

impacts were assessed with respect to one hypothetical DAM zone from June 20 to July 6, 2000. For example, based on 2000 right whale sightings data and 2000 Vessel Trip Report (VTR) data, from June 20th to July 6th the proposed rule would have affected 45 lobster and sink gillnet vessels (29 lobster vessels and 16 sink gillnet vessels), which represents 0.4 percent of the vessels ( $0.004=29/7,147$  lobster vessels) associated with the lobster fleet and 5.1 percent of the vessels ( $0.051=16/312$  sink gillnet vessels) associated with the sink gillnet fleet in the northeast. This proposed rule contains no reporting, record keeping, or other compliance requirements. There are no relevant Federal rules that duplicate, overlap, or conflict with the proposed rule.

Four alternatives, including a status quo or no action alternative, the preferred alternative (PA), and two other alternatives were evaluated using a retrospective analysis based on 2000 right whale sightings data and 2000 VTR data. Under all alternatives, from June 20th to July 6th, 45 vessels, of which 29 were lobster vessels and 16 were sink gillnet vessels, were affected by a DAM zone. A summary of the analysis follows:

1. NMFS considered a "no action" or status quo alternative that would result in no changes to the current measures under the ALWTRP. For the status quo, the economic impact analysis considered a complete closure to lobster and sink gillnet gear when a DAM is implemented. In the worst case scenario, a vessel would choose not to fish and therefore incur revenue losses plus the cost of moving their gear. Under status quo, if a lobster vessel chose not to fish outside the DAM zone, annual revenues would be reduced by 5 percent if these vessels chose not to fish from June 20th to July 6th. It is important to note that this represents forgone revenues for one DAM zone, and a vessel could be subject to multiple DAM zones or closures that are extended in time and space. Annual forgone revenues would be reduced by approximately 9 percent for a sink gillnet vessel if they also chose not to fish outside the DAM zone from June 20th to July 6th.

2. The Preferred Alternative would allow SAM gear modifications to be used under the DAM program. SAM gear modifications include, amongst other requirements, the use of neutrally buoyant or sinking line on all ground lines and buoy lines and restricts fishermen to one endline (buoy line) per trawl or string. Under the proposed rule, if a vessel converts its gear, Class I (length less than 35 feet (10.66m)) and

Class II (length between 35 and 50 feet (15.2m)) vessels fishing lobster gear will have profits reduced by a minimum of 3 percent (maximum of 9 percent) and 1 percent (maximum of 2 percent), respectively. A Class I (length less than 40 feet (12.2m)) and Class II (greater than 40 feet (12.2m)) vessel fishing sink gillnet gear will have profits reduced by a minimum of 0.4 percent (maximum of 0.7 percent) and 1.2 percent (maximum of 1.9 percent), respectively.

3. NMFS considered an alternative (Non-preferred alternative (NPA) 1) that would implement SAM gear modifications with two endlines (buoy lines) and floating line on the bottom third of each endline. Vessels fishing both lobster and sink gillnet gear have been grouped by size classes. Under the NPA 1 plan, if a vessel converts its gear, Class I (length less than 35 feet (10.66m)) and Class II (length between 35 and 50 feet (15.2m)) vessels fishing lobster gear will have profits reduced by a minimum of 3 percent (maximum of 10 percent) and 1 percent (maximum of 3 percent), respectively. A Class I (length less than 40 feet (12.2m)) and Class II (greater than 40 feet (12.2m)) vessel fishing sink gillnet gear will have profits reduced by a minimum of 0.4 percent (maximum of 0.7 percent) and 1.5 percent (maximum of 2.2 percent), respectively.

4. NMFS considered an alternative (NPA 2) that would implement SAM gear modifications with two endlines (buoy lines). Thus, this alternative would allow lobster trap and anchored gillnet fishermen to retain a second end line on each end of the lobster trap or gillnet trawl. Vessels fishing both lobster and sink gillnet gear have been grouped by size classes. Under the NPA 2 plan, if a vessel converts its gear, Class I (length less than 35 feet (10.66m)) and Class II (length between 35 and 50 feet (15.2m)) vessels fishing lobster gear will have profits reduced by a minimum of 3.5 percent (maximum of 10.7 percent) and 1 percent (maximum of 3 percent), respectively. A Class I (length less than 40 feet (12.2m)) and Class II (greater than 40 feet (12.2m)) vessel fishing sink gillnet gear will have profits reduced by a minimum of 0.5 percent (maximum of 0.7 percent) and 1.6 percent (maximum of 2.3 percent), respectively.

NMFS determined that this action is consistent to the maximum extent practicable with the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. No state disagreed with our conclusion that this proposed

rule is consistent with the enforceable policies of the approved coastal management program for that state.

This proposed rule contains policies with federalism implications as that term is defined in Executive Order 13132. Accordingly, the Assistant Secretary for Legislative and Intergovernmental Affairs will provide notice of the proposed action to the appropriate official(s) of affected state, local, and/or tribal governments.

This proposed rule would also clarify that vessels in Northern Inshore State and Northern Nearshore Lobster Waters must install and use a 600 lb (272.4 kg) weak link at each buoy when fishing in SAM West during the time it overlaps the Northern Inshore State and Northern Nearshore Lobster Waters. Requiring a 600 lb (272.4 kg) weak link in those waters rather than a 1,500 lb (680.4 kg) weak link would benefit right whales since more right whales would be able to break a 600 lb (272.4 kg) weak link and each whale would have to exert less force since the breaking strength is lower. The impacts of this proposed requirement on small entities falls within the scope of the regulatory flexibility analyses performed in conjunction with the original SAM proposed and interim final rules. The December 2001 SAM EA/RIR analyzed impacts of requiring a 1,500 lb (680.4 kg) weak link, rather than a 600 lb (272.4 kg) weak link. The cost of a 600 lb (272.4 kg) weak link is similar or less than the cost of the 1,500 lb (680.4 kg) weak link used in the analysis and the effects of using a 600 lb weak link on fishing operations were considered and analyzed while promulgating the December 21, 2000, interim final rule (65 FR 80368). Therefore, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(a) and (c), no further analysis is required. Copies of the SAM EA/RIR are available upon request. (see **ADDRESSES.**)

#### List of Subjects in 50 CFR Part 229

Administrative practice and procedure, Fisheries, Marine mammals, Reporting and recordkeeping requirements.

Dated: February 25, 2003.

**Rebecca Lent,**

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Regulatory Programs, National Marine  
Fisheries Service.*

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 229 as follows: