

**NOTICE OF AGENCY RULE-MAKING ADOPTION**

**AGENCY:** Department of Marine Resources

**CHAPTER NUMBER AND TITLE:** Chapter 75 Protected Resources

**ADOPTED RULE NUMBER:**  
(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

**CONCISE SUMMARY:**  
This rule incorporates the measures in the 2021 Atlantic Large Whale Take Reduction Plan final rule for 1700-pound weak link inserts, gear marking requirements, minimum trawl lengths, and defines the LMA1 Restricted Area.

**EFFECTIVE DATE:**  
(LEAVE BLANK-ASSIGNED BY SECRETARY OF STATE)

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*Please approve bottom portion of this form and assign appropriate MFASIS number.*

APPROVED FOR PAYMENT _____					DATE: _____
FUND	AGENCY	S-UNIT	APP	OBJT	AMOUNT
<i>Please forward invoice to: Natural Resource Service Center, 155 SHS, Augusta</i>					
010	13A	1120	10		4946 regulations

DEPARTMENT OF MARINE RESOURCES

Chapter 75 – Protected Resources

75.01 Definitions

A. In addition to the definitions set forth in 1 M.R.S.A. §§71 and 72 and 12 M.R.S.A. §6001, the following definitions shall apply in this chapter.

1. “Area 1” means EEZ Nearshore Management Area 1, for Lobster Management Areas, that is defined by the area, including state and federal waters that are near-shore in the Gulf of Maine, bounded by straight lines connecting the following points, in the order stated, and the coastline of Maine, New Hampshire, and Massachusetts to the northernmost point on Cape Cod:

Point	Latitude	Longitude
A.....	43 deg. 58[min] N.	67 deg. 22[min] W.
B.....	43 deg. 41[min] N.	68 deg. 00[min] W.
C.....	43 deg. 12[min] N.	69 deg. 00[min] W.
D.....	42 deg. 49[min] N.	69 deg. 40[min] W.
E.....	42 deg. 15.5[min] N.	69 deg. 40[min] W.
G.....	42 deg. 05.5[min] N.	70 deg. 14[min] W.
G1.....	42 deg. 04.25[min] N.	70 deg. 17.22[min] W.
G2.....	42 deg. 02.84[min] N.	70 deg. 16.1[min] W.
G3.....	42 deg. 03.35[min] N.	70 deg. 14.2[min] W.

Along the coastline of Massachusetts, New Hampshire, Maine, and the seaward EEZ boundary back to point A. (50 CFR 697.18(a))

2. “ALWTRP” stands for the federal Atlantic Large Whale Take Reduction Plan. The federal citation for these rules is 50 CFR Wildlife and Fisheries, CHAPTER II National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, Subchapter C Marine Mammals, Part 229 Authorization for Commercial Fisheries Under the Marine Mammal Protection Act of 1972. (50 CFR Part 229, 64 FR 7552, effective February 16, 1999) Also see <http://www.greateratlantic.fisheries.noaa.gov/Protected/whaletrp/>
3. NOAA Fisheries Assistant Administrator contact information:  
NOAA Fisheries Service  
Greater Atlantic Regional Fisheries Office  
55 Great Republic Drive  
Gloucester, MA 01930-2276

Web site: <http://www.greateratlantic.fisheries.noaa.gov/Protected/whaletrp/>

4. “State of Maine Exemption Line” or “Exemption Line” means the area landward, to within the rise and fall of the tide, of a line which connects the following 25 numbered coordinates from the Maine/New Hampshire Border to Maine/Canadian Border:
  1. Odiornes Pt. Portsmouth NH: 43° 02.55' N 70° 43.33' W
  2. R 2KR Whistle - Kittery Point: 43° 02.93' N 70° 41.47' W
  3. N 2MR - Murray Rock: 43° 04.06' N 70° 36.70' W
  4. RW CP Whistle - Cape Porpoise: 43° 20.23' N 70° 23.64' W\*
  5. RW WI Whistle - Wood 1 43° 27.63' N 70° 17.48' W\*
  6. G 1 - East Hue and Cry: 43° 31.94' N 70° 08.68' W
  7. RG N BS - Bulwark Shoal: 43° 36.04' N 70° 03.98' W
  8. R 20ML Bell - Mile Ledge: 43° 41.44' N 69° 45.27' W

9. R 2BR Bell - Bantam Rock:	43° 43.64' N	69° 37.58' W
10. GR C PL - Pemaquid Ledge:	43° 48.96' N	69° 31.15' W
11. R 2 OM Whistle - Old Man Ledge:	43° 50.28' N	69° 18.86' W
12. G 5TB Bell - Two Bush Channel:	43° 56.72' N	69° 04.89' W
13. R 2A Bell - Old Horse Ledge:	43° 59.83' N	68° 50.06' W
14. R 2 Bell - Roaring Bull Ledge, Isle Au Haut:	43° 59.36' N	68° 37.95' W
15. Southern point Great Duck I:	44° 08.36' N	68° 14.75' W
16. R 8BI Whistle - Baker I:	44° 13.55' N	68° 10.71' W
17. R 2S Bell - Schoodic I:	44° 19.08' N	68° 02.05' W
18. R N 2 - Petit Manan I:	44° 21.66' N	67° 51.78' W
19. R 2SR Bell - Seahorse Rock, west of Great Wass I:	44° 25.74' N	67° 38.39' W
20. Freeman Rock - east of Great Wass I:	44° 27.77' N	67° 32.86' W
21. Obstruction - southeast of Cutler:	44° 37.70' N	67° 09.75' W
22. R 28M Whistle - Baileys Mistake:	44° 45.51' N	67° 02.87' W
23. R N 2 - Morton Ledge:	44° 47.36' N	66° 59.25' W
24. G 1 Whistle - West Quoddy Head:	44° 48.64' N	66° 56.43' W
25. R N 2 - Quoddy Narrows:	44° 49.67' N	66° 57.77' W

\* Note: These US Coast Guard buoys have been “de-established”, i.e., they are not being replaced; however for purposes of these regulations their coordinates are being used without their former marker.

5. “Maine Sliver Area” or the “Sliver” means the area between the State of Maine Exemption Line and the 3-mile limit, as identified on National Oceanographic and Atmospheric Administration nautical charts.
6. The Maine Six-Mile Line waters are defined for a minimum number of traps per trawl and are as follows:

The Maine Six-Mile Line is a line connecting the following points (Machias Seal to Isles of Shoals).

- 44°31.98' N. lat., 67°9.72' W. long (Machias Seal)
- 44°3.42' N. lat., 68°10.26' W. long (Mount Desert Island)
- 43°40.98' N. lat., 68°48.84' W. long (Matinicus)
- 43°39.24' N. lat., 69°18.54' W. long (Monhegan)
- 43°29.4' N. lat., 70°5.88' W. long (Casco Bay)
- 42°55.38' N. lat., 70°28.68' W. long (Isles of Shoals)

7. The Maine Pocket Waters are defined for a minimum number of traps per trawl and are as follows:

Maine Pocket Waters

- West of Monhegan Island in the area north of the line 43°42.17' N. lat., 69°34.27' W. long and 43°42.25' N. lat., 69°19.3' W. long
- East of Monhegan Island in the area located north of the line 43°44' N. lat., 69°15.08' W. long and 43°48.17' N. lat., 69°8.02' W. long
- South of Vinalhaven Island in the area located west of the line 43°52.31' N. lat., 68°40' W. long and 43°58.12' N. lat., 68°32.95' W. long
- South of Bois Bubert Island in the area located northwest of the line 44°19.27' N. lat., 67°49.5' W. long and 44°23.67' N. lat., 67°40.5' W. long

8. Trap trawl regulatory requirements relative to the three-mile line shall be based on the “three nautical mile line” as depicted on NOAA nautical charts.

9. Trap trawl regulatory requirements relative to the twelve-mile line shall be based on the “territorial sea and contiguous zone” line as depicted on NOAA nautical charts.
10. “Maine Zone A East” is defined as the portion of Lobster Zone A whose western boundary runs along the 67°18.00' W longitude line to Cross Island and whose eastern and offshore boundaries follow the International Boundary Line between Canada and Maine extending to and following the Exclusive Economic Zone boundary to approximately 44°8' N. lat., 67°18.00' W long.
11. “Maine Zone A West” is defined as the portion of Lobster Zone A whose eastern boundary is the 67°18.00' W longitude line to Cross Island and whose western boundary is equivalent to that of the western boundary of Zone A (see Chapter 25.92). The offshore boundary is the LMA 1/3 boundary.
12. “LMA1 Restricted Area” is defined as by the following coordinates and falls within the offshore portions of Maine Zones C, D, and E
  - 69° 36.77' W 43° 06.00' N
  - 68° 21.60' W 43° 44.00' N
  - 68° 17.27' W 43° 32.68' N
  - 69° 32.16' W 42° 53.52' N
  - 69° 36.77' W 43° 06.00' N

#### 75.02 Trap/Pot Fisheries Gear Restrictions

A. The following trap/pot fishing gear restrictions shall apply:

1. Universal requirements in coastal waters  
All persons who fish lobster gear and trap/pot fisheries (including but not limited to all crab species, hagfish, finfish, whelk, and shrimp) within Maine’s coastal waters shall comply with the following federal universal requirements for the ALWTRP:
  - (a) No floating line at the surface; and
  - (b) No wet storage of gear over 30 days.
2. Waters to the Exemption Line
  1. All persons who fish lobster gear or other trap/pot gear and trap/pot fisheries (including but not limited to all crab species, hagfish, finfish, whelk, and shrimp) in Maine’s coastal waters from the head of tide to the Exemption Line shall comply with one of the following ALWTRP options:
    - (a) Option 1: All buoys must be attached to the buoy line with a weak link having a breaking strength no greater than 600 pounds (272.4 kg). Weak links may include swivels, plastic weak links, rope of the appropriate breaking strength, hog rings, rope stapled to a buoy stick, or devices approved in writing by the NOAA Fisheries Assistant Administrator (See contact information in 75.01 (A)(3)). In addition, the weak link must be designed so that the bitter end of the buoy line is clean and free of knots when the weak link breaks; or
    - (b) Option 2: All buoy lines must be made entirely of sinking line; or
    - (c) Option 3: All ground lines must be made entirely of sinking line.

2. ~~Effective September 1, 2020~~ All buoy lines must be marked with three (3) purple marks: one at the top of the buoy line, one midway along the buoy line, and one at the bottom of the buoy line. The mark at the top of the buoy line must be 36 inches and must be in the top two fathom of buoy line. The middle and bottom marks must be 12 inches. Each color code must be permanently affixed on or along the line and the color code must be clearly visible when the gear is hauled or removed from the water.

Exception: Vertical lines less than 100 ft in length may be marked with only two (2) purple marks: one at the top of the buoy line and one at the bottom of the buoy line. The mark at the top of the buoy line must be 36 inches and must be in the top two fathom of the buoy line. The bottom mark must be 12 inches. Each color code must be permanently affixed on or along the line and the color code must be clearly visible when the gear is hauled or removed from the water.

3. It is unlawful to fish lobster gear within Maine's coastal waters inside the Exemption Line which has a buoy line marked with a green mark.
4. All buoy lines must have a 1700-pound weak insertion 50% of the way down the vertical line or approved 1700-pound breaking strength line in the top 50% of the vertical line. A manufactured weak link or weak rope may be attached in whatever manner a fisherman selects. A list of NOAA approved manufactured 1700-pound weak rope and 1700-pound weak insertions can be found at this website: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/marine-mammal-protection/approved-weak-inserts-and-line-atlantic-large>. In addition, a weak insertion can include:
- i. A buoy line comprised of 5/16<sup>th</sup> rope which includes an in-line overhand knot 50% of the way down the vertical line
  - ii. A buoy line comprised of 5/16<sup>th</sup> rope in the top 50% of the vertical line and is connected to the bottom 50% of the vertical line with a fisherman's knot or sheet bend knot
  - iii. A 3-foot section of 5/16<sup>th</sup> rope which is incorporated into the vertical line 50% of the way down, and is connected with a fisherman's knot or sheet bend knot

### 3. Sliver Area

All persons who fish lobster gear or other trap/pot gear and trap/pot fisheries (including but not limited to all crab species, hagfish, finfish, whelk, and shrimp) in the Maine Sliver Area, shall comply with each the following ALWTRP requirements:

- (a) All buoys, floatation and/or weighted devices ~~must~~ may be attached to the buoy line with a weak link having a breaking strength no greater than 600 pounds (272.4 kg). Weak links may include swivels, plastic weak links, rope of the appropriate breaking strength, hog rings, rope stapled to a buoy stick, or devices approved in writing by the NOAA Fisheries Assistant Administrator (See contact information in Chapter 75.01(A)(3)). In addition, the weak link must be designed so that the bitter end of the buoy line is clean and free of knots when the weak link breaks plus each weak link must be installed as close to the buoys, floatation and/or weighted device as possible.
- (b) ~~Effective September 1, 2020~~ All buoy lines must be marked with ~~four (4)~~ three (3) purple marks. ~~There must be three 12-inch marks, one at the top of the buoy line, one midway along the buoy line, and one at the bottom of the buoy line. In addition, each buoy line must be marked with a 36-inch purple mark in the top two fathom of buoy line.~~ one at the top of the buoy line, one midway along the buoy line, and one at the bottom of the buoy line. The mark at the top of the buoy line must be 36 inches long and must be in the top two fathom of buoy line. The middle and bottom marks must be 12 inches in length. Each color code must be

permanently affixed on or along the line and the color code must be clearly visible when the gear is hauled or removed from the water.

~~Exception:—Vertical lines less than 100 ft in length may be marked with only two (2) purple marks: one at the top of the buoy line and one at the bottom of the buoy line. The mark at the top of the buoy line must be 36 inches and must be in the top two fathom of the buoy line. The bottom mark must be 12 inches. Each color code must be permanently affixed on or along the line and the color code must be clearly visible when the gear is hauled or removed from the water.~~

- ~~(e) Unless marked as required by (b) in advance of September 1, 2020, buoy lines must be marked with three (3) red 12-inch (30.48 cm), colored marks: one at the top of the buoy line, one midway along the buoy line, and one at the bottom of the buoy line. Each color code must be permanently affixed on or along the line and the color code must be clearly visible when the gear is hauled or removed from the water.~~

~~Chapter 75.3(c) sunsets August 31, 2020.~~

- (c) Effective September 1, 2020, buoy lines must be marked with an additional green mark of at least 6 inches in the top two fathom of buoy line.
- (d) It is unlawful to fish lobster gear within the Sliver Area which has a buoy line marked with a green mark.
- (e) All buoy lines must have a 1700-pound weak insertion 50% of the way down the vertical line or approved 1700-pound breaking strength line in the top 50% of the vertical line. A list of NOAA approved manufactured 1700-pound weak rope and 1700-pound weak insertions can be found at this website: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/marine-mammal-protection/approved-weak-inserts-and-line-atlantic-large>.
- (e) Multiple traps only – no single traps allowed; See section 5 below for minimum number of traps per trawl; except as identified for Zones C, D, and E in section 5 below, trawls of 5 or fewer traps must have only one buoy line.
- (f) The attachment of buoys, toggles or other floatation devices is prohibited on ground lines.
- (g) Ground lines. All ground lines must be composed entirely of sinking line.
- (h) Sink rope means, for both ground lines and buoy lines, line that has a specific gravity greater than or equal to 1.030, and, for ground lines only, does not float at any point in the water column.
- (i) Fishermen are encouraged, but not required, to maintain knot-free buoy lines.

#### 4. Federal waters

All persons who fish lobster gear or other trap/pot gear and trap/pot fisheries (including but not limited to all crab species, hagfish, finfish, whelk, and shrimp) in Maine's coastal waters southerly of the Three Mile Limit, or as shown on NOAA, National Ocean Survey nautical charts, and within Area 1, must comply with each of the following ALWTRP requirements:

- (a) All buoys, floatation and/or weighted devices ~~must~~ may be attached to the buoy line with a weak link having a breaking strength no greater than 600 pounds (272.4 kg). Weak links may

include swivels, plastic weak links, rope of the appropriate breaking strength, hog rings, rope stapled to a buoy stick, or devices approved in writing by the NOAA Fisheries Assistant Administrator (See contact information in Chapter 75.01(A)(3)). In addition, the weak link must be designed so that the bitter end of the buoy line is clean and free of knots when the weak link breaks plus each weak link must be installed as close to the buoys, floatation and/or weighted device as possible.

- (b) ~~Effective September 1, 2020~~ All buoy lines must be marked with four (4) purple marks. There must be three 12-inch marks, one at the top of the buoy line, one midway along the buoy line, and one at the bottom of the buoy line. In addition, each buoy line must be marked with a 36-inch purple mark in the top two fathom of buoy line. Each color code must be permanently affixed on or along the line and the color code must be clearly visible when the gear is hauled or removed from the water.

~~Exception:—Vertical lines less than 100 ft in length may be marked with only two (2) purple marks: one at the top of the buoy line and one at the bottom of the buoy line. The mark at the top of the buoy line must be 36 inches and must be in the top two fathom of the buoy line. The bottom mark must be 12 inches. Each color code must be permanently affixed on or along the line and the color code must be clearly visible when the gear is hauled or removed from the water.~~

- (c) ~~Unless marked as required by (b) in advance of September 1, 2020, buoy lines must be marked with three (3) red 12-inch (30.48 cm), colored marks: one at the top of the buoy line, one midway along the buoy line, and one at the bottom of the buoy line. Each color code must be permanently affixed on or along the line and the color code must be clearly visible when the gear is hauled or removed from the water.~~

~~Chapter 75.4 (c) sunsets August 31, 2020.~~

- (d) ~~Effective September 1, 2020~~ All buoy lines must be marked with ~~an~~ four (4) additional 12 inch green marks, of at least 6 inches in the top two fathom of buoy line. Each green mark must be placed adjacent to, and within 6 inches, of the four purple marks along the buoy line.
- (e) All buoy lines must have 1700-pound weak insertion(s) or approved 1700-pound breaking strength line at the location and frequency specified by Zone and distance from shore below. A list of NOAA approved manufactured 1700-pound weak rope and 1700-pound weak insertions can be found at this website: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/marine-mammal-protection/approved-weak-inserts-and-line-atlantic-large>.

The 1700-pound weak link insert requirements by location are as follows;

- ME Zone A West\*, B, C, D, E; Federal Waters 3–12 nm: 2 weak inserts at 25% and 50% down the line OR top 50% of buoy line weak rope
- ME Zone A East\*, F, and G; Federal Waters 3–12 nm: 1 weak insert 33% down the line
- Beyond 12 nm: 1 weak insert 33% down the line

\* Zone A East and Zone A West are defined in Chapter 75.01 (A) (10 and 11).

- (e) Multiple traps only – no single traps allowed; See section 5 below for minimum number of traps per trawl; trawls of 5 or fewer traps must have only one buoy line.

- (f) The attachment of buoys, toggles or other floatation devices is prohibited on ground lines.
- (g) Ground lines. All ground lines must be composed entirely of sinking line.
- (h) Sink rope means, for both ground lines and buoy lines, line that has a specific gravity greater than or equal to 1.030, and, for ground lines only, does not float at any point in the water column.
- (i) Fishermen are encouraged, but not required, to maintain knot-free buoy lines.

5. Minimum Number of Traps Per Trawl

In Maine, trap trawl requirements are based on the enforcement lines defined in Chapter 75.01 and the Maine lobster management zones defined in Chapter 25.94. Pocket waters\* will follow the trawl minimums in their respective zones between the exemption line and the 3-mile line. State water trawl maximums can be found in Chapter 25.04. See each individual management area for details on ~~these~~ the traps per trawl requirements:

Management Area	Minimum Number of Traps Per Trawl
Zones A-G (Exemption Line to the 3-mile line)	2 (no singles allowed)
Maine Pocket Waters as defined in Chapter 75.01 (A)(7)*	2 (no singles allowed)
Zones A-G (3-mile line — 6-mile line)*	3
Zones A-C (6-mile line — 12-mile line)*	5
Zones D-G (6-mile line — 12-mile line)*	10
Zones A-E (beyond 12-mile line)	15
Zones F-G (beyond 12-mile line)	15 (Mar 1-Oct 31)
	20 (Nov 1-Feb 28/29)

ZONE	EXEMPTION LINE TO 3NM	3 TO 6* NM	6* TO 12 NM	BEYOND 12 NM
<b>Zone A East*</b>	3 for 1 line	10 for 1 line 20 for 2 lines	10 for 1 line 20 for 2 lines	25 for 2 lines
<b>Zone A West*</b>	3 for 1 line	4 for 1 line 8 for 2 lines	8 for 1 line 15 for 2 lines	25 for 2 lines
<b>Zone B</b>	3 for 1 line	5 for 1 line	5 for 1 line 10 for 2 lines	25 for 2 lines
<b>Zone C</b>	2 for 1 line 4 for 2 lines	5 for 1 line 10 for 2 lines	10 for 1 line 20 for 2 lines	25 for 2 lines
<b>Zone D</b>	2 for 1 line 4 for 2 lines	5 for 1 line 10 for 2 lines	5 for 1 line 10 for 2 lines	25 for 2 lines
<b>Zone E</b>	2 for 1 line 4 for 2 lines	5 for 1 line 10 for 2 lines	5 for 1 line 10 for 2 lines	25 for 2 lines
<b>Zone F</b>	3 for 1 line	5 for 1 line 10 for 2 lines	5 for 1 line 10 for 2 lines	25 for 2 lines
<b>Zone G</b>	3 for 1 line	5 for 1 line 10 for 2 lines	10 for 1 line 20 for 2 lines	25 for 2 lines



\* The Six-Mile Line and Pocket Waters are defined in Chapter 75.01 (A) (6 and 7). The three-mile and 12-mile lines are also established in Chapter 75.01 (A) (8 and 9).

\* Zone A East and Zone A West are defined in Chapter 75.01 (A) (10 and 11).

Exception: Those fishing in Wwaters within ¼ mile of Monhegan Island, Matinicus Island Group, (Metinic Island, Little Green Island, Large Green Island, Seal Island, Wooden Ball Island, Matinicus Island and Ragged Island (Criehaven) and Isles of Shoals Island Group (Duck Island, Appledore Island, Cedar Island, and Smuttynose Island) are exempt from the new minimum trap per trawl requirements. Single traps are permitted within ¼ mile from these three islands.

B. The following restricted area will be closed to the use of persistent buoy lines.

1. The LMA1 Restricted Area\* is closed to the use of buoy lines from October 1 to January 31 annually. Gear that does not use persistent buoy lines, such as “ropeless” gear that retrieves trap/pot trawls when the vessel is on-site, is allowed in these areas for research purposes with appropriate state and federal permits.

\*LMA1 Restricted Area is defined in Chapter 75.01 (A) (12).

75.03 Gillnet Gear Restrictions

A. The following gillnet gear restrictions shall apply:

1. Sliver Area and Federal waters

All persons who fish gillnet gear in the Maine Sliver Area, shall comply with the following requirements for the ALWTRP:

- (a) No floating line at the surface.
- (b) No wet storage of gear over 30 days.
- (c) Buoy lines must be marked with a green, 4-inch mark midway on the buoy line.
- (d) The license-holder’s name, homeport, and license number must be clearly displayed on every gillnet marking buoy for Commercial Fishing, Commercial Pelagic and Anadromous, and Menhaden Fishing license holders for gillnet fishing must be clearly displayed on every marking buoy.
- (e) All buoys, floatation and/or weighted devices must be attached to the buoy line with a weak link having a maximum breaking strength no greater than 1,100 pounds (498.95 kg).
- (f) All gillnets, regardless of the number of net panels, must be anchored with the holding power of not less a 22-lb Danforth-style anchor at each end of the net string (must be burying anchor; no dead weights).
- (g) Each net panel must be configured with five or more weak links, depending on the panel length, with a breaking strength no greater than 1,100 pounds (498.95 kg). The weak link placement must meet one of two configurations:
  - (1) Configuration 1:  
For all variations in panel size:  
One weak link must be placed in the center of each of the up and down lines at both ends of the net panel; and

One weak link must be placed as close as possible to each end of the net panels on the floatline.

For net panels 50 fathoms or less in length: One weak link must be placed in the center of the floatline.

For net panels greater than 50 fathoms: One weak link must be placed at least every 25 fathoms along the floatline.

(2) Configuration 2:

For all variations in panel size:

One weak link must be placed in the center of each of the up and down lines at both ends of the net panel; and

One weak link must be placed between floatline tie-loops between net panels; and

One weak link must be placed where the floating tie-loops attach to the bridle, buoy line, or groundline at each end of the net string.

For net panels 50 fathoms or less in length: One weak link must be placed in the center of the floatline.

For net panels greater than 50 fathoms: One weak link must be placed at least every 25 fathoms along the floatline.

(3) Exceptions: Individual weak links are not required in locations where rope of appropriate breaking strength is used. Additionally, if no up and down line is present then weak links are not required at that location.

**Basis Statement:**

This rule incorporates the measures in the 2021 Atlantic Large Whale Take Reduction Plan final rule for 1700-pound weak link inserts, gear marking requirements, minimum trawl lengths, and defines the LMA1 Restricted Area.

Based on the comments received, DMR made the following changes to the proposed rule prior to the adoption:

- The exemption to the minimum number of traps per trawl requirement for certain islands has been expanded to include all islands eligible for this exemption as listed in the federal regulation.
- The requirements for the use of weak point insertions in exempt waters has been clarified to specify that the manufactured weak links and weak rope may be attached in whatever manner the fisherman chooses.

**Summary of Comments:**

Notice of this proposed rulemaking appeared on February 23, 2022 in the 5 major daily newspapers as published by the Secretary of State. On February 23, 2022, the rule was posted on the DMR website, and electronic messages were sent to individuals who subscribe to DMR notices. The public hearing was held as follows: March 15, 2022, 5:00 PM, virtually via Microsoft TEAMS. The comment period closed March 28, 2022.

**Attendance at the Public Hearing:**

<b>Members of the Public</b>	<b>DMR Staff</b>
<p>Jason ?, Jordan Andrews, Pete Benoit (King Senate), Matt Gilley, NEWS CENTER Maine, John Stanley, Chuck Plummer, Vince Bosso, Marshall ?, Steve Rosen, Fred Bever, Rep. Jay McCreight, James Morris, Kathleen Collins, Thomas Hanson</p> <p><i>Note: The names listed above reflect the information the participant provided when they signed into the remote proceeding. Some participants did not provide a last name or other identifying information.</i></p>	<p>Amanda Ellis, Megan Ware, Deirdre Gilbert, Jeff Nichols, Lorraine Morris, Troy Dow, Daniel White, Erin Wilkinson,</p>

**Christopher Eager, submitted via email, February 24, 2022**

I'm a harvester in zone G which fish the Portsmouth harbor. For us to go and take one bouy line away on our triples would crate more trash in the ocean from bouys being lost and traps. Portsmouth harbor is a supply chain to New England from oil ships salt tugs and even one of our oldest navy yards . Also it is one of the strongest tides in the United States. We will be losing traps left and right daily for to ship traffic. And us trying to set traps next to other fisherman would have no clue which way the gear is being set. We would be better off to grapple our gear back for switch to 2 bouy trawls with more traps on them!!!!!!! We need to have two bouys in the river and harbor it's ok once you get down the coast line but this will not work for us in the harbor.

**Josh Spearing, submitted via email, February 24, 2022**

As a lobster fisherman for almost 3 decades, and with all my family involved with this fishery, I'd like to say that the time frame for compliance is unreasonable. The products that are approved are hard to come by, expensive to purchase, and time consumptive. I have gone through every previous step that I've been told to do at a cost financially, physically, and

mentally. I do my own work, I pay my way, and I still worry that I'm somehow not up to code. It's adding stress to people's lives that is unnecessary. To make it worse, every measure I've gone through in the past is being scrapped. No buoy weak links, no more splicing the rope, all the colors of string hand spliced into each individual rope; all for naught. I feel in some time ahead that the new rules will also go to the scrap idea pile. I receive no compensation for this extra, burdensome work, I pay for it and then watch the rules Change again and again. I don't fish in the offshore areas that the whale migrate through. Never seen a right whale. As an added bonus, I pay now more for licenses and tags to pay for DMR employees; and I have no say in how DMR spends its resources. Usually when I pay an employee, I set up the work as well. I do as well as a person can on this earth to be less impactful in negative ways, but feel that these measures are too far. That my two cents, I'm sure it will fall on deaf ears, as normal.

**Neil Payson, submitted via email, March 14, 2022**

My name is Neil Payson and I have been a third generation lobsterman since 1966. I retired as a high school and college math instructor for 45 years and have since retired in 2018. I have observed many changes in the laws over the past 66 years and many I am in agreement with. I hand haul 300 traps from a 19 foot plywood boat and went through the laborious job of stranding the purple lines in the two required line locations. All of my traps are within one mile of shore and I fish nothing more than 8 fathoms depth. 75% of my traps have six fathoms of rope and about 10% of those are in 4 fathoms of water or less. Having to reconfigure my lines to protect whales seems absurd. I would think that these rules should apply to deeper waters even though there have been no whale deaths for decades. Please consider a zone that would be less than the three mile exempt zone or by the depth of the water fished. This should be a matter of common sense.

**Dan Morris, submitted via email, March 15, 2022**

Regarding the proposal for additional right whale protections. The area inside the exemption line should be exempt from further regulations relating to right whales. It is widely understood that the chances of seeing a right whale inside the exemption area is slim and none. The vast majority of vertical lines fished inside this area are relatively short and are less of a threat to whales. Generally the lines used inside are a smaller diameter/strength than those used for trawls in the offshore areas. Most fish singles and/or pairs only. While the safety and effectiveness of the weak rope/links can be debated, even outside of the exemption line, mandating it inside the line is a solution looking for a problem. The core of the argument Maine is waging in the fight against these onerous federal proposals is that Maine's gear is not entangling/killing right whales. We must maintain that argument and by not enacting regulations inside the exemption line, we will be saying we believe there is no threat to right whales inside of that line and gear inside of it really should be "exempt" from further regulation. We have the bouy weak links, many knotless ropes, and sinking ground lines, which, given the non existent threat to whales, is more than enough. As a matter of strategy, it would be better to save further regulation inside the exemption line for a future time when we might be asked to do more and nothing else is practical in outside areas. Thank you for the opportunity to comment on these proposals.

**Walter Willey, submitted via email, March 15, 2022**

Why you having a meeting that doesn't help us any? Unless the State doesn't stand up for the fishermen you all better start looking for a new job

**John Stanley, public hearing, March 15, 2022**

Yes, I would just like to comment that in my opinion what they're forcing me to do is I've butt spliced all my ropes as was the original recommendation with the whale rules and they're going to make me take my splice out and put a knot in or a weak link and in my opinion, if you want to catch a whale you put a knot or weak link in, that's what catches a whale so I feel I'm going backwards. Thank you.

**Matt Gilley, public hearing, March 15, 2022**

My comment is it's going to be pretty hard for guys to come in compliance with this rule by May first just because there's no materials available for guys to get I mean, one of the two weak links we just had available to us we just had a recall on them. So, I have to go out and take a few out and lines and hopefully I can get the other ones by May first. It's just a ridiculous time constraint that we're under with not enough supplies to even come into compliance and I will also submit more in writing. Thank you.

**Steve Rosen, submitted via email, March 16, 2022**

I live and fish out of Vinalhaven, and have fished the waters around Seal Island for many years now. It seems that Seal Island was left out from having a quarter mile exempt zone where singles could be fished. The reason singles are used here is because float rope trailers are not legal. The bottom around Seal is extremely rough, fishing pairs here in close will create a lot of ghost gear. There are several fishermen who also fish singles around Seal like I do. Seal Island is in the same archipelago as Matinicus, Criehaven, WoodenBall, and Green Islands. I would think as far as enforcement is concerned it would make sense to have it all the same. I would be glad to answer any questions about Seal Island.

**David Thomas, submitted via email, March 16, 2022**

I have been opposed to the implementation of 1700 pound breakaways since the concept was first being discussed.

1. Have the results of the breaking strengths of various manufacturer's rope been realized and published somewhere?
2. I use a lot of older rope. No testing has been done on older rope that I am aware of. My old 3/8" rope might be weaker than new 5/16" rope.
3. Plastic weak links will always be suspect. Any plastic apparatus (swivels, dog bones, spindles, etc) all degrade over time.
4. For those of us lobster fishing in deeper water, a 1700# breakaway will result in a tremendous loss of lobster gear when gear gets tangled or hung down.
5. I have put some 3 foot sections of 5/16" rope in some of my warps. I fear having 3 different kinds of rope ( sinking rope, weak link and floating, and different diameters) will result in the rope magging or unlaying, which results in warps losing strength. Replacing this rope is expensive. Losing traps is expensive.

6. It took me 5-7 minutes per warp to put these weak links in place. Doing the math informs me that I will have at least 70 hours involved in putting weak links in all my warps. Those guys fishing longer warps outside will spend much more time than that putting these weak links in place. I have been lobstering for 46 years. Hard work never bothered me. Putting weak links in 10 fathom warps is a waste of time and effort. That bothers me.

7. If the MLA and Lobster Union are successful in their court cases, will all this weak link effort be for naught?

**Brian Tufts, submitted via email, March 17, 2022**

I think this is being rushed on us seems there isn't even a whale problem!! Then making it dangerous with weak rope! and adding a bunch of knots! You can't even buy the stupid stuff you need! Never mind the money it's costing us!! With no help from state or useless feds!!! I've already spent thousands on weaker rope and links that are junk and its like adding a rock in your rope so retarded to even think about this shit!! Not to mention the stress it's putting on me it's all a bunch of bullshit and everyone knows it really sad when the one thing you love to do and been doing it 40 years so I have a clue!!! And now I am feeling like I am falling out of love for a bunch of fucking lies and money hungry grubbing assholes!!

**W, William Anderson, submitted via fax, March 18, 2022**

I read in the Quoddy Tides that you were looking for public comment on your proposed new whale rules. I do have some comments.

About two years ago the Department of Marine Resources traveled around the state to talk about these new rules that the federal government was proposing. In this proposal where the federal government was talking about going to the shore with there next round of Atlantic Large Whale Take Reduction Plan. In these proposed rules. They were proposing to give an exemption area one quarter mile from shore. Then when the gear marking came out you give mention of lines less than 100 feet.

The reason I mention this is I fish singles in this shallow water close to shore and this area should be exempt from putting weak points in the buoy lines, as the federal government proposed in the first place. We do have breakaways on the buoys in this shallow water and that is enough in this shallow water because these short buoy lines would not even go around a large whale once and the breakaway on the buoy would allow a whale to get clear of the gear. It is not often a large whale is even seen this close to shore. The federal government even admitted this in the beginning by exempting one quarter mile from shore. Fishing close to shore where I fish is rocky and your buoy lines will catch down and with a weak point in the buoy line. I will be loosing more traps. I fish trawls with buoys on both ends everywhere else and weak points in the buoy lines as you have written in your proposed rules are not a problem there.

**Elwood Pinkham, submitted email, March 25, 2022**

I have been on fishing boats for over 50 years; as a child with my father and for nearly 50 years on my own. I have fished lobsters, scallops, and urchins commercially in all times of year. I have also been the harbor master for the town of Steuben for decades. NEVER in my years on the water have I seen a right whale (or any other kind of whales in our exempted waters) and as I've questioned other local fishermen in this area, none of them have seen any either. I fish

exclusively inside the exemption area. The density of traps there as well as the amount of rocks and ledges is going to make the weak link requirement result in large numbers of traps parting off due to trying to free hung down traps and large offshore rigged boats with powerful haulers frequently trying to raise heavy balls of multiple tangled traps. We inside the exemption line obviously fish a shorter season and earn significantly less than those who follow the season offshore. Because of these factors we need to consider removing any requirements for knots and weak rope inside the exemption line because 1. There is no benefit to the whales, 2. It entails a great expense in time and money for those least able to absorb it, 3. It involves a safety risk trying to haul rope with knots in areas of high trap density-especially with small boats and a significant percentage of older fishermen, and 4. Most of our area boats fishing inside the exemption line fish 800 single lines which would entail 800 separate warps required to be outfitted with the weak links. Hopefully you will consider these factors when developing requirements for this area. Thank you for the work you are doing in this difficult situation we find ourselves in.

**Eastern Maine Skippers Program (Deer Isle-Stonington High School), submitted letter via email, March 26, 2022**

Good Afternoon,

It is with utmost respect that the members of the Eastern Maine Skippers Program at Deer Isle Stonington High School respond to the rulemaking discussion for Chapter 25 ALWTRP. We are the future stakeholders of this industry in the downeast territory of Eastern Penobscot Bay, Jericho Bay State and Federal Maine waters. We feel it is our obligation and responsibility to respond to this issue that is very important to our futures and livelihood. We have deep concerns about the decision making process and feel it is of grave concern to us as students and citizens of these communities.

We understand that the rules are designed to save the North Atlantic Right Whale, an endangered species that is vulnerable to ship strikes and rope entanglements, which have caused the population to dip below 400. We also are concerned that the May 1, 2022 deadline to alter lobster gear by using new weakened ropes or special inserts is not reasonable or appropriate in the timeframe that has been recommended.

After researching the facts, we believe that there is no evidence that the whale deaths can be pinned on Maine lobster boats. We feel it is too much to ask an industry made up of 4,500 small businesses, all individual contractors who keep their operations running with little help. Our biggest concern is imposing these new laws in a timely fashion. We have researched the responsibility of the local license holders to adhere to this new regulation. This current proposal is nearly impossible. We cannot possibly gain access to the materials necessary to be legal in this timeframe, and have confidence that the rope alterations will be safe for the harvesters and protect the expensive gear.

An email which included a survey from your agency (DMR) was sent out to license holders dated March 22, 2022. It was designed to allow the licensee to test and provide feedback on a variety of NMFS approved 1,700 pound breaking strength weak inserts. "It seems not all of the options will be available immediately and there will be limited amounts of each." Also the



Rocky Mount Candy Cane weak rope with a purple tracer exceeds 1,700 pounds. Is that a legal option? If these supplies are in short supply as of late March, is it reasonable to expect every license holder in our state to obtain the recommended supplies and re-rig gear on or before the May 1st deadline?

We are students in all aspects of our lives. We are trying to be educated and smart in our decision making processes. We want to be a part of the solution to these very important issues that will impact our futures. We truly hope that this correspondence will be taken seriously and in the best interest of fishermen young and old. We believe in our rich, authentic, Island traditions. This industry is the backbone of our rural community and helps put us on the world map for its achievements. Our generation hopes to sustain this heritage.

**Patrice McCarron (Maine Lobster Association), submitted letter via email, March 28, 2022**

The Maine Lobstermen's Association (MLA) provides this written statement in response to the Department of Marine Resources' (DMR) request for comment on changes to Maine's Chapter 75 regulations to comply with the federal Atlantic Large Whale Take Reduction Plan (TRP). The MLA was founded in 1954 and is the oldest and largest fishing industry association on the East coast. The MLA is committed to supporting both the continued viability of the Maine lobster fishery and the improvement of the health of the North Atlantic right whale through management measures that accurately address documented risks to right whales based on the best available science. The MLA has been an actively engaged leader in efforts to balance protections of large whales and the Maine lobster fishery since the inception of the TRP in 1996. The MLA remains steadfast in its commitment to identify innovative conservation measures that both protect endangered right whales while preserving Maine's sustainable lobster fishery and the communities that depend on it.

The MLA understands that the State of Maine has a responsibility to ensure that its regulations are in compliance with the federal whale plan. MLA appreciates the state's efforts over the past several years to work closely with the lobster industry as this difficult suite of regulations was developed. The MLA is grateful for DMR's tremendous efforts to ensure that lobstermen were not stuck with the federal government's 'one size fits all' rulemaking approach, and instead, worked closely with the lobster zone councils to identify equivalencies to the proposed whale conservation measures that minimize the operational hardships for lobstermen based on zone-specific fishing conditions.

Despite the state's efforts to improve the whale rules, the MLA still has many concerns with the current set of whale conservation measures as expressed in our written comments to NMFS. MLA is concerned that the aggressive trawling up requirements combined with weakened endlines poses an increased safety hazard to lobstermen and their crew. Furthermore, MLA has many questions about the basis for the LMA 1 closure and the economic hardship imposed on affected lobstermen, especially since the closure appears to have limited conservation benefit to right whales. As NMFS has failed to conduct any surveillance of this closure area, the MLA commends DMR for its efforts to greatly expand its acoustic array to document the presence (, or lack thereof,) of right whales of the Maine coast.

The MLA remains very concerned about the industry's ability to comply with the May 1 implementation date. MLA has joined the Maine delegation, Governor Mills, and the Small Business Administration in requesting that NMFS delay implementation of the federal whale rules from May 1 to July 1, 2022. As you are aware, many of the federally-approved weak link options have only recently become commercially available. While some manufacturing is finally happening and products are making it to marine supply stores in Maine, supply continues to lag far behind demand. To make matters worse, one manufacturer had to recall all its 1700- pound weak links that were sold to lobstermen, further frustrating their ability to comply with the May 1 deadline.

Given the extremely short timeline NMFS has provided companies to develop and manufacture weak links, there have already been several reports of these links failing when hauling gear under ordinary conditions. This raises additional concerns for the safety of lobstermen and their crew as they lengthen their trawls while simultaneously weakening endlines with solutions that appear to fail unpredictably.

MLA is also concerned that many Maine lobstermen remain generally unclear on how to rig gear based on where they fish. Given limitations of COVID, there has been minimal outreach to the lobster industry to help them understand all the measures that must be implemented by May 1. MLA has mailed a Whale Rules Outreach Guide to all lobstermen in the both the March and April issues of *Landings*, but we are finding that lobstermen are still confused. One of the primary reasons is that the current requirements are structured differently than past whale rules. For example, in past iterations, gear fished in exempt waters was treated differently than gear fished in the sliver. This is still the case with respect to sinking groundline and trawling up requirements, however, Maine's state waters are now treated as one unit for the purposes of gear marking and weak points.

The MLA commends the State for proposing to allow additional flexibility to rig weak points in exempt waters. The MLA fully supports the state's proposal to allow 5/16" line with an overhand knot to serve as a weak buoy line, or the use of a section of 5/16" line connected to the main buoy line with either a fisherman's knot or a sheet bend to comply with the weak rope insert in Maine's exempt waters. However, given the lack of outreach, many fishermen remain unaware that this additional option is only allowed in exempt waters.

MLA strongly urges DMR to also allow lobstermen fishing gear in exempt waters the flexibility to attach manufactured weak rope or in line weak links by any method they choose. The federal guidelines specify that weak links and twisted rope must be attached by splice or tuck yet allow braided weak rope to be attached using a knot. MLA urges DMR not to specify the method of attachment for weak links deployed in gear fished in exempt waters so that lobstermen have the flexibility to choose the method that works best to rig that gear.

The Maine lobster industry is extremely proud of its stewardship practices which includes high compliance with all whale conservation measures. The MLA has heard from many lobstermen who say they are doing all they can to bring gear into compliance by May 1, however, we fear that this simply won't be possible due to inadequate supply of weak rope and weak links. There are others who may believe they are in compliance with the new rules but may not fully

understand the new requirements. The MLA urges DMR to direct Marine Patrol to educate lobstermen on the new requirements to protect right whales, and not issue citations until the industry has had adequate opportunity to understand the new rules, obtain the necessary materials, and sufficient time to re-rig gear to comply with the new whale regulations.

**Colin Piper, submitted letter via email, March 28, 2022**

Dear DMR,

My name is Colin Piper and I am a lobsterman out of Hancock, ME. This is my second year with my commercial license after completing the student program. I held my student license from the age of 8 until the age of 17 when I received my commercial license. I am writing this letter to express my concerns about the proposed rulemaking for Chapters 25 and 75. This proposed rule of requiring all end lines to have a 1700 pound weak link inserted 50% of the way down any endline has many issues in my opinion. The first issue I want to touch on is the proposed date that this rule will be effective. This date is said to be May 1, 2022. That is just over a month away. This is not nearly enough time for all fishermen to be able to comply with this rule. Not only is it an incredible amount of work to install the proposed options of weak links but also that all of the options proposed are not available to be purchased. How are we supposed to comply with these rules if the resources aren't available? This effective date needs to be pushed back at least until all of the options are available for purchase, when there is enough inventory of those products to supply all of Maine Lobstermen, and when these products are proven to be consistent. It is extremely unfair to me and other fishermen to set an effective date for something that is physically impossible for us to complete at this time. My next concern is that these weak links create more problems for fishermen to face. When in tangles with multiple other fisherman's gear our end lines are now very prone to part off causing our traps to be lost. In some cases multiple traps can be lost at once. Especially with the new minimum trap per endline limits. This results in thousands of dollars to be lost for all the fishermen who lose their gear. This can be very devastating for many fishermen as well because it is not easy or cheap to replace what is lost. Not only that but when these traps and end lines are lost to the weak links breaking half of the rope is still in the water. Another concern I have is why these are at all necessary for the fisherman like me who fish inside the three mile line and in our local bays. These areas are no place for whales nor are they common places for whales to be. We present little to no risk of entangling a whale in our end lines. So why does this rule have to apply to us? Especially the fisherman like me who often are fishing in very shallow water. The use of these weak links would be pointless and just an unnecessary hassle that would make our lives much more complicated. I see no benefit in the protection of the right whale with making this a proposed rule effective inside the 3 mile line, more so in Frenchmans Bay where I fish. Most of the bay is protected by the Porcupine islands meaning the chance of a whale behind the islands is very slim. My last concern is about the whale safe swivels and breakways that we currently are required to have on our buoys connected to our end lines. Will these no longer be necessary? Or will fishermen now have to have two forms of weak links attached to our enlines? Why is one now not enough? If the whale safes we have now on our buoys are now no longer necessary it would seem very unfair to know that now something we spent money on (sometimes large amounts of money) is now useless. In my opinion this rule has been pushed along too fast and

has many flaws that are being looked over and not considered. I also feel that the fishermen like me are not being considered at all in this rule as well. I believe that the rule needs to be thoroughly gone over and reconsidered before it goes any further. As well as the effective date should be reconsidered and pushed back. Thank you for taking the time to read my concerns.

## **DMR Response to Comments**

### **Trawls in Portsmouth Harbor:**

A comment was received regarding safety concerns for fishing 3-trap trawls in Portsmouth Harbor with one endline. The Department appreciates the many challenges and safety concerns that the Maine lobster fishery faces. Portsmouth Harbor lies within the exemption area and is exempt from the federal rule requiring 3-trap trawls to be fished with one endline.

### **Weak Point Requirements Inside the Exemption Area:**

Several commenters stated that the area within the exemption line should be exempt from the 1700lb weak point requirement. The 1700lb weak point in exempt waters was included in Maine's plan which the Department submitted to NOAA in December of 2019. The 1700lb weak point in exempt waters was also included in all of the Zone's Conservation Equivalency proposals which were submitted to NOAA during the public comment period in March 2021. NOAA largely accepted these conservation equivalency proposals in the final rule, including the 1700lb weak point specifications in each of the Zone's Conservation Equivalency proposals. Since the 1700lb weak point in exempt waters was included in Maine's proposal to NMFS, it contributed to the risk reduction that Department calculated for the Maine lobster fishery. The 1700lb weak point was also included as a regulatory element in the risk reduction alternative analyzed in the Final Rule by NOAA. Removing the weak point from exempt waters may result in changes to the risk reduction calculation. Including a 1700-lb weak point in exempt waters in all vertical lines ensures there are protections in place in all Maine lobster gear, in the rare event that a right whale does come close to shore.

### **Implementation Date:**

Several commenters stated that the implementation date should be moved to a later date from May 1 to give fishermen sufficient time to bring their gear into compliance. This is particularly a concern with regard to the new weak link requirements, where there has been insufficient supply of both manufactured weak links and the appropriately sized/approved rope. In addition, one of the available weak links that Maine fishermen had purchased and begun to insert into their gear was later recalled by the manufacturer due to safety concerns associated with how the links may break.

The Department appreciates the significant challenges and frustration associated with making this transition, given the limitations caused by the supply chain and general availability of this gear. As this situation has developed, the Department has communicated these realities to NOAA, and explained that many Maine fishermen will not be in total compliance on May 1, through no fault of their own. NOAA did not agree to shift the implementation date into the

future, so Maine DMR must maintain this date for compliance with the federal regulations. The Department has included additional options for compliance in exempt waters.

Maine Marine Patrol has been coordinating with NOAA's Office of Law Enforcement, and has emphasized the need for communication and education, particularly outside the exemption line, until this situation improves. Fishermen should make every effort to comply with the other aspects of the regulation, including the gear marking and trawling up requirements by the effective date of the regulation.

#### **Islands Exempt from Trawl Minimums:**

A comment was received that Seal Island should have a quarter mile exemption around the island that allows for single traps to be fished. Seal Island is already identified as one of the Maine islands on page 166 of the Atlantic Large Whale Take Reduction Plan Final Rule that allows for a quarter mile exemption. The proposed rule has been modified to include all of the islands that are identified in the federal regulation as eligible for the exemption.

#### **Rope Testing:**

A comment was received regarding tests conducted on the breaking strengths and age of rope from various manufacturers. A variety of ropes from different manufacturers and of different diameters have been tested for breaking strength at the DMR lab in West Boothbay Harbor, though that dataset is not exhaustive of all ropes available and used within the lobster fishery. Those data were used to determine the variability of breaking strength in a particular kind of rope or across different manufacturers, to compare to manufacturer's specifications, and if certain weak connections, like knots or types of splices, might work to reduce the breaking strength to 1700lbs. Parts of the data have been shown in a number of presentations and can be provided upon request. In addition, the Department tested ropes of various ages by having fishermen donate used vertical lines and submit a log with the age of the ropes along with it. It is difficult to 'age' rope for enforcement purposes. Rope strength does degrade over time but also depends on many other factors including material, diameter, how it is stored, sediments within the rope fibers, the inclusion of knots or splices in the line, etc. New rope must comply with the 1700lb regulation.

#### **Manufactured Weak Link Attachment to Gear Inside the Exemption Area:**

A comment was received requesting that the Department allow for more options inside the exemption area for the Maine Lobster fishery to insert weak links into their gear. NOAA's approved weak point options states that manufactured weak links must be connected with a tuck or a splice. The Department recognizes that there is not a one size fits all gear configuration that works best for all lobsterman. The Department will allow the use of knots exclusively inside the exemption area to insert manufactured weak links or weak rope, in addition to other knot scenarios approved by DMR and specified in the regulation. These options are in addition to NOAA's approved weak point options listed on their website, <https://www.fisheries.noaa.gov/new-england-mid-atlantic/marine-mammal-protection/approved-weak-inserts-and-line-atlantic-large>.

#### **Economic Impact of the LMA 1 Closure:**

A comment was received addressing the LMA 1 closure and the economic impact on the lobster industry. The Department is committed to increasing monitoring efforts for right whales across the Gulf of Maine, including in the LMA1 closure area, and hope these data can be used to learn more about habitat use patterns and how those might overlap with Maine's lobster fishery, with the goal of minimizing the impact of this, or other closures.

**Status of Lawsuits:**

A comment was received regarding the Maine Lobster Association and the Lobster Union lawsuits and what impact the outcome of these lawsuits will have on the gear modification requirements. The Department cannot speculate on the outcome of active litigation in which we are involved.

## Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

Amanda Ellis, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021 Telephone: (207) 624-6573; web address: <http://www.maine.gov/dmr/rulemaking/>

CHAPTER NUMBER AND RULE: Chapter 75 Protected Resources

STATUTORY AUTHORITY: 12 MRS 6171

DATE AND PLACE OF PUBLIC HEARING(S): March 15, 2022, 5:00 p.m. remotely via Microsoft Teams. Remote access information is posted to DMR's website under "Meetings." An alternate public hearing may be held at 5:30 p.m. on March 17, 2022 in the same format. Notice of a cancellation would be posted to DMR's website.

COMMENT DEADLINE: March 28, 2022

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [*see* §8057-A(1)(A)&(C)] This rule was proposed for the purpose of ensuring compliance with the 2021 Atlantic Large Whale Take Reduction Plan federal regulations, including the requirements for 1700-pound weak link inserts, gear marking, and minimum trawl lengths specified by Zone and distance from shore and the LMA 1 Restricted Area.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? \_\_\_ YES \_\_\_ X NO [§8056(1)(B)]

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [*see* §8057-A(1)(B)&(D)] This regulation would bring Maine into compliance with required federal regulations by May 1, 2022. Fishermen will be required to ensure they are complying with weak link, gear-marking, minimum trawl length requirements, and seasonal closures as specified within the rule.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) [*see* §§8057-A(1)(E) & 8063-B]: In developing this regulation, the Department considered the final federal regulation, input from the Lobster Advisory Council and Lobster Zone Councils and Maine Marine Patrol.

ESTIMATED FISCAL IMPACT OF THE RULE: [*see* §8057-A(1)(C)]

Enforcement of these proposed amendments will not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.

***FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:***

*ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:*

*[see §8057-A(2)(A)]* Economic impacts associated with both the time and materials necessary to comply with the gear marking, weak points, trawling up requirements, and seasonally closed area, are significant and vary by license holder depending on their specific fishing practices.

*INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED AND HOW THEY WILL BE AFFECTED:* *[see §8057-A(2)(B)]* Lobster license holders will be affected by the cost of their time and materials necessary to comply with the federal regulations, as well as any revenue lost from fishing while modifying gear for compliance. Finally, individuals who fish in the LMA1 restricted area will be impacted by lost fishing opportunity.

*BENEFITS OF THE RULE:* *[see §8057-A(2)(C)]* Compliance with the federal regulations is required.