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STATE OF MAINE
DEPARTMENT OF MARINE RESOURCES
21 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0021

PATRICK C. KELIHER
COMMISSIONER

September 29, 2014

Kate Swails
Greater Atlantic Regional Fisheries Office
NOAA Fisheries
55 Great Republic Drive
Gloucester, MA 01930

Re: ALWTRP exemption request - Island Buffers

Dear Ms. Swails,

This letter constitutes the Maine Department of Marine Resources' (DMR, Department) exemption request to the June 27, 2014 Final Rule regarding the Atlantic Large Whale Take Reduction Plan (ALWTRP).

Attached please find a formal exemption request for expanded application of the ¼ mile buffer around offshore islands that the Department has addressed in previous comments on the Proposed Rule and Final Environmental Impact Statement.

The State of Maine appreciates NOAA Fisheries' consideration of the island buffer exemption request. DMR remains committed to working with NOAA Fisheries and within the Take Reduction Team process to reduce the risk of entanglements that may result in serious injury and/or mortality to endangered large whales while also ensuring the safety of Maine's lobster license holders and their crew.

Please feel free to contact me with any questions.

Sincerely,

Patrick C. Keliher
Commissioner

Maine Vertical Line Rule Islands Exemption Proposal

Submitting by the Maine Department of Marine Resources
September 2014

**Prepared by Erin Summers
Maine Department of Marine Resources**

The Maine Department of Marine Resources (DMR) requests to apply the quarter mile exemption buffer surrounding certain specified islands in the Atlantic Large Whale Take Reduction Plan's (ALWTRP) vertical line regulations to encompass the following additional island groups: those around Matinicus Island, including Metinic, Little Green, Large Green, Wooden Ball, and Seal Island; and the islands that make up the Isles of Shoals chain (Figures 1 and 2). The quarter of a mile area around each of these islands will be exempt from the vertical line minimum trawl length requirements year round for trap/pot gear.

Rationale:

The bottom habitat immediately bordering the above listed islands around Matinicus and the Isles of Shoals are small areas characterized by shallow waters, steep rocky cliffs, large boulder, and very rugged hard bottom. The fishery in these areas has traditionally used singles to work around this habitat type because this style fishes efficiently in these conditions, reduces gear loss due to groundline hang downs, and allows the crew a safer work environment. Many vessels in this area are small and do not have the required deck space for trawls and fishing even pairs is not operationally feasible with the sinking groundline requirement due to excessive hang downs and gear loss that results from the bottom type. In the Final Rule published by the National Marine Fisheries Service (NMFS) it is stated that three inhabited islands, Matinicus, Monhegan, and Ragged Islands, are exempt up to a quarter mile from shore "due to safety issues since these waters are generally less than 30 fathoms deep with rocky edges, and boats fishing close to shore are usually small. Whales are not likely to come this close to shore, so this change from the proposed rule does not lessen the conservation benefit of the Final Rule." Only inhabited islands are included in this quarter mile exemption; however, these are not the only islands that are utilized by students, older fishermen, and fishermen in smaller vessels and yet they retain the same bottom habitat that makes the inhabited islands unsafe to fish with trawls. Residents from many island communities fish around all of the above mentioned islands and require the same affordance for fishing safely given those already listed in the Final Rule.

Additionally, DMR is requesting the quarter mile island exemption also be extended to the islands that make up the Isles of Shoals. As seen in Figure 2, this island chain crosses the border between New Hampshire and Maine. New Hampshire state waters received an exemption from the vertical line trawling requirements in the Final Rule. DMR simply asks the islands in that chain that fall on the Maine side of the border be included in the quarter mile island exemption to provide parity to the fishermen utilizing the islands on the Maine side of the border.

Tradeoff:

DMR is requesting the additional quarter mile island buffers as an exemption to the vertical line trawl minimums without a tradeoff. NMFS' own assessment of the islands was that any increase in co-occurrence, and therefore risk, between the fishery and any right or humpback whales in these small areas was negligible and did not impact the

outcome of the model and the overall benefit achieved by the regulations being implemented in the Gulf of Maine. The areas in question are small –

DMR estimates that during use, the Matinicus Island region may see up to 10-12 fishermen utilizing this zone with a subset of their allotted gear. Likewise, there are up to 9 fishermen licensed who utilize the Isles of Shoals area. Use in both areas peaks in the summer months.

In an effort to get a good evaluation of the amount of gear affected in the proposed area, DMR took the initiative to fly each of the islands and estimate the number of vertical lines that are occurring within a quarter mile from shore. All of the surveys were flown at the beginning of September, still within the peak period for fishing in these areas. The plane was flown at roughly 500 feet with visual spotters used to count buoy systems. Track lines were arranged to minimize glare. The following table is an estimate of the number of buoys or vertical lines by island. Additionally, it includes the calculations of the number of vertical lines that would be reduced in the current form of the ALWTRP. The current total estimate for vertical lines around the Matinicus Island group is 1,880. Under the current regulations, that number would be reduced by 565 (or a 30% decrease), assuming fishermen around the affected islands would switch from singles to pairs. Similarly, the Isles of Shoals currently has an estimated 355 vertical lines in the water. The current regulations reduce that number by 178 (or a 50% decrease) assuming a switch from singles to pairs.

Should this proposal be accepted, it would result in a total of 743 vertical lines staying in the water at the peak of the fishery (that number will be lower at other times of the year when gear is not present in these areas) that would otherwise be removed. To put the negligible impact of this area into perspective, the total number of lines (2,235) in both proposed areas represents just 1% of the average annual total number of vertical lines in the Northeast (220,330) as taken from the Final Environmental Impact Statement. The 743 vertical lines in question make up 0.3% of the total lines in the Northeast. Not only is this a small percentage of the vertical lines regulated by the plan, but they are located in an area that NMFS determined to be very unlikely to see whale occurrence due to the shallow depths and were analyzed during the making of the Final Rule to have no impact on the co-occurrence scores, on which the regulations are based.

Island	Vertical Lines	Reduction under current plan
<i>Matinicus Island Group</i>		
Metinic	300	150
Small Green	200	100
Large Green	200	100
Seal	180	90
Wooden Ball	250	125
Matinicus	350	0
Ragged	400	0
Total	1880	565
<i>Isles of Shoals</i>		
Duck	125	63
Appledore	130	65
Cedar	50	25
Smuttynose	50	25
Total	355	178
Total Proposed Areas	2235	743

Figures 3 through 6 show the co-occurrence scores modeled in these areas during the summer when the fishery peaks for both right whales only and right and humpback whales combined. In both proposed exemption areas in the right whale only maps the co-occurrence scores fall in the minimum category of less than one. When humpback whales are added to the model the nearest co-occurrence score above the minimum category falls within the 100-1,000 range. For the Matinicus Island group it does not directly overlap any of the proposed islands. The Isle of Shoals group does overlap the corner of one of the 100-1,000 grid cells, however, that continues into New Hampshire state waters, which is entirely exempt from the vertical line minimum trawl requirements. Therefore, the inclusion of a quarter mile buffer in this area does not pose a more significant risk than any of the adjacent waters that have been deemed a low enough risk to be exempt from the rule entirely.

Gear in this area will not be specifically marked. It makes up a small subset of a fisherman's gear and will likely only be set for short periods of time in these locations as gear is moved into different areas to follow the lobsters during seasonal migrations. Gear will be identifiable by enforcement by the location of it when hauled.

Expected Conservation Benefits:

This proposal impacts a relative few number of fishermen and a subset of their gear. It will have a negligible effect on the conservation benefits achieved by the vertical line regulations.

Implementation:

If this exemption request is approved it will have the same June 1, 2015 implementation date as the rest of the vertical line minimum trawl requirements in the Northeast.

Monitoring:

Compliance and enforcement will be monitored by Maine Marine Patrol as part of the State's Joint Law Enforcement Agreement with NOAA Fisheries. The State of Maine has an exemplary record of outreach, monitoring and enforcing existing ALWTRP measures.

Additionally, DMR is currently pursuing funding to begin a three-year aerial survey study that would document the near shore occurrence of marine mammals (from shore out to twelve miles) where the density of fixed fishing gear is highest. Flights would also use digital photography to document the density of gear along the flight lines. These flights would occur every two months year round. Flight lines could be altered to ensure coverage of the exempted islands. This work is contingent upon funding. The State of Maine currently has no funds to direct to this issue.

Contingency Plan:

DMR proposes to handle the islands in two groups; the Matinicus Island group and the Isles of Shoals. The occurrence of a confirmed entanglement of a strategic stock in gear that can be traced to being set in one of these exempted buffer areas will result in an immediate return to the vertical line trawling minimums in place in the Final Rule for that island area. Additionally, Maine Marine Patrol will continue to monitor compliance and provide coverage for the Atlantic Large Whale Disentanglement Network in collaboration with NMFS and the Provincetown Center for Coastal Studies.

Strategic Research:

As explained under Monitoring, the DMR is pursuing funding for aerial surveys that would determine marine mammal use of the coastal areas, as well as document gear density and seasonal fluctuations. If additional funding through NMFS is available, DMR would work with the industry in these areas to try alternative fishing practices without the threat of lost income due to decreased efficiency and lost gear and document their success and failures.

Figures:

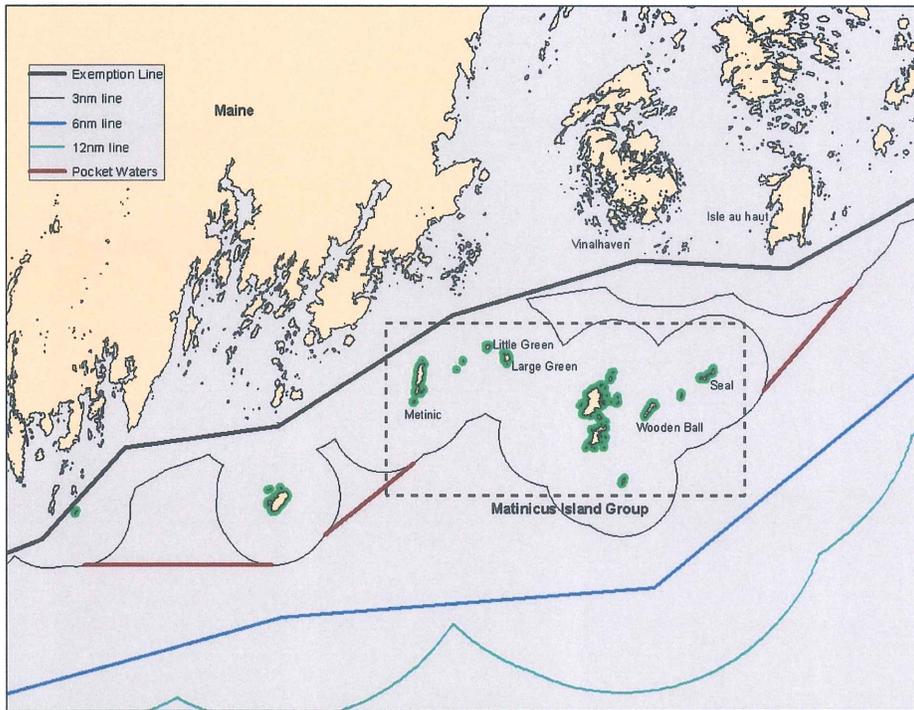


Figure 1. The Matinicus Island group, including Seal, Wooden Ball, Little Green, Large Green, and Metinic Islands. The green area bordering the islands represents 1/4 mile buffer that would be exempt from the vertical line trawl minimums in the Final Rule.

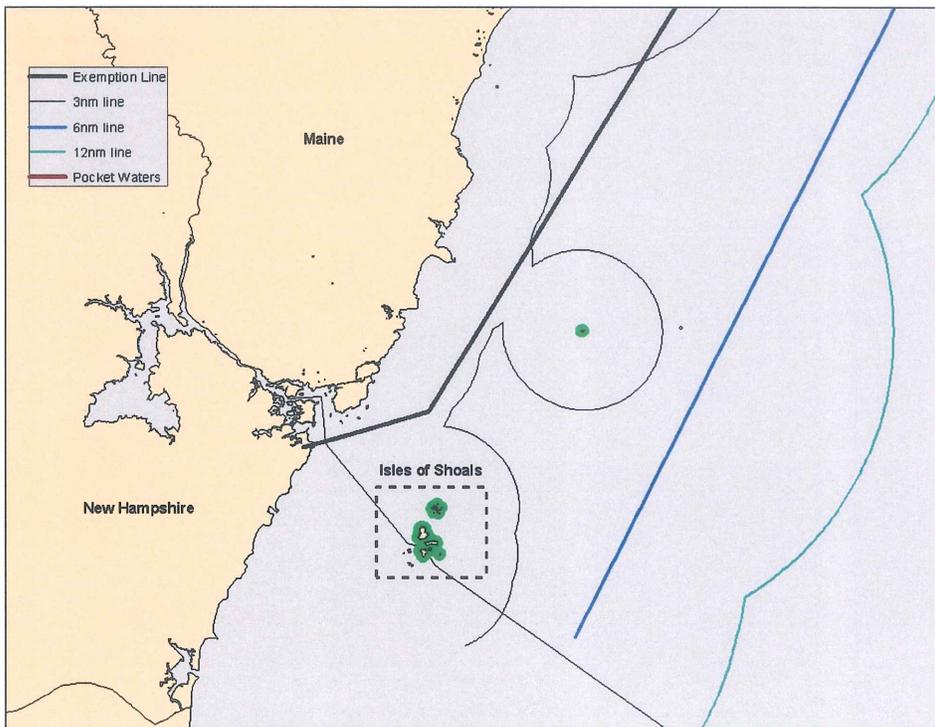


Figure 2. The Isles of Shoals island group is shown here with a 1/4 mile buffer determined in green. The green area is proposed for exemption to the vertical line trawl requirements in the Final Rule.

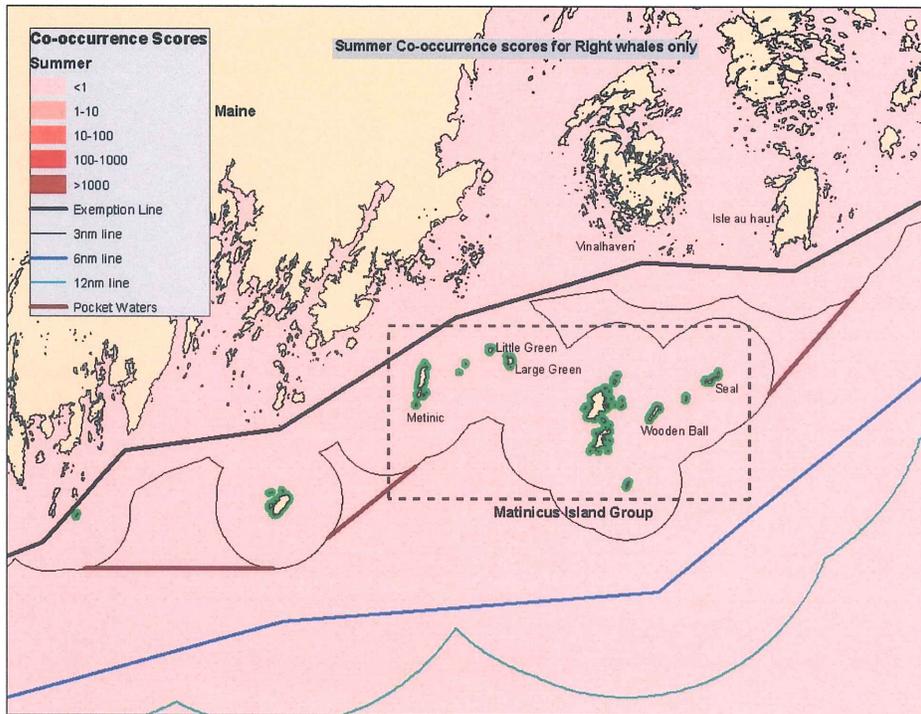


Figure 3. The summer co-occurrence scores for the right whale only model around the Matinicus Island group. All values fall in the < 1 category.

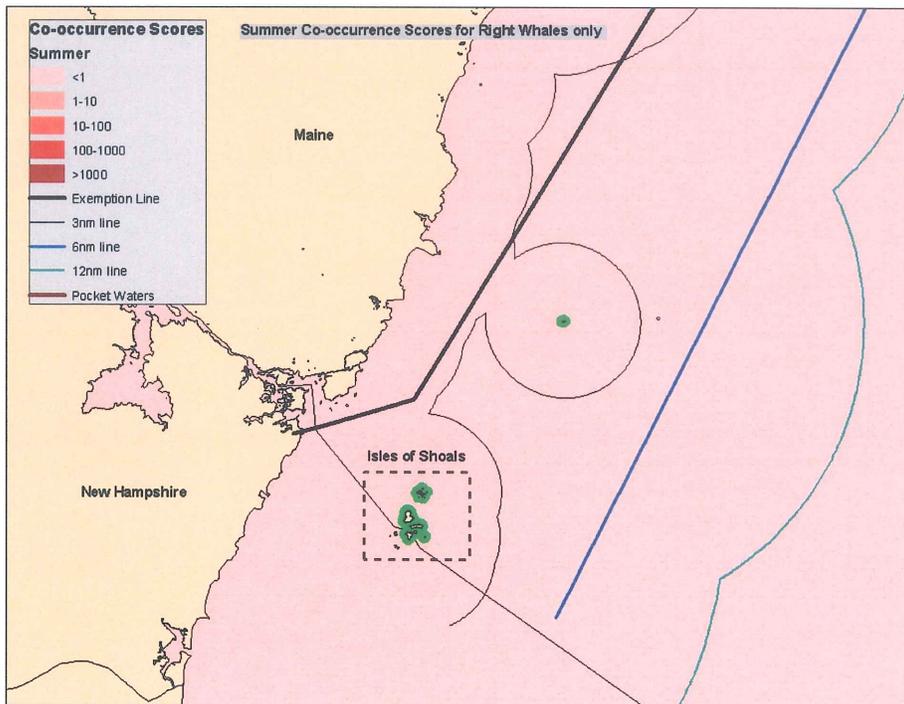


Figure 4. The summer co-occurrence scores for the right whale only model around the Isles of Shoals. All values fall in the < 1 category.

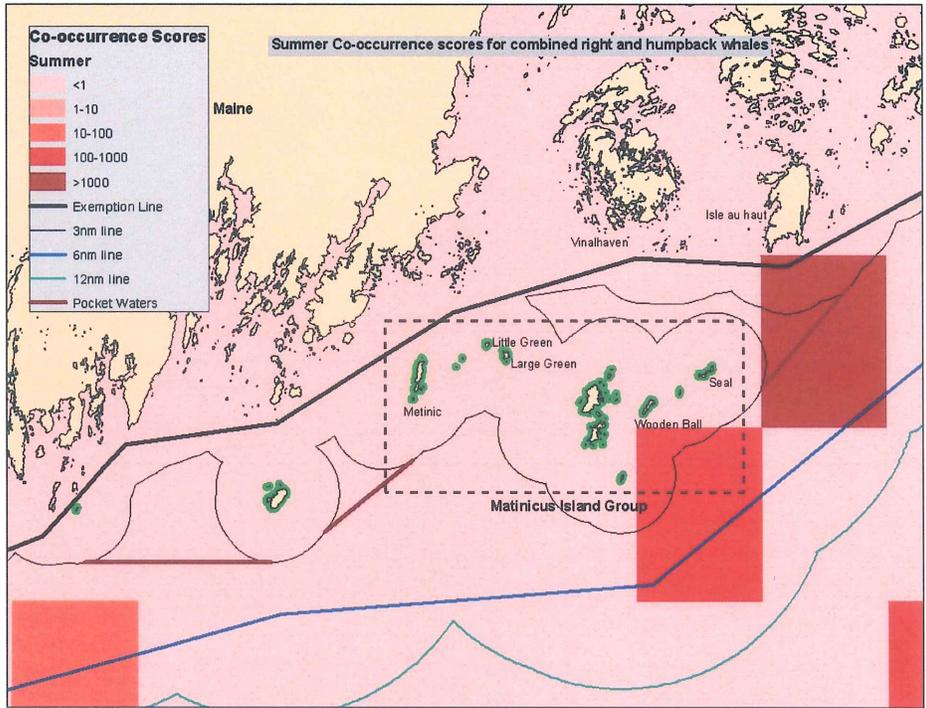


Figure 5. Summer co-occurrence scores for the combined right and humpback whale model around the Matinicus Island group. The nearest elevated score falls within the 100-1,000 range but does not overlap any proposed exempted islands.

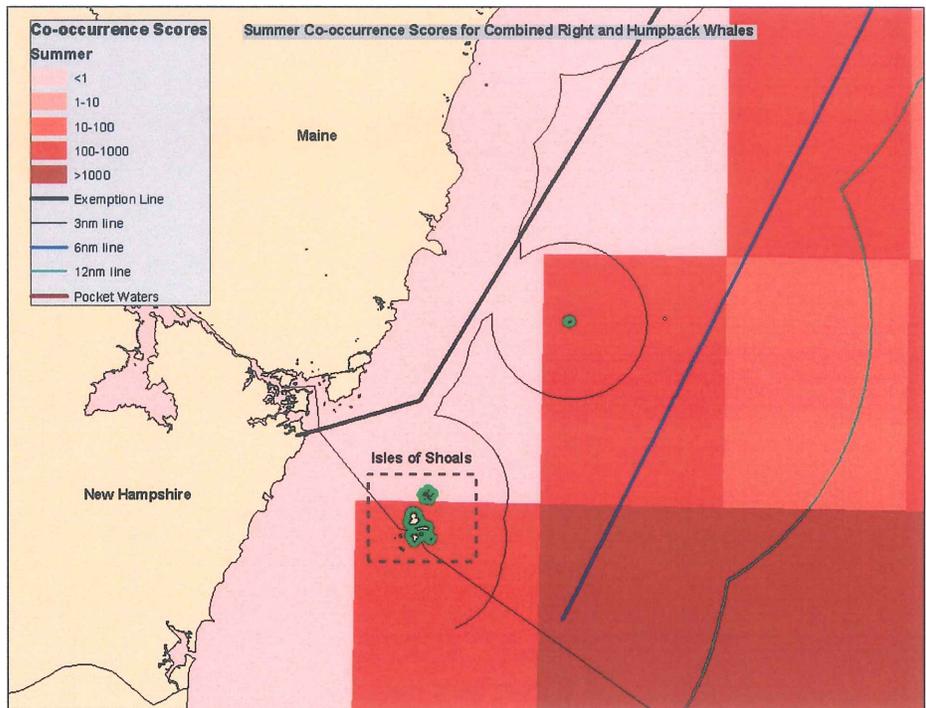


Figure 6. Summer co-occurrence scores for the combined right and humpback whale model around the Isles of Shoals group. The nearest elevated score falls within the 100-1,000 range and the corner does overlap some proposed exempt islands. However, this grid cell also overlaps with exempted New Hampshire state waters, which were determined to be at a low enough risk to be completely exempt from the vertical line trawl minimums.