

**FINAL REGULATORY FLEXIBILITY ANALYSIS****CHAPTER 11**

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The Regulatory Flexibility Act (RFA) requires Federal rulemakers to examine the impacts of proposed and existing rules on small businesses, small organizations, and small governmental jurisdictions. The RFA requires that agencies develop an Initial Regulatory Flexibility Analysis (IRFA) and a Final Regulatory Flexibility Analysis (FRFA). These analyses evaluate the impact that the regulatory alternatives under consideration would have on small entities and examine ways to minimize these impacts. Although the RFA does not require that the alternative with the least impact on small entities be selected, it does require that the expected impacts be adequately characterized.

The following sections review several components of the FRFA:

- Section 11.1 discusses the objectives and legal basis of the proposed regulatory changes;
- Section 11.2 describes the alternatives examined and how NMFS considered public comment in reducing the preferred alternative's impact on small entities;
- Section 11.3 details the small entities potentially affected;
- Section 11.4 considers the impacts of the proposed rules on small entities; and
- Section 11.5 identifies rules that may duplicate, overlap, or conflict with the proposed rule.

**11.1 OBJECTIVES AND LEGAL BASIS OF PROPOSED RULES**

The purpose of the proposed revisions to the Atlantic Large Whale Take Reduction Plan (ALWTRP) is to provide for the conservation and protection of Atlantic large whales — North Atlantic right whales (*Eubalaena glacialis*), North Atlantic humpback whales (*Megaptera novaeangliae*), and fin whales (*Balaenoptera physalus*) — thereby fulfilling the obligations of the National Marine Fisheries Service (NMFS) under the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA). The need for the proposed revisions is demonstrated

by the continuing risk of serious injury and mortality of Atlantic large whales due to entanglement in commercial fishing gear.

The MMPA of 1972 provides protection for species or stocks that are, or may be, in danger of extinction or depletion as a result of man's activities. The MMPA states that measures should be taken immediately to replenish the population of any marine mammal species or stock that has diminished below its optimum sustainable level. With respect to any stock or species, the "optimum sustainable population" is the number of animals that will result in the maximum productivity of the stock or species, keeping in mind the carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element.

Under the MMPA, the Secretary of Commerce is responsible for the conservation and management of pinnipeds (other than walruses) and cetaceans (aquatic mammals, including whales). The Secretary of Commerce has delegated MMPA authority to NMFS.

In 1994, Congress amended the MMPA, establishing new provisions to govern the taking of marine mammals incidental to commercial fishing operations.<sup>1</sup> These new provisions include the preparation of stock assessments for all marine mammal stocks in waters under U.S. jurisdiction, and development and implementation of take reduction plans for stocks that may be reduced or are being maintained below their optimum sustainable population levels due to interactions with commercial fisheries.

Take reduction plans are required for all "strategic stocks." Under the MMPA, a "strategic stock" is a stock: (1) for which the level of direct human-caused mortality exceeds the Potential Biological Removal (PBR) level; (2) that is declining and is likely to be listed under the Endangered Species Act (ESA) in the foreseeable future; or (3) that is listed as a threatened or endangered species under the ESA or as a depleted species under the MMPA.<sup>2</sup> The immediate goal of a take reduction plan is to reduce, within six months of its implementation, the mortality and serious injury of strategic stocks incidentally taken in the course of U.S. commercial fishing operations to below the PBR levels established for such stocks. The long-term goal of a take reduction plan is to reduce, within five years of its implementation, the incidental mortality and serious injury of strategic marine mammals taken in the course of commercial fishing operations to insignificant levels approaching a zero mortality and serious injury rate, taking into account the economics of the fishery, the availability of existing technology, and existing state or regional fishery management plans.

Right whales, humpback whales, and fin whales are listed as endangered species under the ESA, and are thus considered strategic stocks under the MMPA. In response to its obligations under the MMPA, NMFS established the Atlantic Large Whale Take Reduction Team (ALWTRT) in 1996 to develop a plan for reducing the incidental take of large whales in

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<sup>1</sup> As defined in the MMPA, the term "take" means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.

<sup>2</sup> The Potential Biological Removal (PBR) level is defined in the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock annually while allowing that stock to reach or maintain its optimum sustainable population. The parameters for calculating the PBR level are described in the MMPA.

commercial fisheries along the Atlantic Coast. The ALWTRT consists of representatives from the fishing industry, state and Federal resource management agencies, the scientific community, and conservation organizations. The purpose of the ALWTRT is to provide guidance to NMFS in developing and amending the Atlantic Large Whale Take Reduction Plan to meet the goals of the MMPA with respect to Atlantic large whales.

In addition, the Endangered Species Act (ESA) provides for the conservation of species that are in danger of extinction throughout all or a significant portion of their range and the conservation of the ecosystems on which they depend.<sup>3</sup> The right whale, humpback whale, and fin whale species are all federally listed as endangered and are therefore subject to protection under the ESA.

Section 7 of the ESA directs all Federal agencies to use their existing authorities to conserve threatened and endangered species and to ensure that their actions do not jeopardize listed species or destroy or adversely modify critical habitat. When a proposed Federal action may affect an ESA-listed marine species, Section 7 directs that the "Action agency" consult with the Secretary of Commerce; this is referred to as a Section 7 consultation.<sup>4,5</sup>

To assess impacts on large whale and sea turtle species protected under the ESA, NMFS has prepared Biological Opinions for the continued authorization of Federal fisheries under the Fishery Management Plans for the multi-species, spiny dogfish, and monkfish fisheries, and under Federal regulations for the lobster fishery, amongst others. Section 7 consultations were first initiated for each of these fisheries either at the time that the Fishery Management Plan was created to manage the fishery or, in the case of lobster, at the time of a significant amendment (Amendment 5) to the Federal Lobster Management Plan. The Northeast multi-species fishery has a long consultation history, including formal and informal Section 7 consultations, beginning with a formal consultation initiated on June 12, 1986. Formal consultation was first initiated for spiny dogfish on August 13, 1999; for monkfish on December 21, 1998; and for lobster on March 23, 1994.<sup>6</sup> Subsequent ESA Section 7 consultations on those fisheries incorporated the Atlantic Large Whale Take Reduction Plan (ALWTRP) as a Reasonable and Prudent Alternative to avoid jeopardy to right whales. NMFS reinitiated consultation on May 4, 2000, for the multi-species, spiny dogfish and monkfish gillnet fisheries, and on June 22, 2000, for the lobster fishery, following new whale entanglements resulting in serious injuries to right whales, at least

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<sup>3</sup> "Species," as defined by the Act, includes any subspecies of fish, wildlife, or plant and any distinct population segment of any vertebrate species which interbreeds when mature.

<sup>4</sup> The "Action agency" is the Federal agency charged with permitting, conducting, or funding the proposed activity serving as the basis for the consultation.

<sup>5</sup> Federal agencies must consult with the Secretary of the Interior when a proposed action may affect an ESA-listed species under the Department of Interior's purview.

<sup>6</sup> The spiny dogfish and monkfish species were subject to Section 7 consultation as part of the multi-species fishery until managed under their own management plans in 1999. The lobster fishery was first considered in a formal consultation on the effects of all fisheries (including the lobster fishery in Federal waters) on threatened and endangered species conducted for the implementation of the Marine Mammal Exemption Program in 1988.

one right whale mortality in gillnet gear, new information indicating a declining status for western North Atlantic right whales, and revisions to the ALWTRP.

The Biological Opinions from the May/June 2000 Section 7 consultations, finalized June 14, 2001, found that NMFS' administration of Federal fisheries, as modified by the ALWTRP requirements in effect at that time, was likely to jeopardize the continued existence of the western North Atlantic right whale.<sup>7</sup> The Biological Opinions identified a set of Reasonable and Prudent Alternatives designed to avoid the likelihood of jeopardy to right whales. These measures included:

- Seasonal Area Management (SAM);
- Dynamic Area Management (DAM);
- An expansion of gillnet gear modification requirements and restrictions to Mid-Atlantic waters and modification of fishing practices in Southeastern waters;
- Continued gear research and modifications; and
- Additional measures that implement and monitor the effectiveness of the Reasonable and Prudent Alternatives.

These measures were intended, in combination, to reduce the risk of serious injury to or mortality of large whales from entanglements in commercial fishing gear, and to minimize adverse impacts if entanglements occur.

The SAM and DAM programs and revised gear modification requirements and restrictions, as specified in the June 14, 2001, Biological Opinions for the multispecies, spiny dogfish, and monkfish Fishery Management Plans, and Federal regulations for the American lobster fishery, were incorporated into the ALWTRP via a series of final rules, corrections, and technical amendments issued from January 2002 to August 2003. In this way, NMFS implemented the Reasonable and Prudent Alternative specified in the June 14, 2001 Biological Opinions to meet its obligations under Section 7 of the ESA.

Subsequent to implementation of the regulations described above, NMFS reinitiated consultation on the continued implementation of the American lobster fishery in Federal waters; this action was prompted by new information on the effects of the fishery on North Atlantic right whales. During this consultation, which is on-going, NMFS will consider changes to the ALWTRP. NMFS will also consider, based on the criteria for reinitiating consultation (50 CFR 402.16), whether formal consultation for the continued implementation of the Northeast Multispecies, Monkfish, and Spiny Dogfish Fishery Management Plans must be reinitiated as a result of changes to the ALWTRP.

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<sup>7</sup> The June 14 Biological Opinions also concluded that the fisheries were not likely to destroy or adversely modify habitat critical to right whales or to jeopardize the continued existence of other endangered species.

NMFS has also reinitiated consultation on the continued implementation of the Federal summer flounder, scup, and black sea bass fisheries that are managed under the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan. NMFS had previously concluded that trap/pot gear used in the black sea bass and scup fisheries was not likely to jeopardize the continued existence of right whales, given that operation of the fisheries was modified by the ALWTRP measures. Consultation was reinitiated, however, based on new information that suggested effects to listed species as a result of the black sea bass and scup trap/pot fisheries in a manner or to an extent not previously considered. This consultation is ongoing. NMFS will consider the new changes to the ALWTRP during consultation on the continued implementation of the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan.

## **11.2 ALTERNATIVES CONSIDERED AND PREFERRED ALTERNATIVE**

### **11.2.1 Current ALWTRP Requirements**

The ALWTRP seeks to reduce the risk of serious injury to or mortality of large whales due to accidental entanglement in U.S. commercial fishing gear. The Plan consists of restrictions on where and how gear can be set; research into whale populations, whale behavior, and fishing gear; outreach to inform fishermen of the entanglement problem and to seek their help in understanding and solving the problem; and a program to disentangle whales that do get caught in gear. The fisheries currently regulated under the ALWTRP include the Northeast anchored float gillnet fishery; the Northeast/Mid-Atlantic American lobster trap/pot fishery; the Northeast sink gillnet fishery; the Southeast Atlantic gillnet fishery; the Southeastern U.S. Atlantic shark gillnet fishery; and the U.S. Mid-Atlantic coastal gillnet fishery.

The ALWTRP includes a variety of gear modification requirements and restrictions, a Seasonal Area Management (SAM) program, and a Dynamic Area Management (DAM) program. The universal gear modification requirements apply to all lobster traps/pots and gillnets and include restrictions on floating line at the surface; restrictions on wet storage of gear; and voluntary restrictions on knots in buoy lines. Other gear restrictions are area- and season-specific, addressing sensitive times and locations where entanglement risk is greatest.

The SAM program was established by NMFS to protect predictable annual aggregations of North Atlantic right whales in the waters off Cape Cod and eastward to the boundary of the Exclusive Economic Zone (EEZ) from entanglement in lobster trap/pot and gillnet gear. The SAM program incorporates two zones: SAM West, which is in effect from March 1 through April 30, and SAM East, which is in effect from May 1 through July 31. Gear set in the SAM zones during the designated times must be low risk gear. The ALWTRT defines low risk gear as gear that is *highly unlikely* to cause death or serious injury to entangled whales.

Under the DAM program, NMFS can temporarily restrict the use of lobster trap/pot and gillnet fishing gear within defined areas north of 40°00' N latitude to protect right whales. A DAM action is triggered by a single reliable report of an aggregation of three or more right whales within an area (75 square nautical miles) such that the whale density is equal to or greater than 0.04 right whales per square nautical mile. NMFS establishes a buffer zone around the

whale aggregation and determines whether to impose temporary restrictions on fishing and/or fishing gear in the zone. Possible restrictions include removal of trap/pot and gillnet gear; modification of gear in order to continue fishing in the DAM zone; and voluntary removal of gear and cessation of fishing.

### 11.2.2 Alternatives Considered

NMFS is considering various alternatives for modifying existing ALWTRP requirements, and identifies the preferred alternative in this FEIS. The alternatives under consideration seek to reduce large whale entanglement by including 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.

Chapter 3 of this EIS reviews the regulatory alternatives in detail. The essential aspects of the alternatives can be summarized as follows:

- **Alternative 1 (No Action):** Under Alternative 1, NMFS would continue with the status quo, i.e., the baseline set of ALWTRP requirements currently in place.
- **Alternative 2:** Regulatory changes common to all fisheries would include requirements mandating the use of weak links on all flotation or weighted devices attached to buoy lines; use of sinking and/or neutrally buoyant line for groundline associated with trap/pot or gillnet gear (excluding shark gillnets); and elimination of both the Seasonal Area Management (SAM) program and the Dynamic Area Management (DAM) program. The elimination of the SAM and DAM programs and the requirement to use sinking and/or neutrally buoyant groundline would take effect 12 months after publication of the final rule; unless otherwise noted, all other requirements would take effect six months after the final rule is published. Several new trap/pot fisheries would be brought under the Plan (including fisheries for black sea bass, scup, conch/whelk, shrimp, red crab, hagfish, and Jonah crab) and would have requirements similar to the current and proposed requirements for the lobster trap/pot fishery. 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. Alternative 2 would also extend ALWTRP requirements to the Northeast anchored float gillnet fishery, imposing requirements similar to those that apply to other components of the Northeast anchored gillnet fishery. Finally, a variety of new requirements would apply to specific fisheries and/or specific areas. All of these requirements are summarized in Exhibit 11-1. Alternative 2 would also introduce a revised set of gear marking requirements for all fisheries,

establish exempted areas where ALWTRP requirements would not apply, and introduce a variety of regulatory language changes.

- **Alternative 3\*:** Alternative 3\* would entail the same requirements as Alternative 2, but would impose these requirements on a seasonal rather than year-round basis for fisheries in the Mid-Atlantic and South Atlantic.
- **Alternative 4:** Alternative 4 would entail the same requirements as Alternative 2, but would impose these requirements on a seasonal rather than year-round basis for fisheries in the South Atlantic.
- **Alternative 5:** Alternative 5 would modify or expand the provisions of the existing Seasonal Area Management (SAM) program. It would expand the SAM East and SAM West zones; require the upper two-thirds of buoy lines in SAM waters to be made of sinking and/or neutrally buoyant line; and allow two buoy lines for all trawls in SAM waters. It would also include the weak link requirements described under Alternative 2, applying them year-round in northern waters and seasonally in other waters. Finally, 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. This alternative would not expand broad-based requirements coastwide, such as the sinking and/or neutrally buoyant groundline requirements for trap/pot and gillnet gear; the five or more weak links per net panel (depending on panel size), and anchoring requirements for gillnet gear in the Northeast; and the five or more weak links per net panel requirement for gillnet gear in the Mid-Atlantic. Also, the Northern Inshore Lobster Take Reduction Technology List would not be eliminated.
- **Alternative 6 Draft\*:** Alternative 6 Draft\* would combine elements of Alternatives 3 and 5. Buoy line weak link requirements and broad-based gear requirements (net panel weak links, sinking and/or 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 final rule (rather than 12 months), and the expanded SAM zone and SAM regulations described in Alternative 5 would apply from six months after publication of the final rule until 12 months after publication of the final rule, when the SAM program would be eliminated and all groundline associated with trap/pot and anchored gillnet gear would be required to be sinking and/or neutrally buoyant line.

## Exhibit 11-1

**PROPOSED ALWTRP MANAGEMENT ALTERNATIVES 2 THROUGH 6 FINAL (PREFERRED)<sup>1</sup>**  
**(Requirements in Addition to Current ALWTRP Requirements)<sup>2</sup>**

<b>Fishery/Region</b>	<b>Component</b>	<b>Alternative 2</b>	<b>Alternative 3*</b>	<b>Alternative 4</b>	<b>Alternative 5</b>	<b>Alternative 6 Draft*</b>	<b>Alternative 6 Final (Preferred)</b>
Lobster – Northern Inshore and Nearshore Waters; Stellwagen Bank/Jeffreys Ledge Restricted Area; and Cape Cod Bay Restricted Area (5/16 – 12/31) <sup>3</sup>	Weak links	<ul style="list-style-type: none"> <li>Weak links on all flotation devices and/or weighted devices attached to the buoy line</li> <li>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)</li> </ul>	= Alt. 2	= Alt. 2	Expanded SAM (see text)	= Alt. 3 but with expanded SAM introduced 6 mos. after publication; SAM effective for 6 mos., then eliminated; DAM eliminated six mos. after publication	= Alt. 6 Draft* but with trawls <i>of five or fewer traps</i> allowed only one buoy line in certain areas (see text)
	Groundline	<ul style="list-style-type: none"> <li>Sinking and/or neutrally buoyant groundline year-round (within 12 mos. of rule)</li> </ul>					
	Other	<ul style="list-style-type: none"> <li>Trawls of four or fewer traps allowed only one buoy line; applies only to Northern Nearshore lobster waters, Stellwagen Bank/Jeffreys Ledge Restricted Area, and Federal portions of Cape Cod Bay Restricted Area (May 16 to December 31)</li> <li>SAM/DAM eliminated 12 mos. after publication of final rule</li> </ul>					
Lobster – Offshore	Weak links	<ul style="list-style-type: none"> <li>Weak links on all flotation devices and/or weighted devices attached to the buoy line</li> <li>Buoy line weak link strength of 1,500 lbs</li> </ul>	= 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 introduced 6 mos. after publication; SAM effective for 6 mos., then eliminated; DAM eliminated six mos. after publication	= Alt. 6 Draft*
	Groundline	<ul style="list-style-type: none"> <li>Sinking and/or neutrally buoyant groundline year-round (within 12 mos. of rule)</li> </ul>					
	Other	<ul style="list-style-type: none"> <li>SAM/DAM eliminated 12 mos. after publication of final rule</li> <li>Extend southern boundary by following the 100 fa line from 35°30'N to 27°51'N, and then extend out to EEZ</li> </ul>					
Lobster – Great South Channel Restricted Lobster Area (7/1 – 3/31) <sup>3</sup>	Weak links	<ul style="list-style-type: none"> <li>Weak links on all flotation devices and/or weighted devices attached to the buoy line</li> <li>Buoy line weak link strength of 1,500 lbs in Great South Channel area that overlaps the LMA 2/3 overlap and LMA 3 (July 1 to March 31); 600-lb weak links for other areas</li> </ul>	= 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 introduced 6 mos. after publication; SAM effective for 6 mos., then eliminated; DAM eliminated six mos. after publication	= Alt. 6 Draft*
	Groundline	<ul style="list-style-type: none"> <li>Sinking and/or neutrally buoyant groundline year-round (within 12 mos. of rule)</li> </ul>					
	Other	<ul style="list-style-type: none"> <li>SAM/DAM eliminated 12 mos. after publication of final rule</li> </ul>					
Lobster – Southern Nearshore <sup>3</sup>	Weak links	<ul style="list-style-type: none"> <li>Weak links on all flotation devices and/or weighted devices attached to the buoy line</li> </ul>	= 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 introduced 6 mos. after publication; SAM effective for 6 mos., then eliminated; DAM eliminated six mos. after publication	= Alt. 6 Draft*
	Groundline	<ul style="list-style-type: none"> <li>Sinking and/or neutrally buoyant groundline year-round (within 12 mos. of rule)</li> </ul>					
	Other	<ul style="list-style-type: none"> <li>Apply all requirements to currently unregulated portion of Lobster Management Area 6 that is not included in exempted waters</li> <li>DAM eliminated 12 months after publication of final rule</li> <li>Extend southern boundary by following the 100 fa line from 35°30'N to 27°51'N, and then extend inshore to coast or exemption line; area south of 35°30'N would use the 100 fa line to define Southern Nearshore Lobster Waters</li> </ul>					

Exhibit 11-1

PROPOSED ALWTRP MANAGEMENT ALTERNATIVES 2 THROUGH 6 FINAL (PREFERRED)<sup>1</sup>  
 (Requirements in Addition to Current ALWTRP Requirements)<sup>2</sup>

Fishery/Region	Component	Alternative 2	Alternative 3*	Alternative 4	Alternative 5	Alternative 6 Draft*	Alternative 6 Final (Preferred)
Black Sea Bass, Scup, Conch/Whelk, Shrimp, Hagfish, and Jonah Crab (trap/pot fisheries) <sup>4</sup>	Weak links	<ul style="list-style-type: none"> <li>Weak links on all flotation devices and/or weighted devices attached to the buoy line</li> <li>Buoy line weak link strength of 1,500 lbs for fisheries in Offshore lobster waters and Great South Channel that overlaps the LMA 2/3 Overlap and LMA 3 (July 1 to March 31); 600-lb weak links for fisheries in other areas</li> </ul>	= 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 introduced 6 mos. after publication; SAM effective for 6 mos., then eliminated; DAM eliminated six mos. after publication	= Alt. 6 Draft* but with trawls <i>of five or fewer traps</i> allowed only one buoy line in certain areas (see text)
	Groundline	<ul style="list-style-type: none"> <li>Sinking and/or neutrally buoyant groundline year-round within 12 mos. of rule's publication; effective six months after publication in SAM waters and in Cape Cod Bay between January 1 and May 15.</li> </ul>					
	Other	<ul style="list-style-type: none"> <li>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/Jeffreys Ledge Restricted Area and Federal portions of Cape Cod Bay Restricted Area from May 16 to December 31)</li> <li>Define southern boundary using definitions discussed under Southern Nearshore Lobster Waters and Offshore Lobster Waters</li> <li>Apply all requirements to currently unregulated portion of Lobster Management Area 6 that is not included in exempted waters</li> <li>SAM/DAM eliminated 12 mos. after publication of final rule</li> </ul>					
Red Crab (trap/pot) <sup>4</sup>	Weak links	<ul style="list-style-type: none"> <li>Weak links on all flotation devices and/or weighted devices attached to the buoy line</li> <li>Buoy line weak link breaking strength of 2,000 lbs for operations in offshore lobster waters</li> </ul>	= 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 introduced 6 mos. after publication; SAM effective for 6 mos., then eliminated; DAM eliminated six mos. after publication	= Alt. 6 Draft*
	Groundline	<ul style="list-style-type: none"> <li>Sinking and/or neutrally buoyant groundline year-round (within 12 mos. of rule)</li> </ul>					
	Other	<ul style="list-style-type: none"> <li>Fold in under existing ALWTRP regulations</li> <li>Define southern boundary using definitions discussed under Southern Nearshore Lobster Waters and Offshore Lobster Waters</li> <li>Apply all requirements to currently unregulated portion of Lobster Management Area 6 that is not included in exempted waters</li> <li>SAM/DAM eliminated 12 mos. after publication of final rule</li> </ul>					

## Exhibit 11-1

**PROPOSED ALWTRP MANAGEMENT ALTERNATIVES 2 THROUGH 6 FINAL (PREFERRED)<sup>1</sup>**  
**(Requirements in Addition to Current ALWTRP Requirements)<sup>2</sup>**

<b>Fishery/Region</b>	<b>Component</b>	<b>Alternative 2</b>	<b>Alternative 3*</b>	<b>Alternative 4</b>	<b>Alternative 5</b>	<b>Alternative 6 Draft*</b>	<b>Alternative 6 Final (Preferred)</b>
Gillnet – Northeast, Anchored <sup>5</sup>	Weak links	<ul style="list-style-type: none"> <li>Weak links on all flotation devices and/or weighted devices attached to the buoy line</li> <li>Increase number of 1,100-lb weak links per panel from one to five or more, depending on net size, year-round</li> </ul>	= Alt. 2 (but requirements are seasonal south of 40°N)	= Alt. 2	Expanded SAM (see text)	= Alt. 3 but with expanded SAM introduced 6 mos. after publication; SAM effective for 6 mos., then eliminated; DAM eliminated six mos. after publication	= Alt. 6 Draft* with additional option for net panel weak link configuration (see text)
	Groundline	<ul style="list-style-type: none"> <li>Sinking and/or neutrally buoyant groundline year-round (within 12 mos. of rule)</li> </ul>					
	Other	<ul style="list-style-type: none"> <li>SAM/DAM eliminated 12 mos. after publication of final rule</li> <li>All anchored gillnets must be anchored with the holding power of at least a 22-lb Danforth-style anchor at each end of net string</li> </ul> Fold in Northeast anchored float gillnet fishery under existing ALWTRP regulations					
Gillnet – Northeast, Driftnet <sup>6</sup>	Weak links	<ul style="list-style-type: none"> <li>One 1,100-lb weak link per panel when fishing tended gear at night</li> </ul>	= Alt. 2 (but requirements are seasonal south of 40°N)	= Alt. 2	Expanded SAM (see text)	= Alt. 3 but with expanded SAM introduced 6 mos. after publication; SAM effective for 6 mos., then eliminated; DAM eliminated six mos. after publication	= Alt. 6 Draft* but without weak link requirement
	General	<ul style="list-style-type: none"> <li>Fold in and regulate same as Mid-Atlantic driftnet</li> <li>Seasonal closures in Cape Cod Bay (Jan. 1 to May 15) and Great South Channel (April 1-June 30)</li> </ul>					
Gillnet – Mid-Atlantic, Anchored <sup>7</sup>	Weak links	<ul style="list-style-type: none"> <li>Weak links on all flotation devices and/or weighted devices attached to the buoy line</li> <li>All nets must return to port with the vessel <i>or</i> 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)</li> </ul>	= Alt. 2 but requirements are seasonal (see text)	= Alt. 2	Expanded SAM (see text)	= Alt. 3 but with expanded SAM introduced 6 mos. after publication; SAM effective for 6 mos., then eliminated; DAM eliminated six mos. after publication	= Alt. 6 Draft* but with (1) option for net panel weak link configuration; and (2) alternative weak link and anchoring option for vessels within 300 yds. of NC shoreline (see text)
	Groundline	<ul style="list-style-type: none"> <li>Sinking and/or neutrally buoyant groundline year-round (within 12 mos. of rule)</li> </ul>					
	Other	<ul style="list-style-type: none"> <li>Time period for all requirements expanded to year-round (vs. current period of Dec. 1 to March 31)</li> <li>Includes 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</li> <li>DAM eliminated 12 months after publication of rule</li> <li>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</li> </ul>					
Gillnet – Mid-Atlantic, Driftnet <sup>7</sup>	Weak links	<ul style="list-style-type: none"> <li>One 1,100-lb weak link per panel when fishing tended gear at night</li> </ul>	= Alt. 2 but requirements are seasonal (see text)	= Alt. 2	Expanded SAM (see text)	= Alt. 3	= Alt. 6 Draft* but without weak link requirement
	General	<ul style="list-style-type: none"> <li>Time period for all requirements expanded to year-round (vs. current period of Dec. 1 to March 31)</li> <li>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</li> </ul>					

Exhibit 11-1

**PROPOSED ALWTRP MANAGEMENT ALTERNATIVES 2 THROUGH 6 FINAL (PREFERRED)<sup>1</sup>  
(Requirements in Addition to Current ALWTRP Requirements)<sup>2</sup>**

Fishery/Region	Component	Alternative 2	Alternative 3*	Alternative 4	Alternative 5	Alternative 6 Draft*	Alternative 6 Final (Preferred)
Shark Gillnet – Southeast <sup>8</sup>	General	<ul style="list-style-type: none"> <li>Extend 80°00' W longitude boundary and associated requirements to EEZ</li> <li>Replace current time period (November 15 to March 31) as follows:                             <ul style="list-style-type: none"> <li>From 32° N to 29°00'N: Restrictions apply from November 15 to April 15</li> <li>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)</li> </ul> </li> <li>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)</li> <li>Require use of vessel monitoring system in lieu of 100% observer coverage</li> </ul>	= Alt. 2 but requirements are seasonal (see text)	= Alt. 2 but requirements are seasonal (see text)	Expanded SAM (see text)	= Alt. 3	= Alt 6 Draft*, but driftnet, night/visibility set and spotter plane restrictions and VMS requirement are removed in waters east of 80°W; current observer requirements retained north of 27°51'N; VMS allowed as a substitute for observer coverage in the waters between 27°51'N and 26°46.5'N <sup>9</sup>
Gillnet – Southeast <sup>10</sup>	General	<ul style="list-style-type: none"> <li>Extend 80°00' W longitude boundary and associated requirements to EEZ</li> <li>Replace current area/time management measures as follows:                             <ul style="list-style-type: none"> <li>From SC/GA border to 29°00'N: Restrictions apply from November 15 to April 15</li> <li>From 29°00'N to 27°51'N: Restrictions apply from December 1 to March 31</li> </ul> </li> <li>Require gear modification similar to Mid-Atlantic anchored 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)</li> </ul>	= 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	= Alt 6 Draft*, but with 1) an additional option for net panel weak link configuration (see text); and 2) removal of night set restrictions in waters east of 80°W
	Weak links	<ul style="list-style-type: none"> <li>Weak links on all flotation devices and/or weighted devices attached to the buoy line</li> <li>All nets must return to port with the vessel <i>or</i> 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)</li> </ul>					
	Groundline	<ul style="list-style-type: none"> <li>Sinking and/or neutrally buoyant groundline year-round (within 12 mos. of rule)</li> </ul>					

## Exhibit 11-1

**PROPOSED ALWTRP MANAGEMENT ALTERNATIVES 2 THROUGH 6 FINAL (PREFERRED)<sup>1</sup>**  
**(Requirements in Addition to Current ALWTRP Requirements)<sup>2</sup>**

<b>Fishery/Region</b>	<b>Component</b>	<b>Alternative 2</b>	<b>Alternative 3*</b>	<b>Alternative 4</b>	<b>Alternative 5</b>	<b>Alternative 6 Draft*</b>	<b>Alternative 6 Final (Preferred)</b>
All Fisheries	Exempted Areas	<ul style="list-style-type: none"> <li>• Areas landward of 72 COLREGS line, with exceptions for Boston Harbor, Gardiners Bay (NY), and portions of the Maine coast</li> <li>• No requirement for sinking and/or neutrally buoyant groundline in waters greater than 280 fathoms</li> </ul>	= Alt. 2	= Alt. 2	= Alt. 2	= Alt. 2	= Alt 6 Draft*, but 1) modified exempt areas in Maine, Massachusetts and Long Island Sound; and 2) no net panel weak link or anchoring requirement in waters greater than 280 fathoms
	Gear Marking	<ul style="list-style-type: none"> <li>• Remove current ALWTRP gear marking scheme (except net panel marking for shark gillnet gear)</li> <li>• Mark surface buoys with vessel or permit number</li> <li>• 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 &lt; 4 feet are exempt)</li> </ul>	= Alt. 2	= Alt. 2	= Alt. 2	= Alt. 2	= Alt 6 Draft*, but one 4-inch mark midway on all buoy lines

## Key:

\* = Specified as a Preferred Alternative in the DEIS

## Notes:

<sup>1</sup> The requirements discussed under each alternative would be effective six months after publication of the final rule, unless otherwise noted.

<sup>2</sup> See Section 1.2.1 for a description of the current ALWTRP requirements. Note that Alternative One is the No Action Alternative.

<sup>3</sup> Northeast/Mid-Atlantic American lobster trap/pot fishery in the 2003 List of Fisheries.

<sup>4</sup> 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.

<sup>5</sup> Northeast sink gillnet fishery in the 2003 List of Fisheries

<sup>6</sup> Northeast drift gillnet fishery in the 2003 List of Fisheries

<sup>7</sup> Mid-Atlantic gillnet fishery in the 2003 List of Fisheries

<sup>8</sup> Southeastern U.S. Atlantic shark gillnet fishery in the 2003 List of Fisheries

<sup>9</sup> VMS substituted for observer requirement south of 27° 51' N effective thirty days after publication of the final rule.

<sup>10</sup> Southeast Atlantic gillnet fishery in the 2003 List of Fisheries

- **Alternative 6 Final (Preferred):** In response to comments received on the DEIS, NMFS formulated a final preferred alternative that builds on Alternative 6 Draft\*. Alternative 6 Final (Preferred) would expand waters exempted from the regulatory requirements; change buoy line marking requirements to require one four-inch colored mark midway on all buoy lines (as opposed to requiring a mark every 10 fathoms); and maintain the status quo limit of one buoy line per trawl of five or fewer traps (rather than four or fewer traps) in Northern Nearshore lobster waters, Stellwagen Bank/Jeffreys Ledge Restricted Area, and Cape Cod Bay Restricted Area (Federal waters May 16-December 31). Certain anchored gillnet vessels would also be allowed to use alternative weak link and anchoring configurations, while driftnets in both Northeast waters and Mid/South Atlantic waters would not be required to comply with weak link requirements.

### 11.2.3 Preferred Alternative

Integration of the biological, economic, and social impact findings of an environmental impact analysis allows a meaningful comparison of the regulatory alternatives. Integrating these findings typically involves formulation of measures that characterize the benefits derived relative to the costs (or other negative effects) incurred. However, in the case of potential modifications to the ALWTRP, development of a unifying cost-benefit analysis is complicated by two factors:

- First, the costs and benefits are characterized using diverse metrics (e.g., dollars, increased use of low-risk gear, numbers of heavily affected vessels) that cannot be readily reduced to a single measure. In many cases, costs or benefits are described only in qualitative terms or are characterized with imperfect indicators (e.g., comparative measures of risk reduction potential).
- Second, several of the regulatory alternatives – particularly Alternatives 2, 3\*, 4, and 6 Draft\* – have very similar implications. Because the impact estimates are subject to uncertainty, the minor variations that exist between these alternatives do not allow easy differentiation.

Differentiating among the alternatives therefore requires careful, critical consideration of the cost and benefit estimates developed. Because it would require year-round use of low-risk gear along the entire Atlantic coast, Alternative 2 clearly is the most conservative, risk-averse approach to the protection of endangered whales. However, the seasonal exemptions provided under Alternatives 3\*, 4, 6 Draft\*, and 6 Final (Preferred) are premised on the movement of whales. Therefore, the residual potential for entanglement of whales in Mid-Atlantic or South Atlantic waters during summer months is minor; i.e., year-round requirements are likely to offer little marginal risk reduction benefit.

Furthermore, close examination of the compliance cost estimates suggests that the costs associated with the seasonal implementation of gear conversion requirements (under Alternatives 3\*, 4, 6 Draft\*, and 6 Final (Preferred)) may be over-estimated. The analysis posits that fishermen will convert all of their gear even if they are likely to fish only a portion of their trips when the requirements would apply, a very conservative assumption. According to comments provided by fishermen during the scoping process, many fishermen in the Mid- and South Atlantic use separate sets of gear to target different species at different times of year. If conversion of only winter gear is required, compliance costs will be less than those estimated. In addition, some of the fishermen in the Mid-Atlantic and South Atlantic areas may choose to confine their fishing effort to months when the requirements are not in effect, avoiding the regulation completely. Such behavior would reduce the cost of complying with Alternatives 3\*, 4, 6 Draft\*, and 6 Final (Preferred) without increasing risk to whales.

With the exception of Alternative 1 (No Action), the regulatory alternative that differs most significantly from the others with respect to estimated economic impacts is Alternative 5. The economic impacts associated with Alternative 5 would be significantly less than those associated with Alternatives 2, 3\*, 4, 6 Draft\*, or 6 Final (Preferred), primarily because Alternative 5 would not impose as broad a set of gear modification requirements. In particular:

- Alternative 5 would not require vessels fishing outside Cape Cod Bay (January 1 to May 15) or the Seasonal Area Management zone (March 1 to July 1) to convert their groundline to sinking and/or neutrally buoyant line. In contrast, Alternatives 2, 3\*, 4, 6 Draft\*, and 6 Final (Preferred) would require most vessels fishing in ALWTRP-regulated waters to convert to sinking and/or neutrally buoyant groundline. Under Alternative 5, the total groundline converted to sinking and/or neutrally buoyant line would be a small fraction of the total groundline converted under the other alternatives.
- Alternative 5 would not require anchored gillnet vessels fishing outside the SAM zone to incorporate multiple weak links into gillnet panels. In addition, Alternative 5 would limit the geographic scope of requirements that anchored gillnet vessels secure their nets at each end with an anchor having the holding power (at minimum) of a 22-pound Danforth-style anchor; this standard would only apply to gear subject to SAM requirements; and on a seasonal basis (December 1 through March 31) to gear in Mid-Atlantic waters west of 72°30' W and north of 33°51' N when the gear does not return to port with the vessel. Under Alternative 5, the total number of net panels with anchors and multiple weak links installed would be a small fraction of the total number installed under the other alternatives.

As a result of these differences, the benefits of Alternative 5 for whale survival are likely to be significantly lower than the benefits associated with Alternatives 2, 3\*, 4, 6 Draft\*, and 6 Final (Preferred).

During development of the DEIS, NMFS identified Alternatives 3\* and 6 Draft\* as the preferred alternatives based on consideration of the relative costs and benefits of the alternatives. These alternatives offer the flexibility of seasonal restrictions for both the Mid- and South Atlantic regions, potentially allowing fishermen to pursue lower-cost compliance strategies. The risk-reduction tradeoff is minimal, given that entanglement risk in the Mid- and South Atlantic is low in the summer months (due to whale migratory patterns). Alternative 6 Draft\* offers the added protection of temporarily expanding the SAM zone; while the SAM requirements would eventually be eliminated, they would remain in effect until the broad-based gear modifications are fully implemented. Alternative 3\* did not provide immediate protection to right whales by offering an expanded SAM zone with sinking and/or neutrally buoyant groundline requirements to protect predictable aggregations of right whales. Therefore, NMFS rejected this alternative.

Based upon comments received on the DEIS, NMFS formulated a final preferred alternative that builds on Alternative 6 Draft\*. NMFS rejected Alternative 6 Draft\* as it does not contain modifications that will allow NMFS to respond to comments while balancing risk reduction considerations. Alternative 6 Final (Preferred) introduces a number of significant changes, including: (1) expanding exempted waters off of Maine and Long Island Sound; and (2) allowing anchored gillnet vessels to use an alternate weak link configuration. These and other minor variations decrease the number of affected vessels and result in significant reductions in compliance costs, while sacrificing little, if anything, with respect to the likely reduction in entanglement risks. The discussion below reviews Alternative 6 Final (Preferred) in greater detail, noting how NMFS considered public comments in developing the alternative.

## **11.2.4 Public Comments and NMFS Response**

### **11.2.4.1 Comments During Scoping Process**

In addition to the alternatives summarized above, NMFS considered a number of other approaches. In the course of 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. While NMFS solicited and considered all input from stakeholders, a number of approaches were rejected in the formulation of final regulatory alternatives. Chapter 3 of the EIS includes a summary of all the alternatives considered but rejected. Furthermore, Volume II of the EIS summarizes the comments received at the scoping meetings and briefly explains why NMFS chose not to integrate a particular suggestion into the regulatory alternatives under consideration.

#### 11.2.4.2 Comments on DEIS and Associated IRFA

Volume II of the EIS includes a summary of all comments received on the DEIS and NMFS' response, highlighting where changes were made in the original analysis or explaining why NMFS believes that the issue has been adequately considered. None of the comments received focused specifically on the initial regulatory flexibility analysis (IRFA) that was part of the DEIS. However, many of the comments on the economic impact analysis are equally relevant to assessing impacts on small entities. In broad terms, many fishermen asserted that compliance with the ALWTRP modifications would undermine the profitability of their operations, especially when considered in combination with other ongoing regulatory requirements.<sup>8</sup>

Comments on the DEIS have guided NMFS' development of Alternative 6 Final (Preferred).<sup>9</sup> As noted, this alternative integrates changes to Alternative 6 Draft\* that reduce the economic impact of the rule while sacrificing little, if any, with respect to the protection of large whales. The major changes are as follows:

- Alternative 6 Final (Preferred) would expand exempted areas in Maine and Long Island Sound, based on a NMFS analysis that, amongst other reasons, concludes that large whales are sighted infrequently and do not spend significant periods of time in these waters. This change effectively reduces the number of vessels that must comply with the ALWTRP gear modifications.
- NMFS received numerous comments opposing the gear marking scheme proposed in several of the alternatives. Many groups considered the proposal impractical and potentially costly. Rather than marking buoy lines every ten fathoms, Alternative 6 Final (Preferred) calls for one mark midway on the buoy line in the water column.
- Alternative 6 Final (Preferred) would offer additional flexibility on the specific configuration of gillnet weak links. Fishermen, scientists, and other reviewers suggested an alternative weak link placement that NMFS believes will prove equally effective while reducing compliance costs. The flexibility will likely allow fishermen to comply in the lowest-cost manner, thereby reducing impacts on these small entities.
- Members of the North Carolina Division of Marine Fisheries, MAFMC and fishing industry raised safety concerns regarding proposed net panel weak link requirements and anchoring systems. Alternative 6 Final

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<sup>8</sup> As noted below, the socioeconomic impact analysis suggests that, under Alternative 6 Final (Preferred), relatively few vessels would incur costs that, on an annualized basis, represent a large share of their annual revenue.

<sup>9</sup> In general, areas of concern included: (1) the delineation of exempted areas; (2) the practicality of the proposed gear marking scheme; (3) the configuration of gillnet weak links; (4) the specification of areas and times during which ALWTRP requirements would be in effect; and (5) the implementation of gillnet anchoring requirements, especially in waters within 300 yards of shore.

(Preferred) would offer an optional weak link and anchoring configuration for gillnet fishermen operating within 300 yards of the shoreline in North Carolina. This configuration is similar to the configuration agreed upon by consensus of the Mid/South Atlantic Subgroup of the ALWTRT at its 2005 meeting. NMFS believes this alternative configuration to be a functional equivalent to that which was proposed.

- Alternative 6 Final (Preferred) would grant an exemption to gillnet panel weak link and anchoring requirements to vessels fishing at depths greater than 280 fathoms. Whales are not likely to occur in waters of this depth; hence, this change would not compromise the protectiveness of the rule.

### 11.3 SMALL ENTITIES AFFECTED

The Small Business Administration (SBA) size standards define whether a business entity is small and, thus, eligible for Government programs and preferences reserved for “small business” concerns. Size standards have been established for all for-profit economic activities or industries in the North American Industry Classification System (NAICS). The SBA defines a small business in the commercial fishing sector as a firm with receipts (gross revenues) of up to \$4.0 million. Processing facilities (e.g., canning, curing, freezing) are considered small businesses if they employ 500 or fewer individuals. For fish and seafood wholesalers, a small business is defined as one that employs 100 or fewer employees. As such, virtually all fishing and most wholesale and processing operations in the eastern U.S. are small businesses.

#### 11.3.1 Fishing Operations

The ALWTRP governs fishing operations that set fishing gear in ways that place fishing line (e.g., buoy lines, groundlines) in the water column, thereby creating the potential for whale entanglements. The key fisheries include the American lobster trap/pot fishery; other trap/pot fisheries such as red crab and Jonah crab; and gillnetting operations. A detailed description of each of the fisheries can be found in the Affected Environment section of the EIS.

Exhibit 11-2 summarizes the number of vessels in each of the affected fisheries. This table provides estimates of vessels that would be affected under Alternative 2, which would affect the greatest number of vessels. As shown, the Northern Inshore lobster trap/pot fishery accounts for the largest number of potentially affected vessels, followed by the Northern Nearshore lobster trap/pot fishery and the Mid-Atlantic anchored gillnet fishery. The majority of affected vessels fall within Class II, 29 to 40 feet in length. The analysis derives these figures based upon commercial fishing activity information collected from and maintained by NMFS and state fishery management agencies.<sup>10</sup> Under each of the alternatives considered in this

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<sup>10</sup> NMFS data applied in the analysis include the Northeast Vessel Trip Report (VTR) system, Southeast Logbook program, and Northeast Permit Database. The VTR and Logbook data provide information for each reported commercial fishing trip, including gear the vessel employed, the area(s) in which it fished, the port at which

analysis, vessels that operate within most sheltered bays and other inshore waters would be exempt from regulatory requirements (see Section 3.1.2 for a description of the exempted waters under the proposed requirements). To exclude vessels that operate primarily within exempted waters, the analysis applies spatial analysis of information on fishing activity and the location of exempted waters. The analysis also excludes vessels that would be minimally affected by changes to ALWTRP regulations. For example, some fishermen occasionally fish a few traps/pots to catch species used for bait in their primary fishing activity. The analysis assumes that vessels fishing less than four trips using gear subject to ALWTRP requirements would incur only minimal compliance costs; these vessels are excluded from the analysis. Chapter 6 describes the data sources and methodology in greater detail.

<b>Exhibit 11-2</b>					
<b>NUMBER OF FISHING OPERATIONS POTENTIALLY AFFECTED BY CHANGES IN ALWTRP REQUIREMENTS <sup>1,2</sup></b>					
<b>Fishery/Location</b>	<b>Size Class <sup>3</sup></b>				<b>Total</b>
	<b>I</b>	<b>II</b>	<b>III</b>	<b>IV</b>	
<b>Lobster Trap/Pot</b>					
Northern Inshore Waters	246	1,972	538	0	2,756
Northern Nearshore Waters	38	419	185	9	651
Offshore Waters	8	52	43	65	168
Southern Nearshore Waters	5	40	62	4	111
<b>Lobster Trap/Pot Total</b>	298	2,482	828	78	3,686
<b>Other Trap/Pot</b>					
Northern Inshore Waters	47	148	25	10	231
Northern Nearshore Waters	2	13	3	2	20
Offshore Waters	2	5	7	7	21
Southern Nearshore Waters	16	62	64	5	146
<b>Other Trap/Pot Total</b>	66	228	99	25	418
<b>Gillnet</b>					
Mid-Atlantic Anchored Gillnet	22	304	255	35	615
Mid-Atlantic Driftnet	0	50	29	0	79
Northeast Anchored Gillnet	8	126	171	32	336
Southeast Gillnet*	6	5	1	1	13
<b>Gillnet Total</b>	35	485	456	67	1,044
<b>ALL FISHERIES</b>	400	3,196	1,382	170	5,148
Notes:					
<sup>1</sup> Some vessels participate in multiple fisheries. Each set of gear that is subject to ALWTRP requirements is treated independently in the count of affected operations. Consequently, vessels that participate in both the gillnet and lobster trap/pot fisheries would be counted twice. Similarly, within the other trap/pot fishery, vessels that maintain separate gear to target different species would be counted more than once.					
<sup>2</sup> Totals may not sum due to rounding.					
<sup>3</sup> The definition of size classes applied in the analysis are:					
I = vessels less than 29 feet in length;					
II = vessels between 29 and 40 feet in length;					
III = vessels between 41 and 50 feet in length; and					
IV = vessels greater than 50 feet in length.					
* Southeastern U.S. Atlantic shark gillnet vessels are not included in this estimate (nor in the analysis as a whole) as it was concluded that these vessels would not incur significant compliance costs.					

its catch was landed, and landings by species. The analysis uses the Permit Database for information on the number of fishermen who hold only a Federal lobster permit and thus are not required to submit vessel trip reports. For the analysis of other trap/pot and gillnet vessels, state fishery management agencies provided information on vessels that hold permits to fish solely in state waters (and which are therefore not required to submit VTR or logbook reports). For the analysis of lobster trap/pot vessels, trap tag data were used to estimate the number of active vessels that are permitted by the states.

Under Alternatives 2 through 6 Draft\*, the analysis estimates that approximately 5,100 commercial fishing vessels would be affected by modifications to the ALWTRP. Nearly 3,700 of these vessels participate in the lobster trap/pot fishery, while another 1,000 are gillnet vessels. The analysis of Alternative 6 Final (Preferred) identifies fewer potentially affected vessels; approximately 4,400 commercial fishing vessels, including approximately 2,900 lobster trap/pot vessels, would be affected by this alternative.

### **11.3.2 Other Small Entities Affected**

In addition to fishing operations, the ALWTRP requirements could potentially affect seafood dealers and processors. Seafood dealers include wholesale businesses that purchase fish at the dock and distribute it to processors and retailers. Because the ALWTRP regulations affect fisheries that land a broad set of species, processing facilities potentially affected are diverse, and include operations that fillet, freeze, package, and otherwise prepare seafood. Effects on dealers and processors would be significant to the extent that compliance with the ALWTRP influences the quantity of lobster and fish landed (see below).

Exhibit 11-3 summarizes the number of dealers and processors potentially affected by the proposed changes in ALWTRP requirements. The analysis estimates the number of dealers based on data from NMFS' Dealer Database as well as NMFS' database on federally permitted seafood processing facilities. The number of dealers is derived by identifying all 2002 landings caught with gear potentially subject to ALWTRP regulations, then calculating the number of unique dealer operations purchasing this catch. Because these include only federally permitted dealers and because seafood dealers are often small, informal operations, the analysis likely understates the total number of affected seafood dealers. The number of processors is calculated by identifying the set of processing facilities that handle any of the species caught in ALWTRP-regulated gear. As shown, the analysis suggests that 292 dealers and 135 processors could be affected by modifications to the ALWTRP.

In addition to dealers and processors, revisions to ALWTRP requirements could potentially affect other small entities in the regional economy (to the extent that landings are reduced). These include small seafood retailers, fishing gear manufacturers and suppliers, and marina operators. Because data are not readily available on these sectors, the analysis does not examine them in detail.

<b>Exhibit 11-3</b>		
<b>NUMBER OF DEALERS AND PROCESSING OPERATIONS POTENTIALLY AFFECTED BY CHANGES IN ALWTRP REQUIREMENTS</b>		
<b>State</b>	<b>Dealers</b>	<b>Processors</b>
Maine	89	29
New Hampshire	6	2
Massachusetts	54	42
Rhode Island	32	13
Connecticut	1	4
New York	34	4
New Jersey	25	5
Pennsylvania	2	2
Delaware	1	0
Maryland	3	4
Virginia	9	6
North Carolina <sup>1</sup>	19	9
South Carolina <sup>1</sup>	7	1
Georgia <sup>1</sup>	0	5
Florida <sup>1</sup>	10	9
<b>TOTAL</b>	<b>292</b>	<b>135</b>
Note: <sup>1</sup> For North Carolina, South Carolina, Georgia, and Florida, information on the species of fish and shellfish that dealers purchased is unavailable. In the absence of this information, the number of operations that would be affected by changes in ALWTRP requirements is estimated by multiplying the total number of dealers in each state by the proportion of dealers in the remaining states that purchased species targeted by the affected ALWTRP fisheries (37 percent).		

## 11.4 IMPACTS OF REGULATORY ALTERNATIVES ON SMALL ENTITIES

To further examine the potential for socioeconomic impacts from revised ALWTRP requirements, this analysis considers the impact of modifications to the ALWTRP on the profitability of different classes of vessels. Placing vessel compliance costs in the context of typical ex-vessel revenues helps determine whether the costs will be significant enough to cause behavioral changes (e.g., vessel retirement) on the part of vessel operators and can therefore assist in determining if the affected fisheries are disproportionately affected by the requirements.

### 11.4.1 Vessel Distribution

The cost/revenue comparison is organized around each major vessel classification and the sizes of vessels operating in those classifications. The analysis begins with the location-based vessel classifications used in the economic impact analysis (e.g., offshore, northern nearshore, etc.). These groups are further subdivided into vessel size classes. For example, the Northern Nearshore lobster trap/pot fishery is divided into four classes of vessels: Class I (vessels less than 29 feet in length), Class II (29 to 40 foot vessels), Class III (41 to 50 foot vessels), and Class IV (vessels greater than 50 feet in length). The analysis compares estimated annualized compliance costs for each lobster trap/pot vessel segment to the mean annual revenues for vessels in that

segment. The cost/revenue comparison for other trap/pot and gillnet vessels is organized in the same fashion.<sup>11</sup>

### 11.4.2 Vessel Revenue

Estimates of mean annual revenue for each fishery segment are derived from ex-vessel revenue information obtained from NMFS' 2002 Dealer Database. First, ex-vessel revenue is calculated for each potentially affected vessel the dealer data identify.<sup>12</sup> The analysis then uses individual vessel revenue to derive mean annual revenue per fishery segment. To do so, the hull ID from the landings databases is matched with the hull ID in the permit database to identify the length of each vessel and its home port. Then, mean annual revenue for each vessel segment is calculated, based on the fishery (lobster trap/pot, other trap/pot, gillnet), general location (northern, Mid-Atlantic, or southeast), and size class. For instance, the analysis identifies the mean annual revenue earned by Class II lobster trap/pot vessels operating in the Northeast. Consistent with the cost analysis discussed in Chapter 6, vessels reporting fewer than four trips per year are excluded from the revenue analysis.

### 11.4.3 Vessel Compliance Costs

The analysis compares the vessel compliance cost estimates developed for the economic impact assessment to the estimates of mean annual revenues discussed above. Compliance costs are estimated for each fishery segment under each regulatory alternative. For example, the analysis identifies annualized compliance costs for a Northern Nearshore lobster trap/pot vessel under each alternative. The discussion of the economic impact assessment explains the method for deriving these costs.<sup>13</sup>

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<sup>11</sup> The VTR database provides size class data for federally permitted vessels. For vessels that hold only state permits, the analysis incorporates size data from Maine, Massachusetts, and North Carolina. To develop a distribution of vessels by size for other states, the analysis applies data on lobster trap/pot vessels from Maine, other trap/pot vessels from Massachusetts, and gillnet vessels from Massachusetts and North Carolina. Using state data is preferable to using VTR data since federally permitted vessels tend to be larger than those holding only state permits.

<sup>12</sup> Seafood dealers that limit purchase and sales to lobster are not required to report landings to the Dealer Database. As a result, the analysis would not include information for lobster trap/pot vessels that sell their catch to such "lobster-only" dealers or possess their own dealer permit and sell only lobster. The direction and magnitude of the bias associated with this uncertainty, however, is not known.

<sup>13</sup> The FEIS does not analyze potential reductions in compliance costs for individual fishermen resulting from groundline buyback programs (see Section 7.4.3). However, because these programs would reduce compliance costs for individual fishermen, they may decrease the number of heavily-affected and at-risk vessels.

#### 11.4.4 Comparison of Vessel Compliance Costs to Ex-Vessel Revenues

To identify potentially hard-hit sectors of the commercial fishing industry, the analysis compares annualized estimates of vessel compliance costs to estimates of mean annual vessel revenues. Exhibits 11-4 through 11-6 present the results. There is no clearly defined threshold at which annualized costs represent a large enough percent of annual revenues that a vessel operator would cease fishing. For purposes of analysis, however, the exhibits highlight two impact categories:

- **Heavily-Affected Vessels:** Vessel segments for which estimated compliance costs exceed 15 percent of mean annual revenues.
- **At-Risk Vessels:** Vessel segments for which estimated compliance costs are between 5 and 15 percent of mean annual revenues.

The tables focus on regulatory Alternative 6 Final (Preferred). A summary of the impacts of all alternatives can be found later in this chapter.

The analysis identifies 11 vessel segments that can be considered heavily affected, i.e., for which annualized compliance costs may exceed 15 percent of mean annual revenues. Nearly all of these segments are composed of smaller (Class I or Class II) vessels, which typically have a smaller revenue base with which to absorb such costs.<sup>14</sup> Seven of the segments represent lobster vessels, indicating that the smallest vessels in this fishery may have difficulty complying with new ALWTRP requirements. The discussion below analyzes the heavily affected fishing segments in greater detail.

Numerous other vessels (approximately 1,980) fall in the at-risk vessel category. As shown, most of these are smaller vessels in the various fisheries. The at-risk vessels are dominated by Class II lobster vessels; of these, the most affected subsets are vessels in Maine, which are estimated to have greater gear loss costs. A variety of other vessels fall in the at-risk range, including northern nearshore lobster vessels, several categories of other trap/pot vessels (e.g., black sea bass, hagfish, red crab), and Class I gillnet vessels in the Mid-Atlantic.

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<sup>14</sup> As explained in Chapter 6, the analysis of vessel compliance costs is based upon 99 model vessels: 31 representing lobster trap/pot vessels, 46 representing other trap/pot vessels, and 22 representing gillnet vessels. Each of these models is designed to be representative of a group of vessels that is likely to face similar compliance costs (i.e., vessels that face similar regulatory requirements and use similar configurations of gear). This is not to say that all vessels represented by a particular model would in practice face identical compliance costs; clearly, variation in operating practices, vessel size, and the scale of operations within a particular vessel category will lead to variation in compliance costs. The scope of the analysis and lack of the necessary data, however, prohibit analysis of compliance costs at a higher level of specificity.

The limitations of the cost analysis are potentially problematic in comparing estimated compliance costs to revenue data that are available at a higher degree of detail. For example, data on vessel revenues may be available by vessel size class within a particular group (e.g., Northern Nearshore lobster vessels), while compliance cost estimates are available only for the group as a whole. As a result, the comparison of annualized compliance costs to annual revenues may suggest a more severe impact on small vessels, which tend to have a lower revenue base, than would actually be the case. This potential bias should be recognized in interpreting the findings of this analysis.

Exhibit 11-4

## COMPARISON OF VESSEL COMPLIANCE COSTS AND REVENUES UNDER ALTERNATIVE 6 FINAL (PREFERRED): LOBSTER

Location	Vessel Size Class	Number of Vessels Affected <sup>1</sup>	Lower Bound Annualized Compliance Costs <sup>2</sup>	Upper Bound Annualized Compliance Costs <sup>2</sup>	Average Annual Revenue	Lower Bound Cost as a Percent of Revenue	Upper Bound Cost as a Percent of Revenue
<b>Heavily Affected Vessels</b>							
LMA 6	I	-	\$ 6,380	\$ 6,380	\$ 9,581	66.6%	66.6%
Offshore	I	8	\$ 16,119	\$ 16,119	\$ 28,629	56.3%	56.3%
Offshore	II	42	\$ (3,988)	\$ 16,119	\$ 39,391	-10.1%	40.9%
Southern Nearshore	I	2	\$ 3,749	\$ 3,749	\$ 9,581	39.1%	39.1%
LMA 6	II	3	\$ 6,380	\$ 6,380	\$ 31,158	20.5%	20.5%
Northern State Waters	I	231	\$ 23	\$ 5,736	\$ 28,629	0.1%	20.0%
LMA 6	III	2	\$ 6,380	\$ 6,380	\$ 33,353	19.1%	19.1%
<b>At-Risk Vessels</b>							
Northern State Waters	II	1,388	\$ 23	\$ 5,736	\$ 39,391	0.1%	14.6%
Offshore	III	44	\$ 16,119	\$ 16,119	\$ 116,339	13.9%	13.9%
Northern Nearshore	II	400	\$ (1,647)	\$ 5,390	\$ 39,391	-4.2%	13.7%
Northern Nearshore	I	40	\$ (1,647)	\$ 3,749	\$ 28,629	-5.8%	13.1%
Southern Nearshore	II	24	\$ 3,749	\$ 3,749	\$ 31,158	12.0%	12.0%
Southern Nearshore	III	35	\$ 3,749	\$ 3,749	\$ 33,353	11.2%	11.2%
<b>Other Vessels</b>							
Northern State Waters	III	404	\$ 23	\$ 5,736	\$ 116,339	0.0%	4.9%
Northern Nearshore	III	189	\$ (1,647)	\$ 5,390	\$ 116,339	-1.4%	4.6%
Offshore	IV	66	\$ (4,014)	\$ 16,119	\$ 546,315	-0.7%	3.0%
Southern Nearshore	IV	2	\$ 3,749	\$ 3,749	\$ 284,992	1.3%	1.3%
Northern Nearshore	IV	10	\$ 3,749	\$ 3,749	\$ 546,315	0.7%	0.7%
Notes:							
1. Number of affected vessels based on methods discussed in economic impact analysis. Some modeled segments contain no vessels and are included for illustrative purposes only.							
2. Range reflects different compliance costs for subgroups of vessels in each category.							

## Exhibit 11-5

## COMPARISON OF VESSEL COMPLIANCE COSTS AND REVENUES UNDER ALTERNATIVE 6 FINAL (PREFERRED): OTHER TRAP/POT

Location	Other Trap/Pot Group	Vessel Size Class	Number of Vessels Affected <sup>1</sup>	Lower Bound Annualized Compliance Costs <sup>2</sup>	Upper Bound Annualized Compliance Costs <sup>2</sup>	Average Annual Revenue	Lower Bound Cost as a Percent of Revenue	Upper Bound Cost as a Percent of Revenue
<b>Heavily Affected Vessels</b>								
Mid-Atlantic	Black Sea Bass Pot	I	7	\$ 263	\$ 4,185	\$ 10,317	2.5%	40.6%
Mid-Atlantic	Other	I	2	\$ 1,796	\$ 1,796	\$ 10,317	17.4%	17.4%
Northern	Hagfish Pot	II	1	\$ 123	\$ 6,876	\$ 42,150	0.3%	16.3%
Mid-Atlantic	Black Sea Bass Pot	II	19	\$ 4,185	\$ 4,185	\$ 26,507	15.8%	15.8%
<b>At-Risk Vessels</b>								
Mid-Atlantic	Conch/Whelk Pot	I	2	\$ 893	\$ 893	\$ 10,317	8.7%	8.7%
Northern	Hagfish Pot	III	1	\$ 123	\$ 6,876	\$ 81,392	0.2%	8.4%
Mid-Atlantic	Black Sea Bass Pot	III	19	\$ 263	\$ 4,185	\$ 52,196	0.5%	8.0%
Northern	Red Crab Pot	IV	3	\$ 23	\$ 31,834	\$ 460,980	0.0%	6.9%
Mid-Atlantic	Other	II	-	\$ 1,796	\$ 1,796	\$ 26,507	6.8%	6.8%
<b>Other Vessels</b>								
Northern	Conch/Whelk Pot	II	27	\$ 90	\$ 924	\$ 42,150	0.2%	3.5%
Mid-Atlantic	Other	III	3	\$ 461	\$ 1,796	\$ 52,196	0.9%	3.4%
Mid-Atlantic	Conch/Whelk Pot	II	12	\$ 830	\$ 893	\$ 26,507	3.1%	3.4%
Northern	Black Sea Bass Pot	I	35	\$ 30	\$ 294	\$ 25,087	0.1%	2.9%
Mid-Atlantic	Scup Pot	I	-	\$ 289	\$ 289	\$ 10,317	2.8%	2.8%
Northern	Shrimp Pot	I	5	\$ 577	\$ 654	\$ 25,087	2.3%	2.6%
Northern	Hagfish Pot	IV	4	\$ 6,876	\$ 9,195	\$ 460,980	1.5%	2.1%
Northern	Other	II	2	\$ 106	\$ 514	\$ 42,150	0.3%	1.9%
Northern	Conch/Whelk Pot	III	11	\$ 179	\$ 924	\$ 81,392	0.2%	1.8%
Mid-Atlantic	Conch/Whelk Pot	III	24	\$ 893	\$ 893	\$ 52,196	1.7%	1.7%
Northern	Shrimp Pot	II	22	\$ 577	\$ 695	\$ 42,150	1.4%	1.6%
Southern	Black Sea Bass Pot	II	27	\$ 284	\$ 305	\$ 24,189	1.2%	1.3%
Northern	Scup Pot	II	28	\$ 81	\$ 322	\$ 42,150	0.2%	1.2%
Northern	Black Sea Bass Pot	II	81	\$ 30	\$ 294	\$ 42,150	0.1%	1.1%
Northern	Other	III	2	\$ 379	\$ 514	\$ 81,392	0.5%	1.0%
Southern	Black Sea Bass Pot	I	5	\$ 284	\$ 305	\$ 31,761	0.9%	1.0%
Mid-Atlantic	Black Sea Bass Pot	IV	2	\$ 4,185	\$ 4,185	\$ 460,980	0.9%	0.9%
Northern	Shrimp Pot	III	-	\$ 654	\$ 654	\$ 81,392	0.8%	0.8%

Exhibit 11-5

**COMPARISON OF VESSEL COMPLIANCE COSTS AND REVENUES UNDER ALTERNATIVE 6 FINAL (PREFERRED): OTHER TRAP/POT**

<b>Location</b>	<b>Other Trap/Pot Group</b>	<b>Vessel Size Class</b>	<b>Number of Vessels Affected<sup>1</sup></b>	<b>Lower Bound Annualized Compliance Costs<sup>2</sup></b>	<b>Upper Bound Annualized Compliance Costs<sup>2</sup></b>	<b>Average Annual Revenue</b>	<b>Lower Bound Cost as a Percent of Revenue</b>	<b>Upper Bound Cost as a Percent of Revenue</b>
Mid-Atlantic	Scup Pot	III	2	\$ 310	\$ 310	\$ 52,196	0.6%	0.6%
Northern	Black Sea Bass Pot	III	17	\$ 30	\$ 305	\$ 81,392	0.0%	0.6%
Mid-Atlantic	Other	IV	2	\$ 1,796	\$ 1,796	\$ 460,980	0.4%	0.4%
Northern	Scup Pot	III	1	\$ 289	\$ 289	\$ 81,392	0.4%	0.4%
Southern	Black Sea Bass Pot	III	17	\$ 284	\$ 305	\$ 109,510	0.3%	0.3%
Mid-Atlantic	Conch/Whelk Pot	IV	2	\$ 893	\$ 893	\$ 460,980	0.2%	0.2%
Northern	Other	IV	2	\$ 379	\$ 514	\$ 460,980	0.1%	0.1%
Northern	Scup Pot	IV	1	\$ 230	\$ 289	\$ 445,366	0.1%	0.1%
Northern	Black Sea Bass Pot	IV	10	\$ 60	\$ 294	\$ 460,980	0.0%	0.1%

## Notes:

1. Number of affected vessels based on methods discussed in economic impact analysis. Some modeled segments contain no vessels and are included for illustrative purposes only.
2. Range reflects different compliance costs for subgroups of vessels in each category.

Exhibit 11-6

## COMPARISON OF VESSEL COMPLIANCE COSTS AND REVENUES UNDER ALTERNATIVE 6 FINAL (PREFERRED): GILLNET

Location	Vessel Size Class	Number of Vessels Affected <sup>1</sup>	Lower Bound Annualized Compliance Costs <sup>2</sup>	Upper Bound Annualized Compliance Costs <sup>2</sup>	Average Annual Revenue	Lower Bound Cost as a Percent of Revenue	Upper Bound Cost as a Percent of Revenue
<b>Heavily Affected Vessels</b> (None)							
<b>At-Risk Vessels</b>							
Mid-Atlantic	I	21	\$ 447	\$ 751	\$ 8,458	5.3%	8.9%
<b>Other Vessels</b>							
Northeast	I	6	\$ 763	\$ 827	\$ 21,934	3.5%	3.8%
Mid-Atlantic	II	351	\$ 3	\$ 751	\$ 69,885	0.0%	1.1%
Northeast	II	129	\$ 13	\$ 924	\$ 91,691	0.0%	1.0%
Mid-Atlantic	III	278	\$ 3	\$ 751	\$ 133,556	0.0%	0.6%
Northeast	III	178	\$ 13	\$ 924	\$ 190,230	0.0%	0.5%
Northeast	IV	32	\$ 13	\$ 924	\$ 345,042	0.0%	0.3%
Southeast	III	1	\$ 178	\$ 178	\$ 92,688	0.2%	0.2%
Southeast	II	2	\$ 178	\$ 178	\$ 93,723	0.2%	0.2%
Mid-Atlantic	IV	34	\$ 447	\$ 751	\$ 428,010	0.1%	0.2%
Southeast	IV	-	\$ 178	\$ 178	\$ 134,906	0.1%	0.1%
Notes:							
1. Number of affected vessels based on methods discussed in economic impact analysis. Some modeled segments contain no vessels and are included for illustrative purposes only.							
2. Range reflects different compliance costs for subgroups of vessels in each category.							

#### **11.4.5 Summary of Heavily-Affected Operations**

A comparison of annualized vessel compliance costs to vessel revenue suggests that a limited subset of vessel operators are likely to face costs significant enough to drive them out of business under Alternative 6 Final (Preferred). Although uncertainties exist in the analysis, the vessels categorized as heavily affected seem to be few in number (relative to the full set of ALWTRP vessels) and small in size. Therefore, they employ a relatively small number of fishermen and account for a relatively small share of landings. Hence, effects on dealers and processors are likely to be minor. Under Alternative 6 Final (Preferred), numerous other vessels (approximately 1,980) fall in the at-risk vessel category (for which annualized compliance costs represent five to 15 percent of mean annual revenues). The at-risk vessels are dominated by Class II lobster vessels; of these, the most affected subsets are vessels in Maine, which are estimated to have greater gear loss costs.

Under Alternatives 2, 3\*, 4, and 6 Draft\*, the analysis identifies a much larger number of heavily affected vessels than under Alternative 6 Final (Preferred). Most notably, numerous Class II lobster vessels fishing Maine inshore waters have cost-revenue ratios that exceed the 15 percent threshold. In general, the greater number of heavily affected vessels under these alternatives is attributable to slightly higher per-vessel compliance costs as well as to the application of an exemption line that would make approximately 50 percent of Maine state waters subject to ALWTRP requirements, as opposed to 29 percent under Alternative 6 Final (Preferred). Analysis of Alternative 5 (the modified SAM) shows very few vessels would face compliance costs that qualify them as heavily affected.

For all the alternatives, it is difficult to discern precisely how the operators of heavily affected vessels will respond to the regulations. The assumption that all heavily affected vessels will cease fishing is highly conservative, and fishermen identified as heavily affected might find it economically possible to adjust to the modified ALWTRP regulations (e.g., by restricting their effort to exempted waters) rather than leave fishing. Furthermore, the groundline buyback programs currently underway will help to defray some gear conversion costs and may help some vessels continue to operate.

It is important to consider the socioeconomic burden of the ALWTRP in the context of the larger set of regulations faced by ALWTRP fisheries and the overall fishing industry. To the extent that certain communities already may be struggling with the socioeconomic impact of existing regulations, the ALWTRP modifications may add to the burden and have a significant marginal impact. The cumulative effects analysis included in this EIS addresses the potential for such outcomes.

#### **11.4.6 Reporting, Recordkeeping, and Other Compliance Requirements**

None of the alternatives, including Alternative 6 Final (Preferred), would introduce new reporting or recordkeeping requirements for fishing operations. The compliance requirements consist entirely of the fishing gear modifications discussed above.

**11.5 RULES THAT MAY DUPLICATE, OVERLAP, OR CONFLICT WITH PROPOSED RULE**

No duplicative, overlapping, or conflicting Federal rules have been identified.