



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

January 23, 2002

Dear Lobster Trap/Pot and Gillnet Fisherman:

This letter is to inform you of three recent rules issued by the National Marine Fisheries Service (NMFS) and serves as a compliance guide. These rules amend the regulations that implement the Atlantic Large Whale Take Reduction Plan by establishing a Dynamic Area Management (DAM) program, Seasonal Area Management (SAM) program, and expanding gear modifications to the Mid-Atlantic and Offshore lobster waters and modifying requirements for gillnet gear in the Mid-Atlantic region.

These rules were identified as a measure under the reasonable and prudent alternative contained in the Biological Opinions prepared for the Federal Northeast multispecies, monkfish, spiny dogfish, and American lobster fisheries under the Endangered Species Act and are necessary to provide further protection for large whales, with an emphasis on protective measures to benefit North Atlantic right whales due to the critical status of this population.

A detailed summary of these measures and their respective effective dates is provided below. Please read the letter carefully to determine specifically when each of the new requirements becomes effective.

Dynamic Area Management (DAM) PROGRAM:
Effective February 8, 2002

The DAM program clarifies NMFS' authority to temporarily restrict the use of lobster trap/pot and gillnet fishing gear within defined areas to protect North Atlantic right whales, and establishes criteria and procedures for implementing the DAM program in areas north of 40°E N. latitude. A DAM zone will be triggered by a single reliable report from a qualified individual of 3 or more right whales within an area (75 nm²) such that right whale density is equal to or greater than 0.04 right whales per nm². A *qualified individual* is an individual ascertained by NMFS to be reasonable, through training or experience, to identify a right whale. Such individuals include, but are not limited to, NMFS staff, U.S. Coast Guard and Navy personnel trained in whale identification, scientific research survey personnel, whale watch operators and naturalists, and mariners trained in whale species identification through disentanglement training or some other training program deemed adequate by NMFS. A *reliable report* would be a credible right whale sighting based upon which a DAM zone would be triggered.

For more information regarding the procedures and criteria to establish a DAM zone, criteria to determine the extent of the DAM zone, and decision factors for implementing restrictions in a triggered DAM zone, please see the final rule implementing the DAM program (67 FR 1133, January 9, 2002). Instructions on how to obtain this rule are noted at the end of this letter.



Does the DAM rule apply to me?

The DAM rule applies to fishermen who use lobster trap/pot and gillnet fishing gear in areas north of 40E N. latitude.

What do I have to do to comply with the DAM rule?

NMFS will let you know whether you have to:

1. Remove all lobster trap and anchored gillnet gear, and refrain from setting additional gear within the triggered DAM zone; or
2. Modify your fishing gear in order to continue to fish in the DAM zone.

How long will NMFS issue restrictions in a DAM Zone?

NMFS will either:

1. Identify a DAM zone without gear restrictions and alert fishermen that a voluntary DAM zone will be established for a minimum of 15 days. NMFS will let fishermen know the location of the DAM zone and the number of right whales sighted within it.
2. Establish a DAM zone with gear restrictions which will be effective for 15 days and will begin 2 days after publication of a notice in the *Federal Register*.

NOTE: After the 15-day period, the DAM zone will automatically expire, unless right whales are still sighted in the area. If right whales are still sighted in the area, NMFS may continue to maintain the DAM zone. Each continuation of the restricted DAM zone will be for up to 15 days.

Can a DAM Zone be established for less than 15 days?

NMFS may remove restrictions on the DAM zone or rescind an alert prior to its automatic expiration if:

1. There are no confirmed sightings of right whales by qualified individuals for 1 week; or
2. Other credible evidence indicates that right whales have left the designated zone.

How will NMFS notify me when DAM Zones have been established or removed?

NMFS will publish a document in the *Federal Register* and will use other appropriate media to announce the establishment of the DAM zone and the type of restrictions imposed.

**Seasonal Area Management (SAM) PROGRAM:
Effective March 1, 2002**

Unlike the final rules implementing the DAM program and gear modifications, NMFS issued the SAM program as an interim final rule and will accept additional comments on this rule. Comments must be postmarked or transmitted via facsimile (978-281-9394) by 5 p.m. Eastern Standard Time, on **February 8, 2002**. Comments transmitted via e-mail will not be accepted. Send comments on this interim final rule to the Chief, Protected Resources Division, NMFS, 1 Blackburn Drive, Gloucester, MA 01930-2298. NMFS will consider these comments when preparing the Environmental Impact Statement (EIS) and conducting further rulemaking for the SAM program.

The SAM program defines two areas based on the annual predictable presence of North Atlantic right whales and covers approximately 5,000 nm² (9265 km²) from Cape Cod eastward to the Hague Line in which gear restrictions for lobster trap/pot and anchored gillnet gear will be required. Lobster trap/pot and anchored gillnet gear set within each SAM area are restricted to those designated as Level II or Low Risk Gear, which is defined as gear where death or serious injury resulting from entanglement would be highly unlikely.

For more information regarding the SAM program, please see the interim final rule implementing the SAM program (67 FR 1142, January 9, 2002). Instructions on how to obtain this rule are noted at the end of this letter.

Does the SAM rule apply to me?

The SAM rule applies to you if you fish with lobster trap/pot and gillnet gear off Cape Cod and points north and out to the Exclusive Economic Zone line from March 1 through April 30 in SAM West, and May 1 through July 31 in SAM East (see Figure 1 for the coordinates of each area). The dividing line between SAM West and SAM East is at the 69E24' W. longitude line.

What do I have to do to comply with the SAM rule?

Lobster Trap Gear

Northern Nearshore and Northern Inshore State Lobster Waters

Fishermen using lobster trap gear within the portion of the Northern Nearshore and Northern Inshore State Lobster Waters (see Figure 2) that overlap with a SAM area must utilize all the following gear modifications when a SAM area is in effect:

1. Ground lines and buoy lines must be made entirely of either sinking or neutrally buoyant line. Floating ground lines and buoy lines are prohibited;
2. A weak link must be placed at all buoys with a maximum breaking strength of 600 lb (272.2 kg). Each weak link must be installed as close to each individual buoy as operationally feasible; and
3. No more than one buoy line per trawl may be used. This buoy line must be at the northern or western end of the trawl string depending on the direction of the set.

Offshore Lobster Waters

Fishermen using lobster trap/pot gear within the portion of the Offshore Lobster Waters Area that overlap with a SAM area must use all the following gear modifications when a SAM area is in effect:

1. Ground lines and buoy lines must be made entirely of either sinking or neutrally buoyant line. Floating ground lines and buoy lines are prohibited;
2. A weak link must be placed at all buoys with a maximum breaking strength of 1,500 lbs (680.4 kg). Each weak link must be installed as close to each individual buoy as operationally feasible;
3. No more than one buoy line per trawl may be used. This buoy line must be at the northern or western end of the trawl string depending on the direction of the set.

Figure 3 depicts these SAM requirements for lobster trap/pot gear in Northern Nearshore Lobster Waters, Northern Inshore State Lobster Waters, and Offshore Lobster Waters.

Anchored Gillnet Gear

Other Northeast Waters Area

Fishermen utilizing anchored gillnet gear within the portion of the Other Northeast Waters Area (see Figure 4) that overlap with a SAM area must use all the following gear modifications when a SAM area is in effect:

1. Ground lines (the lines between the net bridle and the anchors) and buoy lines must be made entirely of sinking or neutrally buoyant line. Floating ground lines and buoy lines are prohibited;
2. Each net panel must have a total of 5 weak links with a maximum breaking strength of 1,100 lbs (498.9 kg). Net panels are typically 50 fathoms in length, but the weak link requirements would apply to all variations in panel size. These weak links must include 3 floatline weak links. The placement of the weak links on the floatline must be one at the center of the net panel, and one each as close as possible to each of the bridle ends of the net panel. The remaining 2 weak links must be placed in the center of each of the up and down lines at the panel ends;
3. No more than one buoy line per net string may be used. This buoy line must be at the northern or western end of the gillnet string depending on the direction of the set; and
4. All anchored gillnets, regardless of the number of net panels, must be securely anchored with the holding power of at least a 22 lb (9.9 kg) Danforth style anchor at the each end of the net string.

Figure 5 depicts depicting SAM requirements for gillnet gear in the Other Northeast Waters Area.

Expanded Gear Modifications:

Effective February 11, 2002 (except for one exception noted below)

This rule expands gear modifications to the Mid-Atlantic and Offshore lobster waters and modifies requirements for gillnet gear in the Mid-Atlantic coastal waters. Additionally, the Lobster Take Reduction Technology List and the Gillnet Take Reduction Technology List are amended. For more information regarding the gear modifications, please see the final rule implementing the gear modifications (67 FR 1300, January 10, 2002). Instructions on how to obtain this rule are noted at the end of this letter.

Does the new Gear rule apply to me?

This rule applies to fishermen who use either lobster trap/pot gear in the Northern Inshore State Lobster Waters Area, Southern Nearshore Lobster Waters Area, or Offshore Lobster Waters Area; or gillnet gear in the Mid-Atlantic Coastal Waters Area (see Figures 2 and 4 for area depictions).

What do I have to do to comply with the new Gear rule?

Please note that universal requirements for lobster trap and gillnet gear, such as no wet storage of gear, and gear marking requirements still apply. These requirements are not listed here as no changes were made in this recent rule. For a complete list of these requirements, call 978-281-9328. In addition, previous regulations are available by accessing the ALWTRP web page (www.nero.nmfs.gov/whaletrp/).

Lobster Trap Gear

Northern Inshore State Lobster Waters Area

Fishermen with lobster trap gear in the Northern Inshore State Lobster Waters Area must still be in compliance with one option from the Lobster Take Reduction Technology List. This list has been amended and is summarized below:

1. All buoy lines must be composed entirely of sinking and/or neutrally buoyant line.
2. All ground lines must be composed entirely of sinking and/or neutrally buoyant line.
3. All buoys must be attached to the buoy line with a weak link have a breaking strength no greater than 600 lbs (272.4 kg). Each weak link must be installed as close to each individual buoy as operationally feasible.
4. All buoy lines must be 7/16 in (1.11 cm) or less in diameter. **Effective January 1, 2003**, the Lobster Take Reduction Technology List will be amended to remove this option. Removing this option from the Lobster Take Reduction Technology List does not prevent a fisherman from continuing to use buoy line with a diameter of 7/16 in (1.11 cm) or less. However, it can not be counted as an option from the list.

Southern Nearshore Lobster Waters Area

Fishermen with lobster trap gear in the Southern Nearshore Waters Area will now have mandatory gear modifications applicable year-round rather than the Lobster Take Reduction Technology List. Fishermen must now:

1. Install a weak link with a maximum breaking strength of 600 lb (272.2 kg) on the buoy line. Each weak link must be installed as close to each individual buoy as operationally feasible; and
2. Install weak links in such a way that produces knotless ends if the weak link breaks.

Offshore Lobster Waters Area

Fishermen with lobster trap gear in the Offshore Lobster Waters Area are required to reduce the breaking strength of weak link at all buoys from 3,780 lb (1,714.3 kg) to 2,000 lb (906.9 kg), and install weak links in such a way that produces knotless ends if the weak link breaks. The weak links must be placed as close to each individual buoy as operationally feasible.

Anchored Gillnet Gear

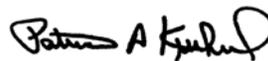
Mid-Atlantic Coastal Waters

Fishermen with gillnet gear in Mid-Atlantic Coastal Waters now have mandatory gear requirements rather than the Gillnet Take Reduction Technology List. These fishermen are now required to:

1. Install weak links at the buoy, and in the center of the floatline on each 50-fathom net panel or every 25 fathoms on the floatline for longer panels. The maximum breaking strength of these weak links is 1,100 lbs (498.8 kg) for both the buoy and floatline weak links. The weak links must be placed as close to each individual buoy as operationally feasible.
2. Return all gillnet gear to port with their vessels, or if the gillnets are left at sea to continue fishing, to secure the nets on each end with anchors that have the holding power of at least a 22 lb (9.9 kg) Danforth-style anchor.

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

Sincerely,

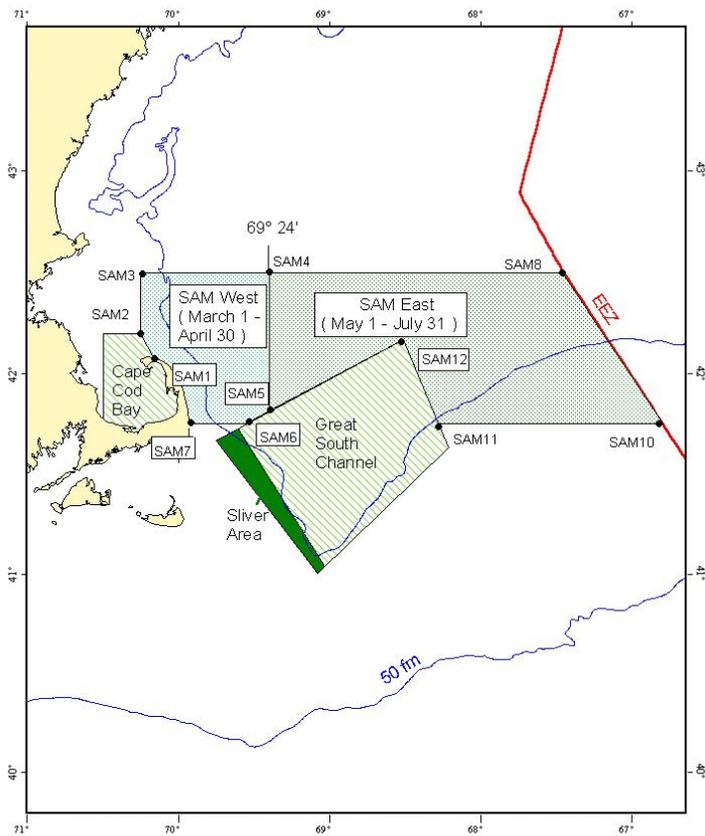


Patricia A. Kurkul
Regional Administrator

Enclosures

Figure 1

*Atlantic Large Whale Take Reduction Plan
Seasonal Area Management (SAM)*



SAM West

Point	N. Lat.	W. Long.
SAM 1	42E04.8'	70E10'
SAM 2	42E12'	70E15'
SAM 3	42E30'	70E15'
SAM 4	42E30'	69E24'
SAM 5	41E48.9'	69E24'
SAM 6	41E45'	69E33'
SAM 7	41E45'	69E55.8'

SAM East

Point	N. Lat.	W. Long.
SAM 5	41E48.9'	69E24'
SAM 4	42E30'	69E24'
SAM 8	42E30'	67E26'
SAM 10	41E45'	66E50'
SAM 11	41E45'	68E17'
SAM 12	42E10'	68E31'

Figure 2

ALWTRP Regulated Lobster Waters

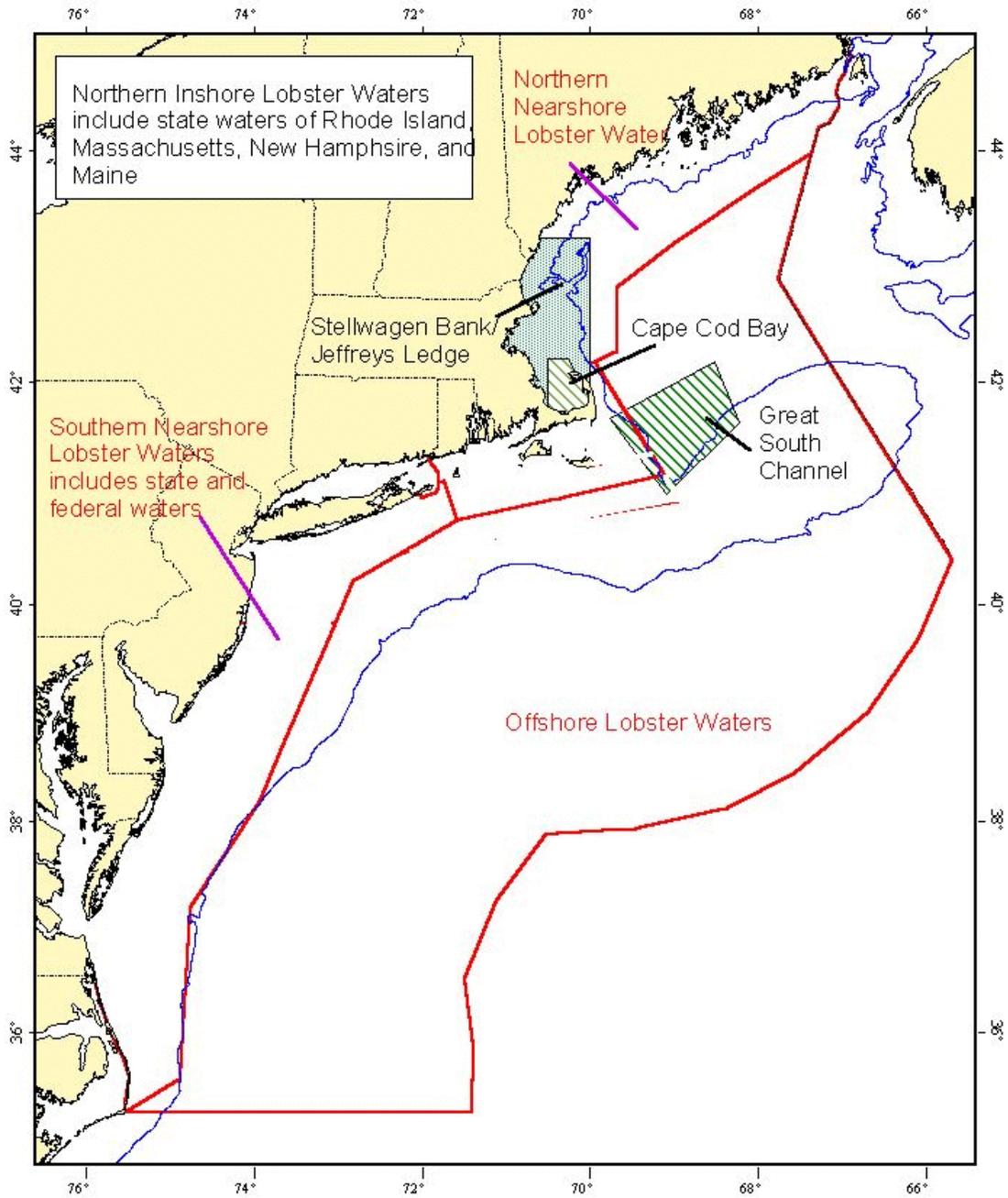
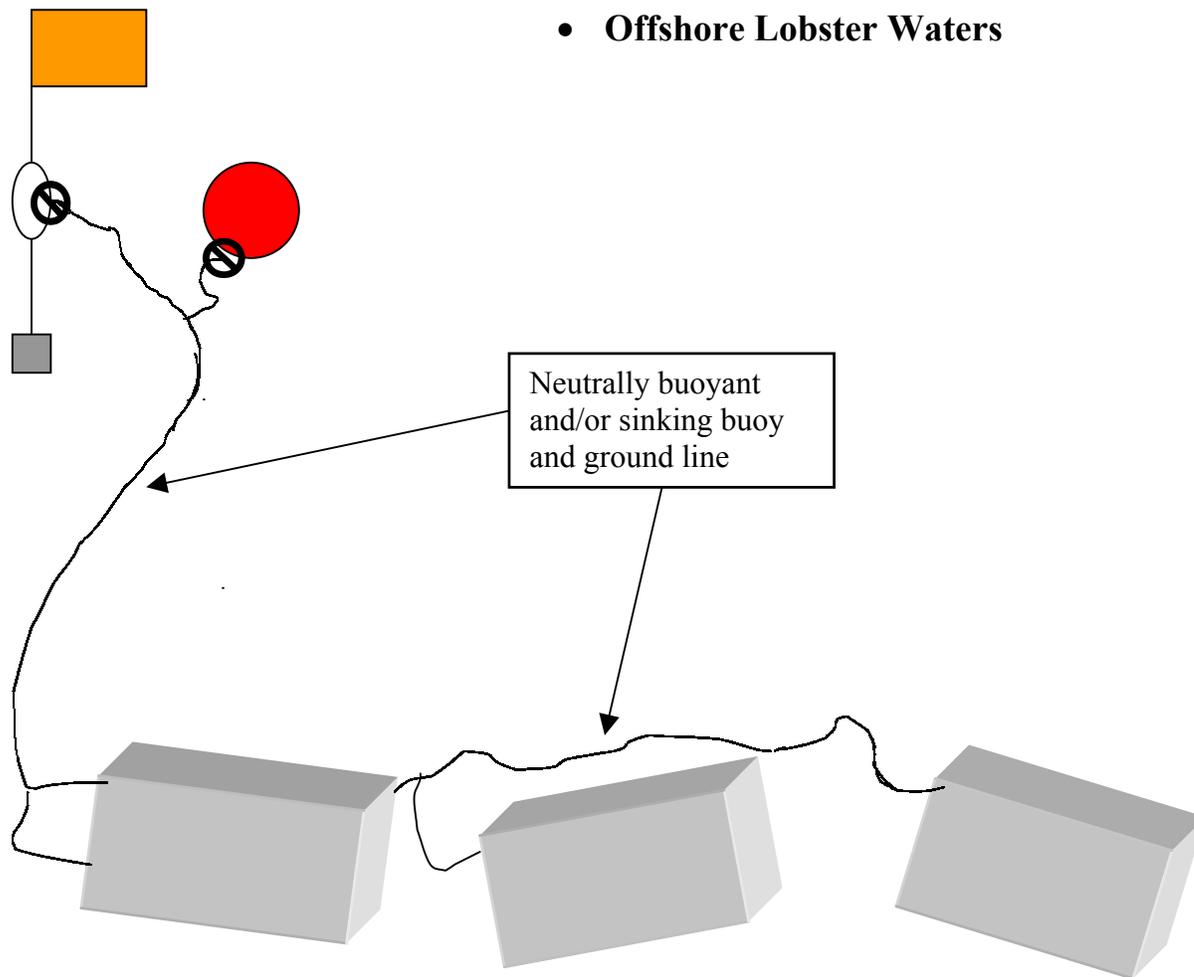


Figure 3

SAM LOBSTER GEAR

- Northern Inshore State Lobster Waters
- Northern Nearshore Lobster Waters
- Offshore Lobster Waters



Key:

 Northern Inshore and Nearshore = 600 lb required buoy weak link

Offshore = 1500 lb required buoy weak link

 Buoy

 High Flyer or Buoy



Figure 4

ALWTRP Regulated Gillnet Waters

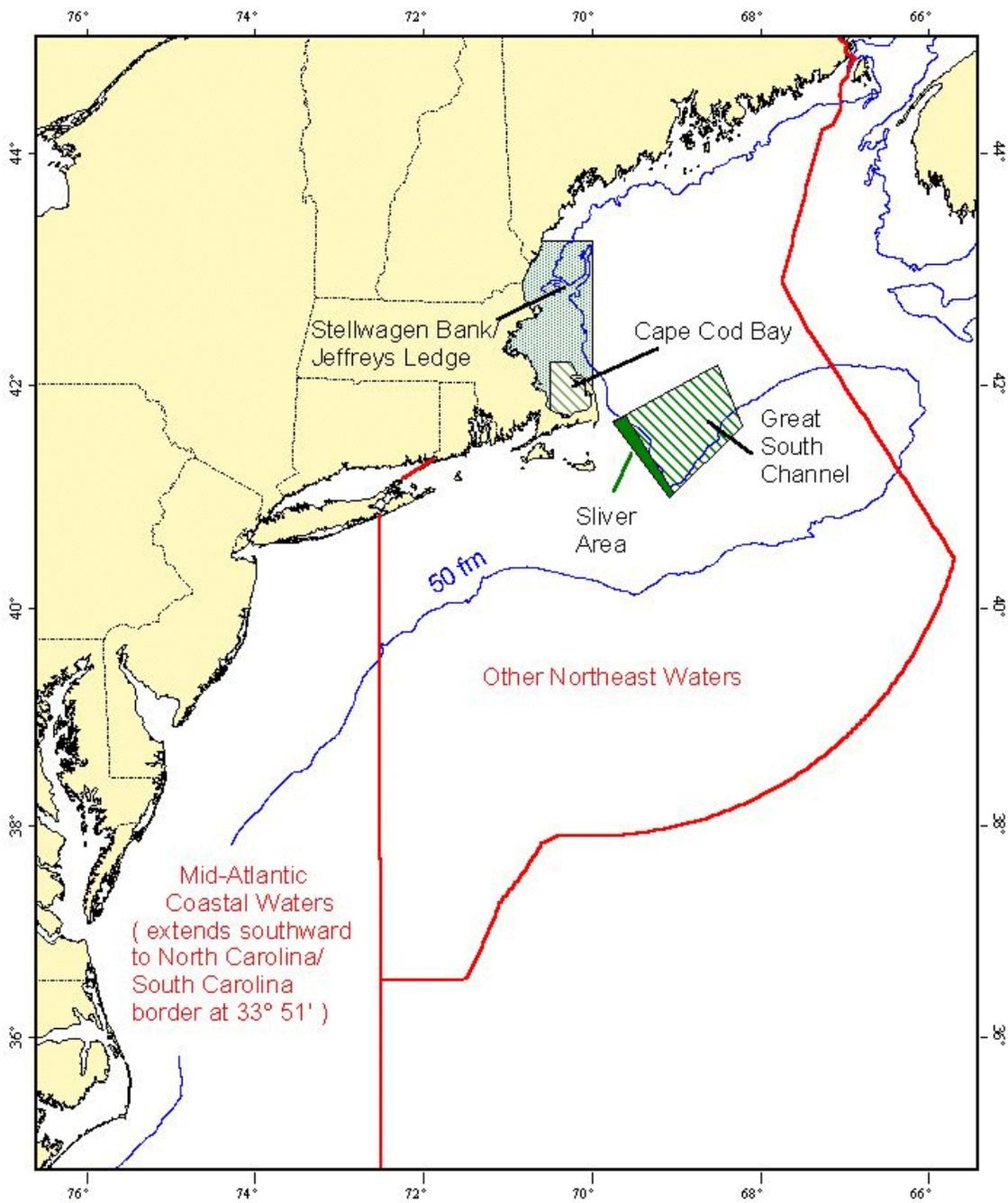
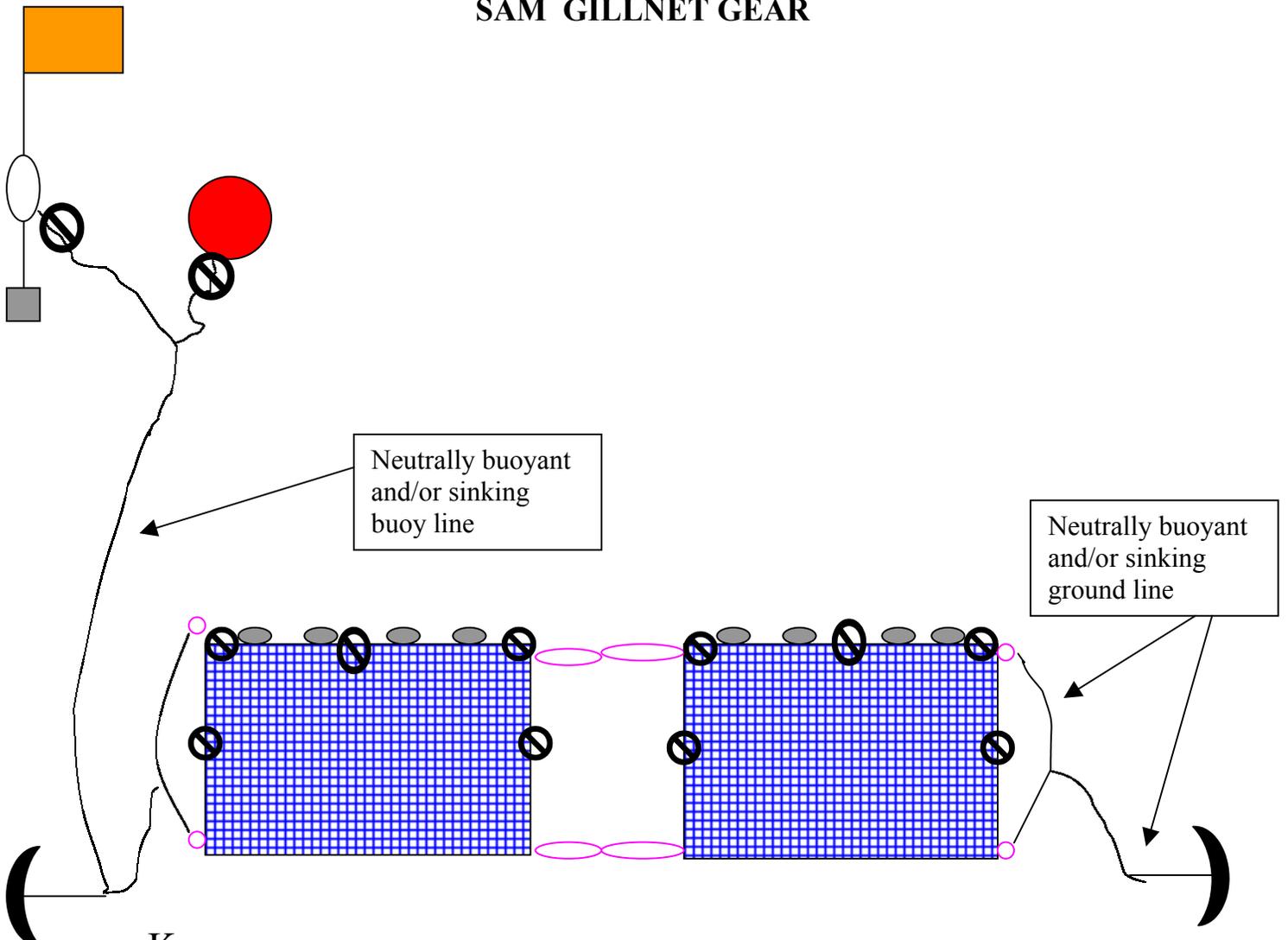


Figure 5

SAM GILLNET GEAR



Key:

⊘ 1100 lb required weak link

● Floats

○ Bridle

☾ Holding power of at least a 22 lb Danforth-style anchor

● Buoy

■
○
■ High Flyer or Buoy