as needed, on floating rope to lower the profile of the rope in the water. The commenter stated that safety issues would be the same as having a toggle come up at you.	Duly Noted	
	45	One commenter stated that it is troubling to see the use of "not yet defined," unless the public has the opportunity to comment on the definition at some point before being made a regulation.	Duly Noted	
	46	Several commenters did not support neutrally buoyant line since it chafes easily. Thus, gear is often lost making it impractical to use.	Analyzed	Chapter 6
	47	Several commenters supported the Maine Department of Marine Resources plan to eliminate a lot of the problems that NMFS is having, which includes an exemption line and the addition of a third breakaway link to the buoy surface apparatus. This proposal would allow fishermen who fish high flyers and poly balls to have 600 pound breakaway links on each buoy and an 1,100 pound breakaway link below the surface.	Duly Noted	
	48	One commenter stated that breakaways may be dangerous on a buoy line. However, toggles are not an issue unless a knotless connection was mandated. For example, the commenter stated that if someone cuts your rope and you do not have another piece of rope onboard, how do you mend the rope without having a knot.	Duly Noted	
	49	One commenter suggested that some consideration should be given as to how many traps per trawl for sinking line versus floating line.	Duly Noted	

Exhibit 3A-2

SUMMARY OF ORAL SCOPING COMMENTS RECEIVED DURING EIS SCOPING PROCESS

Topic Area	Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
Gear Modifications (Continued….)	50	Several commenters stated that rope should be allowed to coiled down from the buoy line some instead of right at the buoy. If the rope is not coiled, much more rope would be in the water. In addition, one commenter stated that if the rope is not coiled the result would be more knots on the endlines.	Duly Noted	
	51	One commenter stated that if the regulations require all sinking line, then more toggles would need to be added to ensure that the buoy is not dragged under the water surface. The added toggles would then create more loops in the water than if some floating line was allowed.	Rejected Alternatives	Section 3.2
	52	One commenter stated that if there is a toggle on the trap line it would be more economical and more practical to add a smaller diameter line rather than a weak link. The commenter suggested that the regulations include the option of either using a weak link or lighter diameter line.	Duly Noted	
Gear Marking	1	Several commenters supported marking the buoy line if it was manufactured along the entire length in the core of the rope and was implemented over time (8 to 10 years). Several commenters also supported marking the groundlines this way as well, but with a different color from the endlines. In addition, several commenters stated that the core of the rope should be the marking line but that the rest of the rope should be in different colors so fishermen could more easily identify their traps and rope.	Duly Noted	
	2	One commenter stated that line marking is not necessary and did not understand how any data generated by it would be used.	Duly Noted	
	3	One commenter suggested that NMFS look at the various marking requirements of all of the states to see if there is a gear marking system in place that may be improved.	Duly Noted	
	4	One commenter supported identifying the owner of the pots or the type of gear with the pot by marking the buoy line.	Duly Noted	
	5	One commenter stated that there is no benefit to restricting Federal lobstermen further or adding more gear marking regulations for them to follow when there are other fisheries that are not doing anything to address whale issue. One commenter stated that all fisheries should be required to mark their gear before additional regulations are placed on the Federal lobstermen.	Proposed Alternatives	Section 3.1

Exhibit 3A-2

SUMMARY OF ORAL SCOPING COMMENTS RECEIVED DURING EIS SCOPING PROCESS

Topic Area	Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
Gear Marking (Continued…)	6	One commenter asked why fishermen in state waters are not required to mark their gear.	Duly Noted	
	7	One commenter stated that it is self-serving to the industry to have a good marking system so that NMFS can then identify where the real problem is and manage specific areas/fisheries in the future.	Duly Noted	
	8	One commenter stated that it is self-serving to the industry to have a good marking system so that NMFS can then identify where the real problem is and manage specific areas/fisheries in the future.	Duly Noted	
	9	One commenter stated that he did not see what was wrong with the gear marking regulations currently in place. No one knows whether the gear marking regulations in effect are currently working or are not. In addition, the commenter requested to know the cost of additional gear marking regulations. Several commenters reiterated that the required changes to gear marking and/or gear modifications need to be operationally practical and economical.	Rejected Alternatives	Section 3.2
	10	One commenter stated that because NMFS is not seeing marked gear on entangled whales does not mean that the current gear marking regulations are not working. The commenter asked why NMFS is proposing to change current gear marking regulations if NMFS does not know how well it is working.	Duly Noted	
	11	One commenter was against specific colors for gear marking each fishery because you may have lobster and black sea bass pots but only one color rope onboard.	Duly Noted	
	12	One commenter was against marking lines with paint since you may not always have red paint available when you are replacing rope out at sea.	Duly Noted	
	13	One commenter did not support marking buoy lines but did support marking buoys.	Duly Noted	
	14	One commenter said that it is difficult to support gear marking since it would be tedious to trace gear back to a specific fishery because gear marking rules are so widespread. In addition, NMFS would have to prohibit marking gear the same way in other areas, such as Canada, because you could receive some misleading information.	Duly Noted	
	15	One commenter stated that if fishermen are given a pass on certain gear modifications that is where gear marking should be required.	Duly Noted	

Exhibit 3A-2

SUMMARY OF ORAL SCOPING COMMENTS RECEIVED DURING EIS SCOPING PROCESS

Topic Area	Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
Gear Marking (Continued…)	16	One commenter stated that gear marking should be made universal so that gear can be enforced on the boat or on the dock.	Duly Noted	
	17	One commenter suggested color-coded line for breaking strength or color-coded gear markings for breaking strength of line. In addition, the commenter suggested a different color line specifically for vertical lines.	Duly Noted	
	18	One commenter stated that gear markings should not be same off the coast of Florida as farther north.	Duly Noted	
	19	One commenter stated that it did not matter geographically from where this gear came. However, the commenter stated that it was important to know whether the gear was groundline or endline. It would be beneficial to be able to gather information as to which type of line it is from the air by gear marking.	Duly Noted	
	20	One commenter stated that gear should be marked by type of rope. Otherwise, how would enforcement be able to determine whether someone has used float rope, neutrally buoyant rope, or sink rope. The commenter asked how the rope type would be enforced.	Duly Noted	
Gillnet Fisheries	1	One commenter recommended not combining any of the North Carolina gillnets with a drift net definition. The commenter stated that North Carolina fishermen use nets that are commonly called sink nets, which are held to the bottom by the weight of the lead line. These nets may also be called stab nets in some areas.	Duly Noted	
	2	One commenter stated that it would be helpful to the fishermen to reconcile the definitions of gillnet fisheries and the list of fisheries with both the whale plan and the dolphin plan.	Outside of Scope	
	3	Two commenters stressed the importance that regulations regarding gillnets be consistent for both the Bottlenose Dolphin TRP and the Large Whale TRP.	Outside of Scope	
	4	One commenter supported a change in the season to November 15th to April 15th, but only if the definition of anchored gillnet is defined as a net that has actual anchors present. Otherwise, gear changes would be required in other fisheries that do not harm whales.	Proposed Alternatives	Section 3.1
	5	One commenter stated that an anchored gillnet should be defined as a gillnet with an anchor on it. If there is no anchor present, then it should be classified as a drift net.	Proposed Alternatives	Section 3.1

Exhibit 3A-2

SUMMARY OF ORAL SCOPING COMMENTS RECEIVED DURING EIS SCOPING PROCESS

Topic Area	Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
Gillnet Fisheries (Continued…)	6	One commenter stated that gillnets that are bottom gillnets that are not anchored should be regulated but not the same way as anchored gillnets.	Proposed Alternatives	Section 3.1
	7	Several commenters suggested that the time period at the southern end of the 29°00' to 27° 51' zone be changed from December 1 through March 31 to November 15 through March 15 for shark gillnetting.	Proposed Alternatives	Section 3.1
		In addition, one commenter stressed that there should be rolling steps for the closure in this block since currently the closure affects 400 miles at one time. Several commenters supported a rolling southern boundary and one commenter supported a rolling northern boundary, too. In addition, the commenters were not concerned with whether the eastern boundary continued or was removed.	Duly Noted	
	8	Several commenters suggested a change in the definitions of sunrise and sunset to make it easier for people to operate gillnets at the end of November or the last two weeks of March. The commenters supported modifying the definition of "Night" to mean one hour after sunset and one hour prior to sunrise. In addition, mackerel fishermen could catch more fish by being able to fish closer to the normal sunrise.	Duly Noted	
	9	One commenter stated that allowing the additional two weeks time in March would mean a lot to fishermen and their families. Such a change might result in an additional $20,000 for a fishing crew.	Duly Noted	
	10	Two commenters stated that anchored gillnets means stationary gillnets.	Duly Noted	
	11	One commenter stated that if shark fishing would be modified, exempt gillnets less than five-inches as long as it coincides with Spanish mackerel gillnet gear.	Duly Noted	
	12	Several commenters stated that no gillnet fishermen attended the public hearing in Maine because the government has done a great job of eliminating them already.	Duly Noted	
	13	One commenter stated that he would rather strike at night for Spanish mackerel.	Duly Noted	
	14	One commenter supported setting strike nets at night without a plane once the sharks are located.	Duly Noted	
	15	One commenter stated that near False Cape every net is drifting. If one person anchors a net, the other nets are going to interfere.	Duly Noted	

Exhibit 3A-2

SUMMARY OF ORAL SCOPING COMMENTS RECEIVED DURING EIS SCOPING PROCESS

Topic Area	Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
Lobster Trap/Pot Fisheries	1	One commenter believes that there should be no action (*i.e.,* no new management measures) for the southern nearshore lobster waters or inshore lobster waters.	Proposed Alternatives	Section 3.1
	2	One commenter requested proof from NMFS that whales are getting caught in runners of the lobster fishery.	Outside of Scope	
Other Trap/Pot Fisheries	1	One commenter stated that the black sea bass pot fishery from the North Carolina/Virginia border south should be treated differently than the fishery from Virginia to the north because the fishery is prosecuted differently. For example, the commenter stated that from North Carolina south, the black sea bass pots are very similar to crab pots. They are very light in weight, are baited, and are approximately two feet square. It is extremely rare that more than one pot is set per buoy line. From Virginia north, black sea bass fishermen use a habitat pot that is not baited. It is a much larger pot in comparison, a heavier pot, and is left out for an extended period of time.	Duly Noted	
	2	One commenter believes that there should be no action (*i.e.,* no new management measures) for the southern black sea bass waters.	Proposed Alternatives	Section 3.1
	3	One commenter stated that the offshore red crab fishery should be included in the Take Reduction Plan.	Proposed Alternatives	Section 3.1
Dynamic Area Management and Seasonal Area Management	1	One commenter supported the elimination of the DAM program in the southern area of the Atlantic Coast.	Proposed Alternatives	Section 3.1
	2	Several commenters supported removing both the SAM and DAM requirements. One commenter noted that it is impossible to bring all the gear ashore in such a short period of time since there is no place to put it. In addition, the weather often adds an additional safety risk to removing the gear in time. Thus, something that is not feasible should not be part of the regulations since it would be doomed to failure.	Proposed Alternatives	Section 3.1

Exhibit 3A-2

SUMMARY OF ORAL SCOPING COMMENTS RECEIVED DURING EIS SCOPING PROCESS

Topic Area	Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
Dynamic Area Management and Seasonal Area Management (Continued…)	3	One commenter stated how long overdue the proposed take reduction plan is. The commenter supported immediate short-term measures, including a dramatic expansion of the SAM and mandatory use of DAMs (especially for the gillnet fisheries) as opposed to voluntary use. The expanded SAM should include Jeffrey's Ledge and some of the areas in Wilkinson Basin based on sightings of right whales.	Rejected Alternatives	Section 3.2
	4	One commenter stated that DAMs need to be larger.	Duly Noted	
	5	One commenter stated that DAMs need to be in place for the offshore lobster fishery. The DAMs should be mandatory and a requirement should be to drop an endline at the very minimum.	Rejected Alternatives	Section 3.2
	6	The expanded SAM should include black sea bass, hagfish, and the Jonah crab fisheries.	Proposed Alternatives	Section 3.1
	7	One commenter stated that NMFS should expand DAMs south of the 40 degree line.	Rejected Alternatives	Section 3.2
	8	One commenter stated that mandatory DAMs should be allowed to be put into critical habitat areas.	Duly Noted	
	9	The commenter suggested that NMFS use DAMs in the critical habitat area.	Duly Noted	
	10	One commenter stated that there is no scientific study that supports the use of DAMs. In addition, the commenter stated that time/area closures could increase risk to the animals because of displacement of gear from those closed areas. The whales are constantly moving in and out of those closures and may be encountering artificially higher densities of gear outside of the closures. One commenter stated that the potential for building a wall of rope around these areas as a result of displaced gear is real. In Maine, one commenter stated that there is no place to put the gear after removal from the DAM zone because people in the midcoast area of Maine fish territories.	Duly Noted	
	11	One commenter stated that DAMs need to be decreased or eliminated as soon as other measures are simultaneously increased.	Proposed Alternatives	Section 3.1
Exemptions and Closures	1	One commenter encouraged NMFS to consider the recent closures implemented by the Southeast Region and their implications in reduced fishing efforts.	Duly Noted	

Exhibit 3A-2

SUMMARY OF ORAL SCOPING COMMENTS RECEIVED DURING EIS SCOPING PROCESS

Topic Area	Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
Exemptions and Closures (Continued…)	2	One commenter supported using COLREGS as the demarcation line for the State of North Carolina. Another commenter supported using COLREGS as the demarcation line to exempt Delaware Bay from any restrictions.	Proposed Alternatives	Section 3.1
	3	One commenter stated that the offshore red crab fishery should be exempt from the requirement of neutrally buoyant line in depths greater than 250 fathoms.	Proposed Alternatives	Section 3.1
	4	One commenter stated that drop pots in the snapper/grouper fishery should be exempt from sink line requirements.	Duly Noted	
	5	One commenter stated that North Carolina waters serve as a migration route rather than an overwintering area like you would observe off of Georgia or the concentrations of whales that you find in the Gulf of Maine during the summer months. Thus, the commenter recommended that the plan give strong consideration to no action or an exemption for the pots from North Carolina south.	Proposed Alternatives	Section 3.1
	6	One commenter suggested that inshore lobster waters should be included in exempted areas. Several commenters suggested that the demarcation line include anything from the headlands inshore.	Proposed Alternatives	Section 3.1
	7	One commenter stated that for lobster pots/traps fishermen should be allowed to use 1100-pound weak links on their high-flyers.	Rejected Alternatives	Section 3.2
	8	One commenter requested an exemption for rocky areas, specifically along Mud Hole at 17 fathoms all the way out to Glory Hole at 550 fathoms.	Rejected Alternatives	Section 3.2
	9	One commenter suggested that the exemption line be drawn from the southern point of Great Duck Island directly to Schoodic Point in Maine. The commenter warned against the line going in towards Bakers and then back out since there is a lot of hard bottom in that area where floating rope is needed.	Duly Noted	
	10	One commenter suggested that an exception to the State of Maine line should be made so that it is not at 2KR, but that it is off of the Isle of Shoals instead of at the mouth of the Piscataqua River.	Duly Noted	

Exhibit 3A-2

SUMMARY OF ORAL SCOPING COMMENTS RECEIVED DURING EIS SCOPING PROCESS

Topic Area	Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
Exemptions and Closures (Continued…)	11	One commenter stated that exemption line should go to state waters in Maine, with the exception of Mount Desert Rock. In addition, since a high percentage of entangled whales are entangled by the mouth, these entanglement are likely occurring during feeding. Since there is not important feeding habitat of North Atlantic right whales within state waters of Maine, the commenter proposed that the line could be moved farther offshore.	Duly Noted	
	12	One commenter supported changing the closures in Cape Cod Bay to align with that of the Commonwealth of Massachusetts.	Proposed Alternatives	Section 3.1
		The commenter stated that NMFS needs to reanalyze all of the sightings and potentially expand critical habitat.	Outside of Scope	
	13	One commenter supported exempting bays and harbors, and exempting fishing beyond 350 fathoms from the sinking line requirements.	Duly Noted	
		In addition, the commenter supported exempting Long Island Sound.	Proposed Alternatives	Section 3.1
	14	One commenter stated that it is a waste of the fishermen's time and resources to regulate gear within the demarcation line since whales are rarely found in those inshore areas, including Portland Harbor.	Duly Noted	
Critical Habitat	1	One commenter stated that critical habitat needs to be redefined for right whales.	Duly Noted	
	2	One commenter requested that the sliver area and the rest of the critical habitat in the Great South Channel be closed to gillnetting.	Duly Noted	
	3	One commenter did not support allowing fishing in the very southern part of the critical habitat.	Duly Noted	
Observer Coverage and Vessel Monitoring Systems	1	One commenter supported using VMS, as long as it was accurate, in lieu of some of the observer coverage in waters off the coast of Florida.	Proposed Alternatives	Section 3.1
	2	The commenter would support the use of vessel monitoring systems on those boats but would also request that observe coverage go along with that.	Proposed Alternatives	Section 3.1

Exhibit 3A-2

SUMMARY OF ORAL SCOPING COMMENTS RECEIVED DURING EIS SCOPING PROCESS

Topic Area	Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
General Comments	1	One commenter stated that 2008 is too long to wait for implementation of these proposed measures.	Duly Noted	
	2	One commenter stated that the Canadian government cut funding for their entanglement program. Thus, without the cooperation of all involved, including the Canadians, the number of whale entanglements would not decrease.	Duly Noted	
	3	One commenter stated that each fishermen, even from the same harbor, fishes differently. Thus, the regulations should provide various options, which would allow flexibility. The options allow the fishermen to conduct business in a way that works for the fishermen as individuals.	Duly Noted	
	4	One commenter stated that part of the problem is that NMFS is focusing on small pieces of the larger problem.	Duly Noted	
	5	One commenter stated that this plan emphasizes protecting a particular species while sacrificing every other environmental issue related to trap and pot fishing.	Duly Noted	
	6	Several commenters stated that instead of requiring fishermen to follow additional regulations, more funds should be invested in forming whale rescue response teams that can address a whale entanglement much quicker than the current efforts. The commenters stated that the whales would continue to become entangled, so more effort should be placed on response to entanglements.	Duly Noted	
	7	One commenter asked what size rope is most often found on the entangled whales.	Duly Noted	
	8	One commenter stated that most of the entangled whales are found to have heavy line on them as opposed to the lighter rope that is used in the inshore lobster fishery.	Duly Noted	
	9	One commenter would like to see data documenting how many whales have been entangled within two or three miles of Portland Harbor within the past five years.	Analyzed	Chapter 2
	10	One commenter stated that the Take Reduction Plan would not work without the cooperation of the Canadian fishermen.	Duly Noted	

Exhibit 3A-2

SUMMARY OF ORAL SCOPING COMMENTS RECEIVED DURING EIS SCOPING PROCESS

Topic Area	Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
General Comments (Continued…)	11	One commenter stated that Lobster Conservation Management Area 1 is shrinking and requested an explanation as to why. The commenter stated that within Area 1 the gear used is light and the fishermen are at a lower trap limit than those in Area 3 who use a heavier gear with heavier weak links and have the higher trap limit. In addition, the commenter stated that Area 3 continues to expand.	Outside of Scope	
	12	One commenter stated that the NMFS' whale rescue plan is ineffective. The commenter stated that more people need to be trained and more training needs to be available to people, especially to whale watch captains who are out on the water observing whales and spending more time with the whales that any other group. The commenter expressed his frustration of not being able to help an entangled whale because of possible prosecution and the added frustration that the whale rescue team arrives 12 hours or later to the scene, which is too late.	Duly Noted	
	13	One commenter stated that the Take Reduction Team has become too large to conduct business.	Duly Noted	
	14	One commenter stated that if the administrating agency is constantly under the threat of another lawsuit it only dictates that regulations being implemented are not fair to those who do not have the means to litigate. One commenter stated that he was losing issues to people who have the funds for representation at meetings.	Duly Noted	
	15	One commenter stated that the Marine Mammal Protection Act is not written in a way that it provides the flexibility needed to provide direct input into the process.	Outside of Scope	
	16	One commenter stated that he volunteered to participate in Level 1, 2, and 3 disentanglement training. The commenter stated that it is difficult to attend all of the meetings and trainings as a self-employed person.	Duly Noted	
	17	One commenter stated that he is unaware of a documented case where whales were in the process of being entangled in fixed gear.	Duly Noted	
	18	One commenter stated that the agency should consider the elimination or buyback of latent Federal permits, especially in areas seeing lobster stock collapses. Such action would reduce vertical lines.	Outside of Scope	

Exhibit 3A-2

SUMMARY OF ORAL SCOPING COMMENTS RECEIVED DURING EIS SCOPING PROCESS

Topic Area	Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
General Comments (Continued…)	19	One commenter noted that the top rope of the buoy is what is involved with entanglement. The commenter stated that breakaway links from the buoy are going to solve the problem. Several commenters stated that if a whale dove down and picked up a large trap trawl it would never come to the surface again. Thus, surface rope is what is being observed in these entanglements according to several commenters.	Proposed Alternatives	Section 3.1
	20	One commenter stated that the use of disentanglement statistics should not be used to represent entanglement statistics since those statistics tend to trivialize the issue. In addition, the statistics do not allow for counting animals that do not survive.	Duly Noted	
	21	One commenter stated that there is every indication that ship strike is not a bigger problem.	Analyzed	Chapter 9
	22	One commenter stated that regulations currently under the Take Reduction Plan are clearly ineffective and they put an incredible unfair burden on the fishing industry.	Duly Noted	
	23	One commenter stated that one of the best compliance areas with the current regulations are in Down East Maine. However, the commenter stated his frustration with additional regulations being placed on him and others before NMFS knows whether previous regulations are effective. Several commenters stated that it is expensive and frustrating and morale among the fishermen is low because regulations are changed constantly.	Duly Noted	
	24	Several commenters stated that implementation of any proposed regulations be in 2008. One reason for implementation in 2008 would be for the rope manufacturers to produce a feasible product.	Proposed Alternatives	Section 3.1
	25	One commenter stated the importance of implementing a consistent approach where fishermen know what they have to do and what they do not have to do so that additional regulations are not implemented in the future.	Duly Noted	
	26	Several commenters asked NMFS what the commercial shipping industry and the Navy are doing to address the problem of ship strikes since many more whale kills have been attributed to ship strikes as opposed to entanglements. The commenters requested information regarding other industries involved and how they are addressing this issue.	Analyzed	Chapter 9
	27	One commenter suggested that regulations be implemented on the whale watching industry since any whale watching boats made add stress to the animals.	Duly Noted	

Exhibit 3A-2

SUMMARY OF ORAL SCOPING COMMENTS RECEIVED DURING EIS SCOPING PROCESS

Topic Area	Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
General Comments (Continued…)	28	One commenter stated that it would be helpful to produce a map with the regions shaded or indicating where specific areas are so that people could refer to it and identify which fishery category that they are in: Mid-Atlantic versus South Atlantic; inshore fishery; coastal fishery, etc.	Analyzed	Section 3.1
	29	Several commenters inquired about efforts being made to compile the regulations that are already imposed on all of the different gillnet and pot fisheries to see what kind of effort reduction is already being done through other fishery management and take reduction plans (dolphin, sea turtle, etc.).	Analyzed	Chapter 9
	30	One commenter would like NMFS to define what areas are considered high risk.	Analyzed	Chapter 2
		In addition, the commenter did not believe that the data support the Mid-Atlantic region being considered a high-risk whale area.	Proposed Alternatives	Section 3.1
	31	Several commenters suggested that more studies should be performed on how the whales travel, when they migrate, and what times of the year before additional restrictions be imposed. One commenter stated that research should focus on whether whales are affected by underwater disturbances that may interfere with their sonar capabilities; thus, they are becoming entangled.	Duly Noted	
	32	Several commenters cautioned that fishing is not consistent up and down the coast. Each area is different, including where whales are being caught. The commenters suggested that all fishermen should not be regulated the same (“one size does not fit all”).	Duly Noted	
	33	One commenter stated that the small occurrence of whale entanglements does not justify the regulations being proposed. The commenter reiterated that the fishing industry provides a great benefit to the economy.	Duly Noted	
	34	One commenter stated that requirements for the northeast should be expanded down into the Mid-Atlantic on the same time schedule.	Proposed Alternatives	Section 3.1
	35	One commenter stated that the time period for the Mid-Atlantic and Southeast should be longer than the December 1st to March 31st time period.	Proposed Alternatives	Section 3.1
	36	One commenter would like to see what risk reduction is required by NMFS. Is risk reduction a lowering of profile or what type of analytical system would be in place to measure an actual reduction in risk from management measures.	Analyzed	Chapter 5

Exhibit 3A-2

SUMMARY OF ORAL SCOPING COMMENTS RECEIVED DURING EIS SCOPING PROCESS

Topic Area	Original Comment Number	Specific Comment Component	Category	DEIS Section Where Addressed
General Comments (Continued…)	37	One commenter suggested adding requirements where they are needed, where the entanglements are occurring and not universally.	Duly Noted	
	38	Several commenters suggested that the public comment scoping period be extended by 15 or 30 days.	Duly Noted	
	39	One commenter stated that the fishing community has been receptive to past requirements and would continue to make changes that are reasonable and necessary. In addition, several commenters stated that the fishing community would voice what could not or would not work in their specific fishing areas and propose practical solutions when possible.	Duly Noted	
	40	One commenter stated that the fishing community are concerned for the right whale but also for their way of life and their fisheries.	Duly Noted	
	41	One commenter stated that it is important that NMFS communicates with the fishing community about how the regulations are put in place, how they are working, how they are not working, and where NMFS is going in the future.	Duly Noted	

Category Key:
Analyzed = Comment is addressed in the DEIS.
Proposed Alternatives = Comment is an element in one or more of the proposed alternatives.
Rejected Alternatives = Comment relates to regulatory alternatives considered but rejected by NMFS.
Outside of Scope = Comment falls outside the scope of the current regulatory action.
Duly Noted = NMFS acknowledges the comment, but responding is difficult because the commentor did not articulate specific concerns; did not suggest concrete alternatives; or did not substantiate the position advocated.

Appendix 3-B

AREAS EXEMPTED FROM ALWTRP REQUIREMENTS UNDER ALTERNATIVES 2 THROUGH 6

Listed below are the areas exempted from the ALWTRP requirements under Alternatives 2 through 6. Where applicable, NOAA nautical chart ID numbers and chart names are noted. In addition, where applicable, the sections and paragraphs of the 1972 International Regulations for Preventing Collisions at Sea (72 COLREGS demarcation lines), as depicted or noted on nautical charts published by the National Oceanic and Atmospheric Administration (Coast Charts 1:80,000 scale), and as described in 33 CFR Part 80, are noted.

Maine

44° 49.863&min; N 66° 55.664&min; W TO 44° 48.924&min; N 66° 57.01&min; W (Quoddy Narrows, U.S./Canada border)

44° 45.682&min; N 67° 02.936&min; W TO 44° 44.696&min; N 67° 04.374&min; W (Baileys Mistake and Haycock Harbor)

44° 44.446&min; N 67° 04.858&min; W TO 44° 43.843&min; N 67° 05.909&min; W (Moose Cove)

Territorial Sea (Little River) – **See Chart 13325_1 (Quoddy Narrows to Petit Manan Island Maine)**

A line connected by the points (Little Machias Bay, Cross Island Narrows, Machias Bay, Englishman Bay, Chandler Bay, and Eastern Bay):

44° 38.14&min; N 67° 13.788&min; W (Great Head)
44° 37.679&min; N 67° 15.424&min; W (Cape Wash)
44° 36.659&min; N 67° 16.205&min; W (Scotch Island)
44° 36.236&min; N 67° 16.857&min; W (Spruce Point)
44° 35.071&min; N 67° 21.177&min; W (Libby Islands)
44° 33.369&min; N 67° 29.787&min; W (Great Spruce Island)
44° 31.908&min; N 67° 31.842&min; W (Mark Island)
44° 30.637&min; N 67° 31.431&min; W (Head Harbor Island)

A line connected by the points (Eastern Bay):

44° 29.521&min; N 67° 30.935&min; W (Black Head)
44° 28.50&min; N 67° 31.878&min; W (Moose Peak)
44° 27.332&min; N 67° 34.15&min; W (Little Pond Head)

A line connected by the points (Moosabec Reach and Wahoa Bay):

44° 29.945&min; N 67° 36.228&min; W (The Flying Place)
44° 30.196&min; N 67° 36.832&min; W (Beals Island)
44° 30.334&min; N 67° 38.573&min; W (Norton Island)
44° 29.729&min; N 67° 42.609&min; W (Tibbett Island)
44° 29.824&min; N 67° 44.107&min; W (Cape Split)

Territorial Sea (Pleasant Bay, Narraguagus Bay, and Pigeon Hill Bay) – **See Chart 13325_1 (Quoddy Narrows to Petit Manan Island Maine)**

A line connected by the points (Dyer Bay, Gouldsboro Bay, Prospect Harbor, and Schoodic Harbor):

44° 23.69&min; N 67° 53.951&min; W (Petit Manan Point)
44° 23.113&min; N 67° 58.853&min; W (Cranberry Point)
44° 21.416&min; N 68° 01.556&min; W (Spruce Point)
44° 20.131&min; N 68° 02.782&min; W (Schoodic Head)

Territorial Sea (Frenchman Bay) – **See Chart 13312_1 (Frenchman and Blue Hill Bays and Approaches ME)**

A line connected by these points (Blue Hill Bay and Penobscot Bay):

44° 18.431&min; N 68° 11.337&min; W (Otter Point, Mount Desert Island)
44° 14.504&min; N 68° 11.040&min; W (Baker's Island)
44° 06.000&min; N 68° 20.070&min; W (Rich's Head, Long Island)
43° 59.360&min; N 68° 37.950&min; W (Roaring Bull Ledge, Isle au Haut)
43° 59.830&min; N 68° 50.060&min; W (South Vinalhaven Island)
43° 56.720&min; N 69° 04.890&min; W (Two Bush Channel)
43° 54.903&min; N 69° 13.175&min; W (Mosquito Island)
43° 55.074&min; N 69° 15.579&min; W (Marshall Point, Port Clyde)

Territorial Sea (Johns Bay and Muscongus Bay) – **See Chart 13288_1 (Monhegan Island to Cape Elizabeth)**

A line connected by these points (Sheepscot and Booth Bay):

43° 48.872&min; N 69° 35.465&min; W (Linekin Neck)
43° 48.206&min; N 69° 35.913&min; W (Ram Island)
43° 47.233&min; N 69° 39.209&min; W (Cape Newagen)
43° 47.168&min; N 69° 39.621&min; W (Cape Newagen)
43° 46.947&min; N 69° 43.097&min; W (Outer Head)
43° 44.658&min; N 69° 45.288&min; W (Salter Island)
43° 42.056&min; N 69° 50.185&min; W (Small Point, Cape Small)
43° 42.298&min; N 69° 51.23&min; W (Bald Head, Cape Small)

33 CFR 80.110 (72 COLREGS) Casco Bay, ME.

(a) A line drawn from the southwesternmost extremity of Bald Head at Cape Small to the southeasternmost extremity of Ragged Island; thence to the southern tangent of Jaquish Island thence to Little Mark Island Monument Light; thence to the northernmost extremity of Jewell Island.

(b) A line drawn from the tower on Jewell Island charted in approximate position latitude 43°40.6' N. longitude 70°05.9' W. to the northeasternmost extremity of Outer Green Island.

(c) A Line drawn from the southwesternmost extremity of Outer Green Island to Ram Island Ledge Light; thence to Portland Head Light (Casco Bay). **See Chart 13288_1 (Monhegan Island to Cape Elizabeth)**

Territorial Sea (Saco Bay) – **See Chart 13286_1 (Cape Elizabeth to Portsmouth)**

43°23.963&min; N 70°23.882&min; W TO 43°22.401&min; N 70°25.296&min; W (Goosefare Bay)

43°22.198&min; N 70°25.065&min; W TO 43°21.823&min; N 70°24.977&min; W (Stage Island Harbor)
43°21.663&min; N 70°24.977&min; W TO 43°13.267&min; N 70°34.542&min; W (body of water between Cape Porpoise and Bald Head Cliff)

43°11.176&min; N 70°35.867&min; W TO 43°10.984&min; N 70°36.161&min; W (Cape Neddick Harbor)

43°08.115&min; N 70°37.434&min; W TO 43°07.56&min; N 70°38.049&min; W (York Harbor)

43°06.104&min; N 70°39.037&min; W TO 43°05.574&min; N 70°39.369&min; W (Brave Boat Harbor)

<u>New Hampshire</u>

33 CFR 80.115 (72 COLREGS) Portland Head, ME to Cape Ann, MA.

> (b) A line drawn from the southernmost tower on Gerrish Island charted in approximate position latitude 43 deg. 0.40' N longitude 70 deg. 41.2' W to Whaleback Light; thence to Jeffrey Point Light 2A; thence to the northeasternmost extremity of Frost Point (Portsmouth Harbor). **See Chart 13278_1 (Portsmouth to Cape Ann NH-MA-ME)**

42°53.691&min; N 70°48.516&min; W TO 42°53.516&min; N 70°48.748&min; W (Hampton Harbor)

42°59.986&min; N 70°44.654&min; W TO 42°59.956&min; N 70°44.737&min; W (Rye Harbor)

<u>Massachusetts</u>

42°49.136&min; N 70°48.242&min; W TO 42°48.964&min; N 70°48.282&min; W (Newburyport Harbor)

42°42.145&min; N 70°46.995&min; W TO 42°41.523&min; N 70°47.356&min; W (Plum Island Sound)

42°40.266&min; N 70°43.838&min; W TO 42°39.778&min; N 70°43.142&min; W (Essex Bay)

33 CFR 80.115 (72 COLREGS) Portland Head, ME to Cape Ann, MA.

(c) A line drawn from the northernmost extremity of Farm Point to Annisquam Harbor Light (Annisquam Harbor) – **See Chart 13278_1 (Portsmouth to Cape Ann NH-MA-ME)**

42°39.645&min; N 70°36.715&min; W TO 42°39.613&min; N 70°36.60&min; W (Rockport Harbor)

33 CFR 80.120 (72 COLREGS) Cape Ann, MA to Marblehead Neck, MA.

(b) A line drawn from Gloucester Harbor Breakwater Light to the twin towers charted in approximate position latitude 42 deg 35.1' N longitude 42 deg 41.6' N 70 deg 41.6'W (Gloucester Harbor) **- See Chart 13278_1 (Portsmouth to Cape Ann NH-MA-ME)**

(c) A line drawn from the westernmost extremity of Gales Point to the easternmost extremity of House Island; thence to Bakers Island Light; thence to Marblehead Light (Salem Sound) – **See Chart 13267_1 (Massachusetts Bay MA)**

42° 20.665&min; N 70° 57.205&min; W TO 42° 20.009&min; N 70° 55.803&min; W and 42° 19.548&min; N 70° 55.436&min; W TO 42° 18.599&min; N 70° 52.961&min; W (Boston Harbor) – **See Chart 13267_1 (Massachusetts Bay MA)**

42°15.203&min; N 70°46.324&min; W TO 42°15.214&min; N 70°47.352&min; W (Cohasset Harbor)

42°12.09&min; N 70°42.98&min; W TO 42°12.211&min; N 70°43.002&min; W (Scituate Harbor)

42°09.724&min; N 70°42.378&min; W TO 42°10.085&min; N 70°42.875&min; W (New Inlet)

42°04.64&min; N 70° 38.587&min; W TO 42°04.583&min; N 70°38.631&min; W (Green Harbor)

41°59.686&min; N 70°37.948&min; W TO 41°58.75&min; N 70°39.052&min; W (Duxbury Bay/Plymouth Harbor)

41°50.395&min; N 70°31.943&min; W TO 41°50.369&min; N 70°32.145&min; W (Ellisville Harbor)

33 CFR 80.135 (72 COLREGS) Hull, MA to Race Point, MA.

(b) A line drawn from Canal Breakwater Light 4 south to the shoreline (Cape Cod Canal) – **See Chart 13246 (Cape Cod Bay MA)**

41°43.941&min; N 70°17.152&min; W TO 41°43.964&min; N 70°13.976&min; W (Barnstable Harbor)

41°45.53&min; N 70°09.387&min; W TO 41°45.523&min; N 70°09.307&min; W (Sesuit Harbor)

41°45.546&min; N 70°07.39&min; W TO 41°45.551&min; N 70°07.32&min; W (Quivett Creek)

41°47.269&min; N 70°01.411&min; W TO 41°47.418&min; N 70°01.306&min; W (Namskaket Creek)

41°47.961&min; N 70°0.561&min; W TO 41°48.07&min; N 70°0.514&min; W (Rock Harbor Creek)

41°48.392&min; N 70°0.286&min; W TO 41°48.483&min; N 70°0.216&min; W (Boat Meadow River)

41°48.777&min; N 70°0.317&min; W TO 41°48.983&min; N 70°0.196&min; W (Herring River)

41°53.922&min; N 70°01.333&min; W TO 41°54.497&min; N 70°01.182&min; W (Blackfish Creek/Loagy Bay)

41°55.518&min; N 70°02.114&min; W TO 41°55.833&min; N 70°02.247&min; W (Duck Creek)

41°55.531&min; N 70°03.550&min; W TO 41°55.311&min; N 70°03.307&min; W (Herring River, inside Wellfleet Harbor)

41°59.481&min; N 70°04.779&min; W TO 41°59.563&min; N 70°04.718&min; W (Pamet River)

42°03.601&min; N 70°14.269&min; W TO 42°03.601&min; N 70°14.416&min; W (Hatches Harbor)

41°48.708&min; N 69°56.319&min; W TO 41°48.554&min; N 69°56.238&min; W (Nauset Harbor)

41°40.685&min; N 69°56.781&min; W TO 41°40.884&min; N 69°56.28&min; W (Chatham Harbor)

41°39.429&min; N 69°58.827&min; W TO 41°39.442&min; N 69°59.037&min; W (Stage Harbor)

41°39.80&min; N 70°03.661&min; W TO 41°39.626&min; N 70°03.791&min; W (Wynchmere Harbor/Saquatucket Harbor)

41°39.764&min; N 70°05.324&min; W TO 41°39.666&min; N 70°05.371&min; W (Doanes Creek)

41°39.322&min; N 70°06.914&min; W TO 41°39.30&min; N 70°06.952&min; W (Herring River)

41°39.085&min; N 70°09.401&min; W TO 41°39.087&min; N 70°09.467&min; W (Swan Pond River)

41°38.837&min; N 70°11.730&min; W TO 41°38.643 &min; N 70°11.849&min; W (Bass River)

41°38.211&min; N 70°13.25&min; W TO 41°38.121&min; N 70°13.247&min; W (Parkers River)

41°36.575&min; N 70°15.95&min; W TO 41°37.452&min; N 70°17.537&min; W (Hyannis Harbor)

41°37.49&min; N 70°21.899&min; W TO 41°37.408&min; N 70°21.846&min; W (East Bay)

41°36.397&min; N 70°24.017&min; W TO 41°36.443&min; N 70°24.075&min; W (West Bay)

41°36.289&min; N 70°25.624&min; W TO 41°36.302&min; N 70°26.254&min; W (Cotuit Bay)

41°35.32&min; N 70°27.047&min; W TO 41°35.202&min; N 70°27.041&min; W (Popponesset Bay)

41°32.862&min; N 70° 31.614&min; W TO 41°32.845&min; N 70°31.715&min; W (Waquoit Bay)

41°33.156&min; N 70°32.789&min; W TO 41°33.07&min; N 70°32.884&min; W (Eel Pond)

A line formed by the centerline of the fixed bridges at both entrances (Bournes Pond)

41°32.871&min; N 70°34.214&min; W TO 41°32.855&min; N 70°34.252&min; W (Green Pond)

A line formed by the centerline of the fixed bridge at entrance (Great Pond)

41°32.542&min; N 70°36.449&min; W TO 41°32.535&min; N 70°36.505&min; W (Falmouth Inner Harbor)

33 CFR 80.145 (72 COLREGS) Race Point, MA to Watch Hill, RI.

(b) A line drawn from Nobska Point Light to Tarpaulin Cove Light on the southeastern side of Naushon Island; thence from the southernmost tangent of Naushon Island to the easternmost extremity of Nashawena Island; thence from the southwestern most extremity of Nashawena Island to the easternmost extremity of Cuttyhunk Island; thence from the southwestern tangent of Cuttyhunk Island to the tower on Gooseberry Neck charted in approximate position latitude 41 deg. 29.1' N. longitude 71 deg. 02.3' W. (Buzzards Bay) – **See Chart 13218_1 (Martha's Vineyard to Block Island)**

41°30.597&min; N 71°05.285&min; W TO 41°30.444&min; N 71°05.281&min; W (Westport Harbor)

<u>Rhode Island</u>

33 CFR 80.145 (72 COLREGS) Race Point, MA to Watch Hill, RI.

(c) A line drawn from Sakonnet Breakwater Light 2 tangent to the southernmost part of Sachuest Point charted in approximate position latitude 41°28.5' N. longitude 71°14.8' W (Sakonnet River).

(d) An east-west line drawn through Beavertail Light between Brenton Point and the Boston Neck shoreline (Narragansett Bay). **See Chart 13218_1 (Martha's Vineyard to Block Island)**

41°22.441&min; N 71°30.781&min; W TO 41°22.447&min; N 71°30.893&min; W (Pt. Judith Pond Inlet)

41°21.31&min; N 71°38.30&min; W TO 41°21.30&min; N 71°38.33&min; W (Ninigret Pond Inlet)

41°19.875&min; N 71°43.061&min; W TO 41°19.879&min; N 71°43.115&min; W (Quonochontaug Pond Inlet)

41°19.66&min; N 71°45.75&min; W TO 41°19.66&min; N 71°45.78&min; W (Weekapaug Pond Inlet)

<u>New York</u>

33 CFR 80.155 (72 COLREGS) Watch Hill, RI to Montauk Point, NY.

(a) A line drawn from Watch Hill Light to East Point on Fishers Island.

(b) A line drawn from Race Point to Race Rock Light; thence to Little Gull Island Light thence to East Point on Plum Island (Long Island Sound). **See Chart 13205_1 (Block Island Sound and Approaches)**

41°11.40&min; N 72°09.70&min; W TO 41°04.50&min; N 71°51.60;min; W (Gardiners Bay)

33 CFR 80.160 (72 COLREGS) Montauk Point, NY to Atlantic Beach, NY.

(a) A line drawn from Shinnecock Inlet East Breakwater Light to Shinnecock Inlet West Breakwater Light 1.

(b) A line drawn from Moriches Inlet East Breakwater Light to Moriches Inlet West Breakwater Light.

(c) A line drawn from Fire Island Inlet Breakwater Light 348 deg. True to the southernmost extremity of the spit of land at the western end of Oak Beach.

(d) A line drawn from Jones Inlet Light 322 deg. true across the southwest tangent of the island on the north side of Jones Inlet to the shoreline.

33 CFR 80.165 (72 COLREGS) New York Harbor.

A line drawn from East Rockaway Inlet Breakwater Light to Sandy Hook Light (New York Harbor) – **See Chart 12326_1 (Fire Island Light to Sea Girt)**

<u>New Jersey</u>

33 CFR 80.170 (72 COLREGS) Sandy Hook, NJ to Tom's River, NJ.

(a) A line drawn from Shark River Inlet North Breakwater Light 2 to Shark River Inlet South Breakwater Light 1 (Shark River Inlet). **See Chart 12326_1 (Fire Island Light to Sea Girt)**

(b) A line drawn from Manasquan Inlet North Breakwater Light 4 to Manasquan Inlet South Breakwater Light 3 (Manasquan Inlet). **See Chart 12323_1 (Sea Girt to Little Egg Inlet)**

(c) A line drawn from Barnegat Inlet North Breakwater Light 4A to the seaward extremity of the submerged Barnegat Inlet South Breakwater; thence along the submerged breakwater to the shoreline (Barnegat Inlet).

33 CFR 80.501 (72 COLREGS) Tom's River, NJ to Cape May, NJ.

(a) A line drawn from the seaward tangent of Long Beach Island to the seaward tangent to Pullen Island across Beach Haven and Little Egg Inlets (Beach Haven and Little Egg Inlets). **See Chart 12316_1 (Little Egg Harbor to Cape May)**

(b) A line drawn from the seaward tangent of Pullen Island to the seaward tangent of Brigantine Island across Brigantine Inlet (Brigantine Inlet).

(c) A line drawn from the seaward extremity of Absecon Inlet (Absecon Inlet).

(d) A line drawn from the southernmost point of Longport at latitude 39°18.2' N. longitude 74°33.1' W. to the northeasternmost point of Ocean City at latitude 39°17.6' N. longitude 74°33.1' W. across Great Egg Harbor Inlet (Great Egg Harbor Inlet).

(e) A line drawn parallel with the general trend of highwater shoreline across Corson Inlet (Corson Inlet).

(f) A line formed by the centerline of the Townsend Inlet Highway Bridge (Townsends Inlet).

(g) A line formed by the shoreline of Seven Mile Beach and Hereford Inlet Light (Hereford Inlet).

(h) A line drawn from Cape May Inlet East Jetty Light 4 to Cape May Inlet West Jetty Light 5 (Cape May Inlet).

33 CFR 80.503 (72 COLREGS) Delaware Bay.

A line drawn from Cape May Light to Harbor of Refuge Light; thence to the northernmost extremity of Cape Henlopen (Delaware Bay). **See Chart 12304_1 (Delaware Bay)**

Maryland/Virginia

33 CFR 80.505 (72 COLREGS) Cape Henlopen, DE to Cape Charles, VA.

(a) A line drawn from the seaward extremity of Indian River Inlet North Jetty to Indian River Inlet South Jetty Light (Indian River Inlet). **See Chart 12216_1 (Cape Henlopen to Indian River Inlet)**

(b) A line drawn from Ocean City Inlet Light 6, 225° true across Ocean City Inlet to the submerged south breakwater (Ocean City Inlet). **See Chart 12211_2 (Ocean City Inlet).**

(c) A line drawn from Assateague Beach Tower Light to the tower charted at latitude 37°52.6' N. longitude 75°26.7' W (Chincoteague Inlet). **See Chart 12210_1 (Chincoteague Inlet to Great Machipongo Inlet).**

(d) A line formed by the range of Wachapreague Inlet Light 3 and Parramore Beach Lookout Tower drawn across Wachapreague Inlet (Wachapreague Inlet). **See Chart 12210_1 (Chincoteague Inlet to Great Machipongo Inlet).**

(e) A line drawn from the lookout tower charted on the northern end of Hog Island to the seaward tangent of Parramore Beach (Quinby Inlet). **See Chart 12210_1 (Chincoteague Inlet to Great Machipongo Inlet).**

(f) A line drawn 207° true from the lookout tower charted on the southern end of Hog Island across Great Machipongo Inlet (Great Machipongo Inlet). **See Chart 12221_1 (Chesapeake Bay Entrance).**

(g) A line formed by the range of the two cupolas charted on the southern end of Cobb Island drawn across Sand Shoal Inlet (Sand Shoal Inlet). **See Chart 12221_1 (Chesapeake Bay Entrance).**

(h) Except as provided elsewhere in this section from Cape Henlopen to Cape Charles, lines drawn parallel with the general trend of the highwater shoreline across the entrances to small bays and inlets (Assawoman Inlet, Gargathy Inlet, Metompkin Inlet, New Inlet, Ship Shoal Inlet, and Little Inlet). **See Charts 12210_1 (Chincoteague Inlet to Great Machipongo Inlet) and 12221_1 (Chesapeake Bay Entrance).**

33 CFR 80.510 (72 COLREGS) Chesapeake Bay Entrance, VA.

A line drawn from Cape Charles Light to Cape Henry Light (Chesapeake Bay). **See Chart 12221_1 (Chesapeake Bay Entrance).**

North Carolina to Florida

All marine and tidal waters landward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by the National Oceanic and Atmospheric Administration (Coast Charts 1:80,000 scale), and as described in 33 CFR Part 80.

32°34.717&min; N 80°08.565&min; W TO 32°34.686&min; N 80°08.642&min; W (Captain Sams Inlet, SC)

RATIONALE FOR EXEMPTED AREAS

Coastal Exempted Areas

The ALWTRP currently exempts all waters landward of the first bridge over any embayment, harbor, or inlet and, from North Carolina to Florida, waters landward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by NOAA (Coast Charts 1:80,000 scale), and as described in 33 CFR part 80. Some bays that do not have bridges over them are also exempted, including, but not limited to, Long Island Sound and Gardiners Bay. In response to recent state requests for NMFS to consider adding new exempted areas or modifying existing ones under the ALWTRP, NMFS re-examined the current exemption lines and analyzed right, humpback, and fin whale sightings distribution data from 1960 to 2002 obtained from the North Atlantic Right Whale (NARW) Sightings Database, which includes all large whale sightings collected on all right whale surveys, and is curated by the University of Rhode Island (URI). NMFS also analyzed a right, humpback, and fin whale sightings database compiled by Maine Department of Marine Resources, which includes sightings reported by Maine Marine Patrol, whale watch companies, etc. These data were plotted onto NOAA digital charts using MapTech® Chart Navigator software. The sightings data along the east coast indicated that endangered large whales rarely venture into bays, harbors, or inlets. To be consistent throughout the east coast, NMFS would exempt all marine and tidal waters landward of the 72 COLREGS demarcation lines. The 72 COLREGS lines are well known and widely published lines of demarcation. NMFS believes that this change to the exempted waters is responsive to the state requests and appropriate in light of the analysis of sightings data. Graphics of the proposed exempted waters can be found in Section 3.1.2, Exhibits 3-2 (Exempted Waters: Northeast) and 3-3 (Exempted Waters: Mid and South Atlantic).

However, in two areas, Boston Harbor and Gardiners Bay, NMFS would choose not to use the 72 COLREGS lines and instead create a different exemption line. The 72 COLREGS line for Boston Harbor is unique in that it forms a triangle by extending from the easternmost tower at Nahant out to the Boston Lighted Horn Buoy “B” and back to the easternmost radio tower at Hull. NMFS’ analysis of the URI sightings data found that two right whales have been reported inside the 72 COLREGS line, one in 1996 and another in 2002. Therefore, rather than using the 72 COLREGS line to exempt Boston Harbor, NMFS would create another exemption line, which would connect Deer Island to Lovell Island, and Lovell Island to the tip of Hull. Gardiners Bay is currently exempted according to a line which connects Montauk Point to the eastern tip of Plum Island. This line differs from the 72 COLREGS lines, which outline the inside of the Bay. Therefore, NMFS would continue to use the current exemption line because the analysis of the sightings database found only one right whale report near the mouth of Gardiners Bay in 1993.

At this time, NMFS does not believe that regulating the waters proposed for exemption from the ALWTRP, including Gardiners Bay, would benefit large whales. However, NMFS understands that large whales may occasionally be reported in exempted waters, which is consistent with the sightings data that were analyzed. If whales are frequently reported in exempted waters, then NMFS would reevaluate the exemption lines for those particular areas to mitigate the risk of serious injury and mortality.

Currently, the exempted waters in the Gulf of Maine (Maine, New Hampshire, and Massachusetts) include those waters landward of the first bridge over any embayment, harbor, or inlet. In 2003, the State of Maine asked NMFS to re-examine the ALWTRP exempted state waters in Maine and submitted a proposed exemption line to NMFS. NMFS analyzed this line with respect to URI's large whale sightings data and current exemption lines in other states. Although NMFS acknowledges that the jagged Maine coastline presents a difficult situation for exempting certain state waters, NMFS concluded that Maine's proposed exemption line did not provide an adequate level of protection; therefore, NMFS is proposing to use an alternate exemption strategy.

NMFS would use the 72 COLREGS line for Casco Bay to mark the exempted waters in that area, as this is the only 72 COLREGS line for Maine. Next, NMFS proposes to use the territorial sea baselines to exempt Little River, Pleasant Bay, Narraguagus Bay, Pigeon Hill Bay, Frenchman Bay, Johns Bay, Muscongus Bay, and Saco Bay. Note that the territorial sea baselines should not be confused with the 12 nautical mile (22.2 km) territorial sea and contiguous zone line. To exempt Penobscot and Blue Hill Bays, NMFS would adapt five of the coordinates from the exemption line suggested by Maine. Finally, NMFS would create exemption lines for the remaining inlets in Maine, consistent with the exemption lines along the coast, which are drawn across the entrances to harbors, bays, and inlets.

In Maine, NMFS was also able to consider satellite tracking data for right whales to analyze the occurrence of these animals inside current and proposed exemption lines. Specifically, NMFS reviewed a paper entitled *Satellite-Monitored Movements of the Northern Right Whale* (Mate et al., 1997). According to the findings of Mate et al. (1997), right whales tagged in the Bay of Fundy (BOF) traversed different types of areas, including banks, basins, upwellings, thermal fronts, and edges of warm core rings, all of which typically exhibit high concentrations of zooplankton. The extensive movements of tagged whales most likely indicate that the whales are searching for food. From the review of these data, NMFS concluded that right whales typically do not spend substantial amounts of time in the coastal waters of Maine. Rather, they appear to be traveling in search of food, which is primarily found in high-use areas such as the BOF.

In New Hampshire and Massachusetts, the waters currently exempted from the ALWTRP are those landward of the first bridge over any embayment, harbor, or inlet. In New Hampshire, NMFS is proposing to exempt three harbors. Portsmouth Harbor would be exempted according to the 72 COLREGS demarcation line, which is the only 72 COLREGS line found in the state. In addition, NMFS would exempt Rye and Hampton Harbors according to the lines drawn across the headlands, which mark their entrances to the sea. NMFS believes that the waters proposed for exemption are appropriate and do not compromise the overall entanglement risk reduction

strategy provided by the ALWTRP because there are no reported sightings of endangered whales inside these areas.

In Massachusetts, NMFS also compared the large whale sightings data to the current exempted waters. Based on this analysis, the following waters would be exempted according to the 72 COLREGS demarcation lines: Annisquam Harbor, Gloucester Harbor, Salem Sound (includes Manchester and Marblehead Harbors), Cape Cod Canal, and Buzzards Bay. Where 72 COLREGS lines do not exist in Massachusetts, NMFS would create exemption lines across most small bays, harbors, and inlets. According to the sightings data, except for the area designated as right whale critical habitat in Cape Cod Bay, right whales are seldom reported in the small bays and harbors along the inside edge of Cape Cod, with the exception of Provincetown Harbor, which would not be exempted. NMFS would also exempt small harbors and inlets around the inner and outer edges of Cape Cod that have sandy shoals at their entrances because the analysis of the sightings database indicates that large whales have not been reported in these areas.

In Rhode Island, all embayments, harbors, and inlets are currently exempted under the ALWTRP. NMFS would clarify that the current exemption line coordinates drawn for Narragansett Bay and the Sakonnet River match the 72 COLREGS lines for these waters. To date, two large whales, an entangled humpback and a juvenile fin whale, were reported in Narragansett Bay, inside exempted waters. However, no evidence exists to suggest that the humpback whale became entangled inside the Bay. Preliminary reports on the fin whale indicate that the animal was separated from its mother, entered the Bay, and subsequently stranded in shallow water. Therefore, NMFS would not modify the exemption lines for Rhode Island.

In New York, except for New York Harbor, all embayments, harbors, and inlets are currently exempted under the ALWTRP. These exempted waters would remain unchanged because according to the database held by URI, sightings of live right, fin, or humpback whales inside these waters are rare. However, NMFS would clarify that the current exemption lines for Long Island Sound, Shinnecock Bay Inlet, Moriches Bay Inlet, Fire Island Inlet, and Jones Inlet coincide with the 72 COLREGS demarcation lines. In addition, NMFS would exempt New York Harbor based on the 72 COLREGS line because there have been no reported sightings of live right, fin, or humpback whales inside the Harbor.

In New Jersey, the current exempted waters (Barnegat Inlet, Beach Haven to Brigantine Inlet, and Cape May Inlet) are nearly identical to the 72 COLREGS lines. These exempted waters would remain largely unchanged because there have been no reported sightings of live right, fin, or humpback whales inside these waters. Therefore NMFS would clarify that the entire coast of New Jersey would be exempted landward of the 72 COLREGS demarcation lines. However, the exemption line for Barnegat Inlet would be relocated slightly east of the current exemption line to make it consistent with the 72 COLREGS demarcation line.

In Delaware Bay, the current exemption line is located about halfway up the Bay, at 39°16.70'N, 75°14.60'W to 39°11.25'N, 75°23.90'W (i.e., southern point of Nantuxent Cove, NJ to the southern end of Kelly Island, Port Mahon, DE). NMFS believes that Delaware Bay is comparable to other large bays in the Mid-Atlantic, such as Long Island Sound and Chesapeake Bay, which are currently exempted landward of the 72 COLREGS line and landward of the first

bridge at the mouth of the Bay, respectively. NMFS also believes that large whale sightings inside Delaware Bay are rare and that including the Bay would not provide a conservation benefit to the whales covered under the ALWTRP. Therefore NMFS would redefine this line as the 72 COLREGS demarcation line, which is a line drawn from Cape May Light to Harbor of Refuge Light; thence to the northernmost extremity of Cape Henlopen.

In general, along the Maryland and Virginia coasts, the current exemption lines match the 72 COLREGS lines. However, the current exemption line from Chincoteague to Ship Shoal Inlet crosses the three nautical mile (5.6 km) state waters line, which is not consistent with the 72 COLREGS lines. Based on the analysis of the large whale sightings dataset held by URI, NMFS believes that exempting all bays, harbors, and inlets that occur between Delaware and Chesapeake Bays according to the 72 COLREGS lines would not compromise the conservation of large whales protected by the ALWTRP. This would include Chesapeake Bay, which currently is exempt landward of the Chesapeake Bay Bridge-Tunnel - located just west of the 72 COLREGS line. NMFS believes that, due to the lack of reported large whale sightings in Chesapeake Bay, the slight seaward movement of the current exemption line to the 72 COLREGS line would not compromise the goal of reducing the risk of serious injury and mortality from entanglement to large whales. In addition, the current exemption line for Smith Island Inlet would be removed from the exempted waters section of the regulations because the 72 COLREGS line for Chesapeake Bay includes the entrance to this inlet.

In the Southeast (North Carolina to Florida), the current exemption lines would remain unchanged. However, Captain Sams Inlet (South Carolina) would be added to the exempted waters section of the regulations because it does not have a 72 COLREGS line. Right whales occur very close to shore during the winter months when they are located in their winter calving grounds. NMFS understands that right whales have been reported inside some of the bays and rivers in the Southeast, particularly in Georgia and Florida. However, NMFS believes that these occurrences are rare, and that removing the exemption lines of those waters would not provide additional conservation benefit to right whales.

Offshore Exempted Areas

In general, scientific research has shown that most large whales on the east coast typically do not dive to depths as great as 280 fathoms (1,680 ft or 512.1 m). For example, in a three-year study by Mate et al. (1997) to determine summer and fall right whale habitat use patterns, nine right whales were tagged in the Bay of Fundy with satellite-monitored radiotags and their behaviors were monitored for an average of 21.7 days. According to this study, 80 percent of the recorded right whale locations occurred in waters less than 100 fathoms (600 ft or 182.9 m) in depth. With respect to other species, such as fin and humpback whales, NMFS analyzed the December 2003 version of the North Atlantic Right Whale Sighting Database maintained by the University of Rhode Island.

Based on the review of this information, NMFS determined that exempting waters at depths greater than 275 fathoms (502.9 m) would not increase the risk of large whale entanglements in groundlines because large whales are not believed to dive to these depths.

However, to account for groundline profiles, NMFS added five fathoms (30 ft or 9.1 m) to achieve an offshore exemption depth of 280 fathoms (1,680 ft or 512.1 m). Therefore, NMFS would exempt fishermen from the requirement to use sinking and/or neutrally buoyant groundlines in waters deeper than 280 fathoms (1,680 ft or 512.1 m).

Appendix 3-C

CRITERIA FOR ESTABLISHING A DENSITY STANDARD FOR NEUTRALLY BUOYANT LINE AND PROCEDURE FOR DETERMINING THE SPECIFIC GRAVITY OF LINE

Criteria for Establishing a Density Standard For Neutrally Buoyant Line and Procedure for Determining the Specific Gravity of Line

In response to requests from the fishing industry and line manufacturers for a clearer definition of neutrally buoyant and sinking line, NMFS has developed criteria for establishing a density standard for neutrally buoyant and sinking line and incorporated the findings in the proposed definitions. In addition, NMFS is proposing a procedure for assessing the specific gravity of line, which would be used by NMFS in the future to determine whether or not a manufactured line is meeting the accepted density standard.

Criteria for Establishing a Density Standard for Sinking and Neutrally Buoyant Line

Data selected from 384 stations located along surveys conducted from 1997 through 2001 are summarized in the table below. Coverage is for continental shelf waters from the Gulf of Maine to Key West Florida. Depths ranged from approximately 5 fathoms to 300 fathoms with bottom temperatures ranging from 36.05°F (2.25°C) to 86.63°F (30.35°C).

Statistics for *Sigma - t* from 384 stations	
Minimum	19.639
Median	24.940
Maximum	27.560
Average	**24.950**

Based on this data, establishing the criteria for rope based on a *Sigma - t* value of 30.00 would ensure that rope would not float under the conditions described above. Rope manufactured with a density of 1.030 or greater at 60°F (15.56°C) would sink under these conditions.

Data was obtained from the Fisheries and Ecosystems Monitoring and Analysis Division, Northeast Fisheries Science Center, NMFS, Woods Hole, MA., at: ftp://ftp.wh.whoi.edu/pub/hydro/ as well as from the National Oceanographic Data Center, Ocean Archive Data Base at: http://www.nodc.noaa.gov/General/getdata.html

References
Myers, J. J., C. H. Holm, and R. F. McAllister : Handbook of Ocean and Underwater Engineering. McGraw-Hill, NY., 1969.

Neumann, G., and W. J. Pierson, Jr. : Principles of Physical Oceanography. Prentice-Hall, Englewood Cliffs, NJ., 1966.

Procedure for Determining the Specific Gravity of Line

The following procedure was developed for determining the specific gravity of rope samples. It is based on Archimedes' Principle, or the Law of Hydrostatics, which says that any body partially or completely submerged in fluid is acted on by an upward force that is equal to the weight of the fluid displaced by the object in the liquid. The specific gravity of a solid is the ratio of the mass of the body to the mass of an equal volume of water at a standard temperature, in this case 60°F (15.56°C).

Specific gravity can be calculated using the equation:

$$Sg = \frac{A}{A - B}$$

where: Sg = specific gravity
A = dry sample weight
B = submerged sample weight

Obtain a sample with a length of approximately 18 inches by cutting cold with a knife. A minimum sample weight of 30 grams (dry weight) is recommended. Steel wire of known weight and density is used to bind the ends of the sample to keep them from fraying as necessary. It is also used to hold the sample in a coil shape and provide weight to assure the sample will be fully submerged when placed in water. The dry weight and submerged weight of the wire must be known in order to allow their affect to be removed from the calculation of specific gravity of the rope sample.

Submerge sample in water of known specific gravity (Sg of water is measured with a hydrometer to 4th decimal place). Water is maintained at 65°F (18.33°C) ± 5°F and the final specific gravity calculation corrected to 60°F (15.56°C). The submerged sample is agitated and weighed on a daily basis for 7 days.

The submerged sample weight from the seventh day is used for the final calculation. The dry sample weight is then obtained after the sample is removed from the water and held at 135°F (57.22°C) for a 36 hour period.

Note that weights *A* & *B* must be corrected to exclude any material attached to the sample as described above for the purpose of binding, sinking, etc. Care must be exercised to insure that no outside influences adversely affect these weight measurements. Finally, corrections for temperature and *Sg* of the water used in the above procedure need to be performed.

Weights are measured using an Adventurer balance, model AV-150 manufactured by Ohaus Corp., Pine Brook, NJ, with the following specifications: capacity - 150g, readability - 0.001g, repeatability - 0.001g, linearity - ± 0.002g, sensitivity drift - 10ppm/°C. The balance is allowed to warm up for at least 60 minutes prior to weighing any samples and standard calibration masses are weighed and recorded on a daily basis during testing to account for any variability in the measurements.