Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	*
White-eye, Rota bridled.	*Zosterops rotensis*	Western Pacific Ocean—U.S.A. (Commonwealth of the Northern Mariana Islands).	Entire	E		NA	NA
*	*	*	*	*	*	*	*

Dated: September 27, 2001.

Marshall P. Jones, Jr.,

Director, Fish and Wildlife Service.

[FR Doc. 01–24659 Filed 10–2–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 001128334–1239–04; I.D. 092401E]

RIN 0648–AN88

Marine Mammals; Atlantic Large Whale Take Reduction Plan (ALWTRP) Regulations; Seasonal Area Management (SAM) Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking (ANPR); notice of intent (NOI) to prepare an Environmental Impact Statement (EIS); request for comments.

SUMMARY: NMFS is preparing regulations to implement a Seasonal Area Management (SAM) program to seasonally limit fishing operations in certain areas, which was identified as a measure under the reasonable and prudent alternative (RPA) contained in the Biological Opinions (BOs) prepared for the Federal Northeast multispecies (multispecies), monkfish, spiny dogfish, and American lobster (lobster) fisheries under the Endangered Species Act (ESA). The SAM program is intended to provide endangered western North Atlantic right whales (right whales) protection from entanglement with fishing gear used in those fisheries. The measures that have been identified for proposed rulemaking would require the reduction, elimination, and/or modification of certain types of fixed gear (i.e., gillnets and lobster traps) in specific areas off the Atlantic coast of the United States during times of the year when right whales are known to be present in significant concentrations. NMFS also announces its intention to prepare an Environmental Impact Statement (EIS) for the SAM regulations, in accordance with the National Environmental Policy Act (NEPA), to analyze impacts to the environment of the management alternatives under consideration.

DATES: Written comments must be received at the appropriate address or facsimile (fax) number (see **ADDRESSES**) no later than 5 p.m. local time on November 2, 2001.

ADDRESSES: Written comments should be sent to: Mary Colligan, Acting Assistant Administrator for Protected Resources, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930. Comments may also be sent via fax to 978–281–9394. Comments submitted via e-mail or Internet will not be accepted. Copies of the BOs may be requested from the above address or can be downloaded from the internet at the following website: http://www.nmfs.noaa.gov/prot—res/overview/publicat.html.

FOR FURTHER INFORMATION CONTACT: Gregg LaMontagne, NMFS, Northeast Region, 978–281–9291, fax 978–281–9394; Katherine Wang, NMFS, Southeast Region, 727–570–5312; or Patricia Lawson, NMFS, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Background

In compliance with the Endangered Species Act (ESA)(16 U.S.C. 1531 *et seq.*) section 7 consultation procedures, NMFS prepared Biological Opinions (BOs) for the continued authorization of Federal fisheries under the Fishery Management Plans for the multispecies, spiny dogfish, and monkfish fisheries, and under the Federal regulations for the lobster fishery, to assess the impacts of those fisheries on species protected under the ESA. Previous ESA section 7 consultations on those fisheries incorporated the Atlantic Large Whale Take Reduction Plan (ALWTRP) as an RPA to avoid the likelihood of jeopardy to right whales from the multispecies, dogfish, and monkfish gillnet fisheries and the lobster trap fishery. NMFS published a proposed rule on April 7, 1997 (62 FR 16519), followed by an interim final rule on July 22, 1997 (62 FR 39157), that contained the provisions of the ALWTRP and implementing regulations. NMFS published an interim final rule that implemented time and area closures, gear requirements, and a prohibition on storing inactive gear at sea, and contained other, non-regulatory measures (e.g., gear research, public outreach, scientific research) intended to reduce serious injury and mortality to four large whale stocks, including right whales.

On February 16, 1999, NMFS published a final rule (64 FR 7529) that made changes to the interim final rule implementing the ALWTRP. On December 21, 2000, NMFS published an interim final rule (65 FR 80368) to implement additional measures (buoy line weak links, net panel weak links with anchoring systems, restrictions on numbers of buoy lines, and gear marking requirements) in response to continued entanglements of right whales with gear used in the multispecies, monkfish, spiny dogfish, and lobster trap fisheries.

NMFS reinitiated consultation on May 4, 2000, for the northeast multispecies, spiny dogfish and monkfish gillnet fisheries, and on June 22, 2000, for the Federal regulations for the lobster fishery, following new whale entanglements resulting in serious injuries, at least one right whale mortality in gillnet gear, new information indicating a declining status for western North Atlantic right whales (Caswell et al. 1999), and revisions to the ALWTRP. In previous consultations, the ALWTRP had been accepted as a reasonable and prudent alternative (RPA) to avoid the likelihood of jeopardy to right whales from these

four fisheries. Given the new information on the declining status of the right whale population and continued entanglements (suggesting possible failure of the RPA to avoid jeopardy to right whales), reinitiation of consultation was necessary to reevaluate the potential impact of these gillnet fisheries and the lobster trap fishery on right whales, and to assess the ability of the RPA to avoid the likelihood of jeopardy. The BOs resulting from these consultations were issued on June 15, 2001.

Biological Opinions

The BOs prepared during the most recent consultation provided information on the status of all protected species that occur in western North Atlantic waters where the multispecies, spiny dogfish, monkfish, and American lobster trap fisheries operate, based on the best information available. The BOs treated the western North Atlantic right whale population as a recovery unit whose survival and recovery is critical to the survival and recovery of the species as a whole. Any activity that would appreciably reduce the likelihood that a recovery unit would survive and recover in the wild would also appreciably reduce the species' likelihood of survival and recovery in the wild. The BOs focused on the western North Atlantic recovery unit of right whales, which is the recovery unit that occurs in the area where these fisheries operate.

Western North Atlantic right whales have been protected from whaling for more than 50 years, yet there is no evidence of their recovery. Based on recent estimates, the western North Atlantic population numbers about 300 individuals. Right whales may be adversely affected by habitat degradation, habitat exclusion, acoustic disturbance, harassment, or reduction in prey resources resulting from a variety of activities, including the operation of fisheries. The major known sources of human-caused mortality and injury of right whales include entanglement in commercial fishing gear and ship strikes. Caswell et al. (1999), which is cited in the BOs, concluded that reduction of such mortalities would significantly improve the species' chances for survival.

Environmental baseline analyses for BOs includes the past and present impacts of all state, Federal or private actions and other human activities in the action area; the anticipated impacts of all proposed Federal projects in the action area that have already undergone section 7 consultation; and the impact of state or private actions that are contemporaneous with the consultation in process (50 CFR 402.02). The environmental baselines for the BOs included the impacts of several activities that may affect the survival and recovery of threatened and endangered species in the action area and that fell into the following three general categories: Vessel operations, fisheries, and recovery activities associated with those impacts. Other environmental impacts include the effects of dredging, disposal, ocean dumping, and sonic activity. A number of factors in the existing baseline for right whales left considerable concern. For example, the western North Atlantic right whale population continues to decline, and, despite measures developed as a result of the initial ALWTRP, entanglements of right whales in fishing gear continue to occur.

The BOs specifically examined whether the multispecies, monkfish, spiny dogfish, and/or lobster fisheries are likely to jeopardize the continued existence of any ESA-listed species. Factors considered included the degree of overlap between the operation of the fisheries under consultation and areas where protected species occur, past interactions between protected species and gear used in the fisheries, the known effects of gear interactions on protected species, and the effects of incorporating the existing ALWRTP measures. Based on this analysis, NMFS concluded that:

1. Gillnet gear used in the multispecies, spiny dogfish, and monkfish fisheries poses an entanglement risk to protected species;
2. Trap gear used in the lobster fishery poses an entanglement risk to protected species;
3. Baleen whales are more likely to become entangled in gillnet gear, as opposed to toothed whales (e.g., sperm whales), given baleen whales' method of feeding;
4. Of the baleen whales, right whales and humpback whales are most likely to interact with multispecies, spiny dogfish, and monkfish gillnet fisheries and the lobster trap fishery, since those whales commonly occur in areas and at times where those fisheries operate;
5. Although directed effort in the spiny dogfish and monkfish fisheries is expected to be reduced over the next few years in an effort to rebuild those stocks, even the reduced amount of effort that is expected could still pose an entanglement risk for protected species; and
6. Modification of the multispecies, spiny dogfish, and monkfish gillnet fisheries and the lobster trap fishery by the existing ALWTRP measures is not expected to remove all risk of gear interactions with protected species, given that the existing modifications of the ALWTRP do not apply to gillnet gear fished in the Mid-Atlantic or Southeast, where right and humpback whales may also occur. In addition, gear modifications as required by the ALWTRP have only recently been implemented (i.e., as a result of the December 21, 2000, interim final rule).

Based on those six factors, the BOs concluded that gillnet and trap activities under the four fisheries as currently conducted are likely to jeopardize the continued existence of the right whale, but are not likely to destroy or adversely modify designated critical habitat; and may adversely affect, but are not likely to jeopardize, the continued existence of humpback, fin, blue, sei and sperm whales. Therefore, the potential for gear entanglements of right whales as a result of these fisheries must be further reduced by additional measures to reduce interaction between right whales and multispecies, monkfish, and spiny dogfish gillnets and lobster trap gear in areas and times of high right whale abundance, and by implementing gear modifications based on recent technological advances.

The BOs also considered cumulative effects, which include the effects of future state, tribal, local or private actions that are reasonably certain to occur in the action area. Future Federal actions that are unrelated to the proposed action were not considered because they require separate consultation under section 7 of the ESA. Past and present impacts of non-Federal actions were also not included in the cumulative effects, because they are part of the environmental baseline. In the BOs, NMFS considered the following: State-water fisheries, the maritime industry, pollution, catastrophic events such as oil spills, noise pollution, and similar activities or occurrences in Canadian waters.

The BOs concluded that the multispecies, spiny dogfish, monkfish, and lobster fisheries use gear that can cause serious injury and mortality to whales if entanglements occur. Gear interactions are more likely to occur if gear is concentrated in areas and at times that endangered whales occur in significant numbers. Right whales are vulnerable to entanglement in this type of gear while they are foraging.

In view of the right whale's decline and probability of extinction if the population decline continues, any entanglement that causes serious injury and/or mortality may reduce appreciably the likelihood of survival and recovery of this species. Measures

developed thus far under the ALWTRP are not expected to prevent all entanglements of right whales in gillnet or lobster trap gear, since these measures are not applicable to all areas where right whale distribution overlaps the use of these gear types. Given the known human-caused sources of right whale mortality, their small population size, and their low reproductive rate, the loss of even one right whale, particularly a reproductively active female, may reduce appreciably the likelihood of the survival and recovery of this species.

Given the current critical status of the right whale population and the aggregate effects of human-caused mortality that has led to the species' current status, the risk of incidental mortality caused by the multispecies, spiny dogfish, monkfish or lobster fisheries as currently prosecuted should be reduced. These fisheries take place in areas frequented by right whales and use sink gillnet gear and lobster trap gear, which are known to cause serious injury and mortality to right whales.

Reasonable and Prudent Alternative

Regulations implementing section 7 of the ESA (50 CFR 402.02) define the RPA as alternative actions, identified during formal consultation, that: (1) can be implemented in a manner consistent with the intended purpose of the action; (2) can be implemented consistent with the scope of the action agency's legal authority and jurisdiction; (3) are economically and technologically feasible; and (4) avoid the likelihood of jeopardizing the continued existence of listed species or resulting in the destruction or adverse modification of critical habitat. As a result of the consultation and the finding of jeopardy for right whales, NMFS developed a single RPA with multiple management components that collectively are designed to avoid the likelihood of continued jeopardy for right whales and to allow the continued authorization of the four fisheries for which consultation was conducted.

The RPA measures are intended, in combination, to avoid the potential for gillnet and lobster trap interactions with right whales, minimize adverse effects when and if interactions with these fishing gear types do occur, and mitigate any unavoidable entanglements of right whales with these gear types. The measures under the RPA are: Seasonal and Dynamic Area Management programs (SAM and DAM, respectively), an expansion of gillnet and lobster trap gear modifications to Mid-Atlantic waters, and modification of fishing practices in Southeastern U.S. waters, continued gear research and modifications, and additional measures to implement and monitor the effectiveness of the RPA.

Both SAM and DAM are intended to reduce the potential for interactions of right whales with gillnet and lobster trap gear. NMFS will use data on seasonal concentrations of right whales obtained from aerial surveys to implement annual area-specific gear restrictions and/or closures. The SAM program would be implemented through proposed and final rulemaking, which will require the preparation of an EIS and is the subject of this ANPR and NOI. To supplement the SAM program, NMFS is proposing in a separate proposed rule to further develop and implement the DAM program, which would be responsive to concentrations of right whales that would not otherwise be protected by the SAM measures. NMFS will identify criteria for triggering DAM in the separate proposed rule. The DAM measures are not the subject of this ANPR and NOI.

Concurrent with this ANPR/NOI and the DAM proposed rule, NMFS is proposing to expand the gillnet and lobster trap gear modifications outlined in the December 21, 2000, interim final rule to include Mid-Atlantic and Southeast waters. NMFS will also host a workshop to investigate options for gillnet and lobster trap gear modifications to prevent serious injury to right whales that may become entangled in that gear and will expand research and testing on the feasibility of eliminating floating line in the anchor and buoy lines of gillnet gear and lobster trap gear by replacing it with neutrally buoyant line. NMFS will continue research on weak-link floatlines in gillnet gear to investigate the possibility of reducing the strength of gillnet floatlines, which are known to be a problem in the entanglement of large whales. NMFS will also continue research on line that could be used in gillnets to eliminate external plastic floats when combined with properly placed weak links. Gear modification requirements will be implemented through proposed and final rulemaking and are not the subject of this ANPR and NOI.

In addition to this ANPR/NOI and the proposed rules for DAM and gear modifications, which are components of the RPA designed to reduce the potential for entanglement of right whales, NMFS will conduct the following activities to implement and monitor the RPA measures. NMFS will provide guidance to participants in the multispecies, spiny dogfish, monkfish and lobster fisheries on the requirement to report incidental takes of marine mammals and will send a letter to all permit holders in these fisheries detailing the protocol for reporting entangled or stranded whales. NMFS will also monitor and evaluate the effectiveness of the measures prescribed in the RPA, including SAM, DAM, and gear modifications and research. If a right whale is killed or seriously injured by (1) multispecies, spiny dogfish, or monkfish gillnet gear, or by lobster trap gear; (2) gear that is identifiable as being approved for use in the multispecies, spiny dogfish, monkfish or lobster fisheries; or (3) fishing gear that cannot be identified as being associated with a specific fishery, NMFS will consider it evidence that the measures outlined in the RPA are not demonstrably effective at reducing right whale injuries or death. Similarly, if NMFS does not observe a decrease in observed entanglements and scarification (scarring of the whale due to gear entanglements and/or interactions), NMFS will consider that the performance standards outlined in the RPA have not been met.

NMFS has determined that the management actions outlined in the RPA collectively avoid jeopardy. Further information on the RPA is available in the BOs (see **ADDRESSES**).

Marine Mammal Protection Act

Pursuant to section 118 of the Marine Mammal Protection Act (MMPA), NMFS convened the Atlantic Large Whale Take Reduction Team (ALWTRT) to develop a plan for reducing the incidental by-catch of large whales in commercial fisheries along the Atlantic coast. The ALWTRT consists of representatives from the fishing industry, the New England and Mid-Atlantic Fishery Management Councils, state and Federal resource management agencies, the scientific community, and conservation organizations. The immediate goal of the ALWTRT, in accordance with the 1994 amendments to the MMPA, was to draft an ALWTRP to reduce the incidental take of the four primary large whale species that interact with fisheries--the North Atlantic right whale (*Eubalaena glacialis*), humpback whale (*Megaptera novaeangliea*), fin whale (*Balaenoptera physalus*), and minke whale (*Balaenoptera acutorostrata*)--to a level less than the potential biological removal level (PBR) within 6 months of implementation of the ALWTRT's plan. Potential biological removal level means the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable

population. The 1994 amendments to the MMPA established the goal to achieve a zero mortality rate goal (ZMRG) to be achieved within 5 years of ALWTRP implementation. For right whales, these two goals are essentially the same, because PBR has been defined as zero. Since the current incidental take for right whales exceeds the PBR and does not achieve ZMRG, additional risk reduction is necessary in order to meet the objectives of the MMPA.

Proposed SAM Program

As described above, NMFS proposes to implement two additional types of gear restrictions. One or more areas with predictable annual concentrations of right whales will be considered for SAM. These areas would have pre-established boundaries, and their closing and opening dates will be specified in advance of the right whales' expected arrival. This is an expansion of the management approach that established the existing Cape Cod Bay and Great South Channel restricted areas designed to protect right whales. Areas without predictable concentrations of right whales will be potential candidates for DAM. Under DAM, restrictions in addition to those already in place under SAM would not be implemented unless and until concentrations of right whales are found to be present by qualified individuals. If such concentrations are observed and the triggering criteria are met, NMFS will invoke a temporary restricted area around the animals through publication of notification in the **Federal Register**. The fishing industry and public will also be made aware of the restricted areas through other notification means, such as NOAA Weather broadcasts. Regulations implementing the DAM program will be the subject of a separate rulemaking.

To implement SAM, NMFS must specify the area(s) and times that right whales can reasonably be predicted to occur on an annual basis. After NMFS has identified such area(s) and time(s), the degree of gear restriction within the area(s) must be determined. The intent is to make the area(s) large enough to adequately protect right whales, but not so large that they restrict gear use with little or no benefit to the whales. Similarly, gear use in the identified SAM area(s) must be restricted long enough to provide right whales protection from gear entanglements, but no longer than necessary. Finally, the level of gear restrictions necessary within the SAM area(s) must be sufficient to ensure that serious injury or mortality to right whales is avoided. These issues, and the alternatives that NMFS has identified to address them, are the subject of the remainder of this ANPR and NOI.

Alternatives Under Consideration for Rulemaking

The SAM alternatives vary by: (1) geographic area, (2) gear restrictions, and (3) time intervals. NMFS has analyzed aerial survey data collected from 1999-2001 in the area from south of Nantucket northward to the Bay of Fundy, and from the New England coast eastward to the Hague Line, to determine seasonal and spatial patterns of right whale occurrence and concentration. The analytical process was to: (1) Identify right whale sightings that met the trigger criterion for considering concentrations in need of protection; (2) define the size of a core area of right whale occurrence and then draw a 15-nm radius buffer circle around that core area; (3) for each year of survey data, draw a polygon around the circular buffer zones and join the overlapping polygons to create a potential SAM area; (4) overlay all three year's potential SAM areas, identify and eliminate those areas with sightings in only 1 year, and draw an outline around that potential SAM area; and (5) adjust the area to match existing closures and zones, such as the existing Northeast multispecies closed areas. The triggering criterion was a sighting of three or more right whales sufficiently close to one another to achieve a density of 0.04 right whales/nm2, which would equal a minimum of three right whales within 75 nm2. While this approach could not entirely exclude any area, since survey data are sparse from some areas of the Gulf of Maine, it did identify those areas that are likely to be optimal for the SAM program, based on the best information available. Details of NMFS' analysis will be included in the EIS.

At least 1,307 right whale observations were made during the 3 years of aerial surveys, distributed among 784 group sightings. Few were seen in March (1.8 percent) or July (5.6 percent); most were seen in May (43.8 percent), June (32.3 percent), and April (16.4 percent), though this was due in part to greater survey effort in May-June. Sightings in March-April tended to be in the areas surrounding Cape Cod (e.g., Provincetown Slope). However, by May right whales were regularly sighted along the northern edge of Georges Bank and in the Great South Channel. Right whales were consistently seen in all 3 years in this area and into Wilkinson Basin through June, with some tendency for them to be seen farther to the north as the season progressed. During 1999-2000, concentrations were found episodically in the Cashes Ledge area--specifically in April 1999 and June 2000. Similar concentrations in the Cashes Ledge area were not found in 2001.

Concentrations of right whales that would have met the triggering criterion (events) occurred 149 times during 1999-2001. Events peaked in May (45.0 percent), followed by June (29.5 percent). The fewest events occurred in March (4.0 percent) and July (6.0 percent). The average number of right whales included in each event was 6.2, and varied little between years.

Overlaying 3 years of SAM zones that could be drawn from the survey data suggests that there is similarity between years in habitat use in areas outside of the Great South Channel and Cape Cod Bay. Right whales were consistently seen in all 3 years in the area from Cape Cod eastward to the Hague line, but were seen only sporadically in the north (e.g., the Cashes Ledge Area). NMFS then derived a composite SAM zone, built from the three annual SAMs, which includes almost all of the right whale sightings during 1999-2001. One possible SAM zone resulting from NMFS' analysis, which would encompass all of the events recorded during April-July 1999-2001, had a total area of about 10,200 nm^2, not including other closed areas. If the zone were expanded to encompass the buffer area around the events, its area would increase to about 17,000 nm^2.

When the SAM boundaries were smoothed and realigned with existing management zones in the Gulf of Maine, analysis of the data suggested the possibility of two smaller SAM zones. One is a core zone of about 7,000 nm^2, stretching from Cape Cod eastward to the Hague Line, with a consistent pattern of right whale sightings over all 3 survey years. The second is a northern zone of about 1,700 nm^2, which would cover additional right whale sightings that occurred sporadically in some months of 2 of the 3 survey years.

The core zone, in combination with the Cape Cod Bay and Great South Channel closures, would encompass all but 15 of the 149 events during 1999-2001. All events from 2001 would be included in this area. Of the 784 group right whale sightings, only 94 (12 percent) would occur outside of this zone. Within this core zone, right whales were more likely to be seen in the western part of this area (near Cape Cod Bay and the Great South Channel) in March-April than in May-July. This suggests that there is a possible east-west break point in the seasonal distribution within the core zone at about 69.4° W longitude.

In summary, NMFS' initial analysis suggests that there are areas within the Gulf of Maine other than Cape Cod Bay and the Great South Channel where right whales can be expected to occur each spring. Thus, gear restrictions within at least the core SAM zone, or some similarly configured zone, could significantly buffer right whales from interactions with fishing gear. The potential benefits of a northern SAM zone are less clear at this time. While the northern zone identified in NMFS' preliminary analysis would encompass additional events not included in the core zone, NMFS does not know at this time whether these events represent a predictable distribution pattern.

The SAM zones described above are among the alternatives that NMFS will consider in the EIS. Other alternatives would be variations of these zones. For example, the core zone could be subdivided such that different subzones would be closed at different time intervals, to match more precisely the historically determined areas of right whale concentration at given times of the year. Four possible variations on gear restrictions and times are:

1. A SAM zone with gear restrictions throughout the designated time frame.
2. A SAM zone with gear restrictions lifted sequentially over time, as right whale concentrations move through the zone.
3. A SAM zone with no gear restrictions initially, but with gear restrictions that would be put in place as right whale concentrations appear in the zone and would then be lifted as right whale concentrations leave the zone.
4. A SAM zone divided into predetermined sections (subzones), with all dates for gear restrictions in each subzone predetermined.

Other alternatives or variations of the above alternatives identified through the NEPA scoping process for the EIS may also be considered. Gear restrictions within the SAM zone(s) could range from total prohibition of gillnet and lobster trap gear within the zone(s); to allowing only gear that has been modified to present a relatively low risk of causing serious injury or mortality to right whales to be fished within the zone(s); to allowing unmodified gear to be fished, but at reduced concentrations and/or using modified practices (e.g., tending gillnets).

At the June 2001, ALWTRT meeting, team members discussed at length gear modifications that could be used as gear restrictions within SAM zones to reduce the risk of causing serious injury or mortality to right whales. The items listed below were discussed but are not necessarily consensus recommendations of the ALWTRT. The following gillnet gear modifications to reduce risk of entanglement were discussed: (1) net tending or generally remaining close enough to the gear to respond should the nets entangle an animal, (2) additional floatline weak links, exact number to be determined, above the number required by the current regulations, (3) use of neutrally buoyant or sinking line for buoy lines and groundlines connecting nets and anchors, (4) limit effort or the amount of net based on vessel size, and (5) limit the type or quantity of net allowed.

The following lobster trap gear modifications to reduce risk of entanglement were discussed: (1) reduced strength buoy line weak link for the offshore lobster fisheries, (2) neutrally buoyant or sinking groundline for nearshore and offshore lobster fisheries, and (3) additional weak link options. Through this ANPR and NOI, NMFS is also requesting comments on any additional gear modification concepts for further consideration and development.

The EIS will also analyze the impacts of the SAM alternatives on other aspects of the human environment, including their impacts to participants of the multispecies, monkfish, spiny dogfish, and lobster fisheries. NMFS is requesting comments from the public on these and other possible alternatives for SAM that would comply with the RPA requirements to protect right whales.

References:

Caswell, H., M. Fujiwara, and S. Brault. 1999. Declining survival probability threatens the North Atlantic right whale. Proc. Nat. Acad. Sci. 96: 3308–3313.

Anticipated Regulatory Changes to Implement SAM

Although NMFS is still developing the alternatives to be thoroughly analyzed in the EIS, NMFS expects that the final SAM measures will require that regulations at 50 CFR part 229 be amended as follows:

§ 229.32 Atlantic large whale take reduction plan regulations.

1. Paragraph (c) would be amended to include any additional restrictions to lobster gear or its use, specific to SAM, if such restrictions are necessary in order for that gear to be used within a SAM zone.

2. Paragraph (d) would be amended to include any additional restrictions to anchored gillnet gear or its use, specific to SAM, if such restrictions are necessary in order for that gear to be used within a SAM zone.

3. Paragraph (g) would be redesignated paragraph (h) and a new paragraph (g) would be added to define the boundaries of the SAM zone(s) and any subzones; define the times of the year that the SAM zone(s) and any subzones would require restrictions in the use of gillnet and lobster trap gear; and provide procedures that NMFS will use to implement and lift gear restrictions within the SAM zone(s) or subzones.

Specifics of the regulatory changes will be described in a proposed rule, and if adopted would be implemented through a final rule. No scoping meetings will be held. NMFS invites comments, through this document, on its identified proposed rulemaking and the scope of the draft EIS to be prepared.

Authority: 16 U.S.C. 1361 *et seq.*

Dated: September 28, 2001.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–24910 Filed 10–1–01; 2:59 pm]

BILLING CODE 3510–22–S