

(ADS) Chapter 302 USAID Direct Contracting, must be approved in writing by the Contracting Officer, as prescribed in 731.205–6(b) or 731.371(b), as applicable.

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#### 752.7016 [Removed and Reserved]

■ 6. Remove and reserve section 752.7016.

#### Subpart 753.3—Illustration of Forms

■ 7. Amend Appendix D to Chapter 7 as follows:

■ A. Revise Section 4, paragraph (e)(3).

■ B. Revise Section 7, paragraph (k)(7).

■ C. Amend Section 12, General Provision 4 by revising the heading and paragraph (b).

■ D. Amend Section 12 by revising General Provision 25.

The revisions read as follows:

#### Appendix D to Chapter 7—Direct USAID Contracts With a U.S. citizen or a U.S. Resident Alien for Personal Services Abroad

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##### 4. \* \* \*

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##### (e) \* \* \*

(3) This Appendix applies the “USAID Contractor Salary Threshold (USAID CST)” policy in Automated Directives System (ADS) Chapter 302.3.6.8 to salaries for U.S. PSCs. Salaries in excess of the USAID CST, which is equivalent to the maximum rate for Federal agencies without a certified SES performance appraisal system, must be approved by the M/OAA Director in accordance with the approval procedures in ADS 302.3.6.8(e). This approval cannot be re-delegated.

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##### 7. \* \* \*

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##### (k) \* \* \*

(7) The approval for any salary in excess of the “USAID Contractor Salary Threshold (USAID CST)”, which is equivalent to the maximum rate for Federal agencies without a certified SES performance appraisal system, in accordance with approval procedures in ADS 302.3.6.8(e) as required in Section 4.(e)(3);

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##### 12. \* \* \*

4. Workweek And Compensation (Pay Comparability Adjustments) (JUL 2007)

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(b) *Compensation (Pay Comparability Adjustments)*. The PSC’s compensation shall be adjusted to reflect the pay comparability adjustments, which are granted from time to time to U.S. direct-hire employees by Executive Order for the statutory pay systems (usually in January). Any adjustments authorized are subject to the availability of funds and shall not exceed that percentage stated in the Executive Order granting the

adjustment. Further, the adjusted compensation may not exceed the annual “USAID Contractor Salary Threshold (USAID CST)”, which is equivalent to the maximum rate for agencies without a certified SES performance appraisal system (or the equivalent hourly rate).

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#### 25. Medical Evacuation (MEDEVAC) Services (JUL 2007)

(a) The PSC must obtain MEDEVAC service coverage including coverage for authorized dependents while performing personal services abroad.

USAID will reimburse the total cost of MEDEVAC insurance to the PSC. The PSC must provide proof of coverage to the CO in order to receive reimbursement.

(b) *Exceptions*. (1) A PSC and authorized dependents with a health insurance program that includes sufficient MEDEVAC coverage as approved by the Contracting Officer are not required to obtain MEDEVAC service coverage.

(2) The Mission Director at the post of assignment may make a written determination to waive the requirement for such coverage. The determination must be based on findings that the quality of local medical services or other circumstances obviate the need for such coverage for PSCs and their dependents located at post.

■ 8. Amend Appendix J to Chapter 7 in Section 12 by revising General Provision 21 to read as follows:

#### Appendix J to Chapter 7: Direct USAID Contracts With Cooperating Country Nationals and With Third Country Nationals for Personal Services Abroad

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##### 12. \* \* \*

#### 21. MEDICAL EVACUATION (MEDEVAC) SERVICES (JUL 2007)

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(a) The PSC must obtain MEDEVAC service coverage including coverage for authorized dependents while performing personal services abroad.

(b) *Exceptions*. (1) A PSC and authorized dependents with a health insurance program that includes sufficient MEDEVAC coverage as approved by the Contracting Officer are not required to obtain MEDEVAC service coverage.

(2) The Mission Director at the post of assignment may make a written determination to waive the requirement for such coverage. The determination must be based on findings that the quality of local medical services or other circumstances obviate the need for such coverage for PSCs and their dependents located at post.

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■ 9. In Chapter 7:

■ I. Remove the words “Office of Procurement” and add, in their place, “Office of Acquisition and Assistance” each time they appear in the following locations:

a. 701.105(c).

b. 701.301(a) introductory text.

c. 701.303(c).

d. 701.470 (a)(2).

e. 702.170–3(a).

f. 702.170–10(a)(1)(i).

g. 728.105–1(b)(4).

h. 731.109.

i. 731.770(a).

j. 750.7109–1

k. 750.7110–1.

l. 752.247–70(c)(1).

m. 752.7002(p)(1)(i).

n. Appendix D to Chapter 7, Section 12, General Provision 10, paragraph (n)(1)(i).

o. Appendix J to Chapter 7, Section 12, General Provision 9, paragraph (m).

■ II. In addition to the amendments above, remove “M/OP”, and add, in its place, “M/OAA” each time they appear.

a. 701.105(c).

b. 701.301(a) introductory text.

c. 701.303(c).

d. 701.470(a)(2).

e. 701.470(b)(1).

f. 701.470(b)(2).

g. 701.470(b)(3)(i).

h. 701.470(e).

i. 701.470(f)(1).

j. 701.601(a)(1).

k. 701.601(a)(2) introductory text.

l. 701.601(c)(2).

m. 701.602–3(b)(2).

n. 702.170–9.

o. 705.502(a).

p. 706.501.

q. 709.403.

r. 709.503.

s. 714.406–3.

t. 714.406–4.

u. 716.303(c).

v. 726.7005.

w. 728.105–1(b)(4).

x. 733.103–71(a).

y. 733.103–71(c).

z. 733.103–72(a).

aa. 733.103–73(h).

bb. 733.103–73(i).

cc. 734.002–70.

dd. 749.111–70(a)(1).

ee. 749.111–70(b).

ff. 749.111–71(b).

gg. 750.7105.

hh. 750.7109–1.

ii. 750.7110–1.

jj. 750.7110–2.

kk. 750.7110–3 introductory text.

ll. 750.7110–4.

mm. Appendix D to Chapter 7, Section 4, paragraph (e)(3).

**Michael F. Walsh,**

*Procurement Executive.*

[FR Doc. E7–7437 Filed 4–18–07; 8:45 am]

**BILLING CODE 6116–01–P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 229**

[Docket No. 030221039-7084-45; I.D. 041307B]

**Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan**

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

**ACTION:** Temporary rule.

**SUMMARY:** The Assistant Administrator for Fisheries (AA), NOAA, announces temporary restrictions consistent with the requirements of the Atlantic Large Whale Take Reduction Plan's (ALWTRP) implementing regulations. These regulations apply to lobster trap/pot and anchored gillnet fishermen in an area totaling approximately 1,123 nm<sup>2</sup> (3,852 km<sup>2</sup>) in April and approximately 1,366 nm<sup>2</sup> (4,685 km<sup>2</sup>) in May, northeast of Boston, MA, for 15 days. The purpose of this action is to provide protection to an aggregation of northern right whales (right whales).

**DATES:** Effective beginning at 0001 hours April 21, 2007, through 2400 hours May 5, 2007.

**ADDRESSES:** Copies of the proposed and final Dynamic Area Management (DAM) rules, Environmental Assessments (EAs), Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and progress reports on implementation of the ALWTRP may also be obtained by writing Diane Borggaard, NMFS/Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

**FOR FURTHER INFORMATION CONTACT:** Diane Borggaard, NMFS/Northeast Region, 978-281-9300 x6503; or Kristy Long, NMFS, Office of Protected Resources, 301-713-2322.

**SUPPLEMENTARY INFORMATION:****Electronic Access**

Several of the background documents for the ALWTRP and the take reduction planning process can be downloaded from the ALWTRP web site at <http://www.nero.noaa.gov/whaletrp/>.

**Background**

The ALWTRP was developed pursuant to section 118 of the Marine Mammal Protection Act (MMPA) to reduce the incidental mortality and

serious injury of three endangered species of whales (right, fin, and humpback) due to incidental interaction with commercial fishing activities. In addition, the measures identified in the ALWTRP would provide conservation benefits to a fourth species (minke), which are neither listed as endangered nor threatened under the Endangered Species Act (ESA). The ALWTRP, implemented through regulations codified at 50 CFR 229.32, relies on a combination of fishing gear modifications and time/area closures to reduce the risk of whales becoming entangled in commercial fishing gear (and potentially suffering serious injury or mortality as a result).

On January 9, 2002, NMFS published the final rule to implement the ALWTRP's DAM program (67 FR 1133). On August 26, 2003, NMFS amended the regulations by publishing a final rule, which specifically identified gear modifications that may be allowed in a DAM zone (68 FR 51195). The DAM program provides specific authority for NMFS to restrict temporarily on an expedited basis the use of lobster trap/pot and anchored gillnet fishing gear in areas north of 40° N. lat. to protect right whales. Under the DAM program, NMFS may: (1) require the removal of all lobster trap/pot and anchored gillnet fishing gear for a 15-day period; (2) allow lobster trap/pot and anchored gillnet fishing within a DAM zone with gear modifications determined by NMFS to sufficiently reduce the risk of entanglement; and/or (3) issue an alert to fishermen requesting the voluntary removal of all lobster trap/pot and anchored gillnet gear for a 15-day period and asking fishermen not to set any additional gear in the DAM zone during the 15-day period.

A DAM zone is triggered when NMFS receives a reliable report from a qualified individual of three or more right whales sighted within an area (75 nm<sup>2</sup> (139 km<sup>2</sup>)) such that right whale density is equal to or greater than 0.04 right whales per nm<sup>2</sup> (1.85 km<sup>2</sup>). A qualified individual is an individual ascertained by NMFS to be reasonably able, through training or experience, to identify a right whale. Such individuals include, but are not limited to, NMFS staff, U.S. Coast Guard and Navy personnel trained in whale identification, scientific research survey personnel, whale watch operators and naturalists, and mariners trained in whale species identification through disentanglement training or some other training program deemed adequate by NMFS. A reliable report would be a credible right whale sighting.

On April 11, 2007, an aerial survey reported a sighting of four right whales in the proximity of 42° 27' N. lat. and 70° 28' W. long. This position lies northeast of Boston, MA. After conducting an investigation, NMFS ascertained that the report came from a qualified individual and determined that the report was reliable. Thus, NMFS has received a reliable report from a qualified individual of the requisite right whale density to trigger the DAM provisions of the ALWTRP.

Once a DAM zone is triggered, NMFS determines whether to impose restrictions on fishing and/or fishing gear in the zone. This determination is based on the following factors, including but not limited to: the location of the DAM zone with respect to other fishery closure areas, weather conditions as they relate to the safety of human life at sea, the type and amount of gear already present in the area, and a review of recent right whale entanglement and mortality data.

NMFS has reviewed the factors and management options noted above relative to the DAM under consideration. As a result of this review, NMFS prohibits lobster trap/pot and anchored gillnet gear in this area during the 15-day restricted period unless it is modified in the manner described in this temporary rule. In April, the DAM Zone is bound by the following coordinates:

42° 48'N., 70° 49'W., (NW Corner)  
42° 48'N., 70° 00'W.,  
42° 30'N., 70° 00'W.,  
42° 30'N., 70° 15'W.,  
42° 12'N., 70° 15'W.,  
42° 12'N., 70° 30'W.,  
42° 08'N., 70° 30'W.,  
42° 08'N., 70° 41'W., and follow the coastline north to  
42° 19'N., 70° 54'W.,  
42° 28'N., 70° 54'W., and follow the coastline north to  
42° 48'N., 70° 49'W. (NW Corner)

In May, when SAM West expires, the DAM zone is expanded. The April DAM zone is bounded by the following coordinates:

42° 48'N., 70° 49'W., (NW Corner)  
42° 48'N., 70° 00'W.,  
42° 08'N., 70° 00'W.,  
42° 08'N., 70° 12'W.,  
42° 12'N., 70° 15'W.,  
42° 12'N., 70° 30'W.,  
42° 08'N., 70° 30'W.,  
42° 08'N., 70° 41'W., and follow the coastline north to  
42° 19'N., 70° 54'W.,  
42° 28'N., 70° 54'W., and follow the coastline north to  
42° 48'N., 70° 49'W. (NW Corner)

In addition to those gear modifications currently implemented

under the ALWTRP at 50 CFR 229.32, the following gear modifications are required in the DAM zone. If the requirements and exceptions for gear modification in the DAM zone, as described below, differ from other ALWTRP requirements for any overlapping areas and times, then the more restrictive requirements will apply in the DAM zone. Special note for gillnet fisherman: a portion of this DAM zone overlaps with the year-round Western Gulf of Maine Area Closure for Northeast Multispecies found at 50 CFR 648.81(e). Parts of this DAM zone also overlap with the Northeast Multispecies Rolling Closure Area II and Area III found at 50 CFR 648.81(f)(1)(ii) and 648.81(f)(1)(iii), respectively, and effective April 1–April 30 and May 1–May 30, respectively. Due to these closures, sink gillnet gear is prohibited from these portions of the DAM zone during the respective effective dates.

#### Lobster Trap/Pot Gear

Fishermen utilizing lobster trap/pot gear within the portion of the Northern Inshore State Lobster Waters, Northern Nearshore Lobster Waters, and Stellwagen Bank/Jeffrey's Ledge that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per trawl; and
4. A weak link with a maximum breaking strength of 600 lb (272.4 kg) must be placed at all buoys.

#### Anchored Gillnet Gear

Fishermen utilizing anchored gillnet gear within the portions of the Other Northeast Gillnet Waters Area and Stellwagen Bank/Jeffrey's Ledge that overlap with the DAM zone are required to utilize all the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;

3. Fishermen are allowed to use two buoy lines per string;

4. Each net panel must have a total of five weak links with a maximum breaking strength of 1,100 lb (498.8 kg). Net panels are typically 50 fathoms (91.4 m) in length, but the weak link requirements would apply to all variations in panel size. These weak links must include three floatline weak links. The placement of the weak links on the floatline must be: one at the center of the net panel and one each as close as possible to each of the bridle ends of the net panel. The remaining two weak links must be placed in the center of each of the up and down lines at the panel ends;

5. A weak link with a maximum breaking strength of 1,100 lb (498.8 kg) must be placed at all buoys; and

6. All anchored gillnets, regardless of the number of net panels, must be securely anchored with the holding power of at least a 22 lb (10.0 kg) Danforth-style anchor at each end of the net string.

The restrictions will be in effect beginning at 0001 hours April 21, 2007, through 2400 hours May 5, 2007, unless terminated sooner or extended by NMFS through another notification in the **Federal Register**.

The restrictions will be announced to state officials, fishermen, ALWTRT members, and other interested parties through e-mail, phone contact, NOAA website, and other appropriate media immediately upon issuance of the rule by the AA.

#### Classification

In accordance with section 118(f)(9) of the MMPA, the Assistant Administrator (AA) for Fisheries has determined that this action is necessary to implement a take reduction plan to protect North Atlantic right whales.

Environmental Assessments for the DAM program were prepared on December 28, 2001, and August 6, 2003. This action falls within the scope of the analyses of these EAs, which are available from the agency upon request.

NMFS provided prior notice and an opportunity for public comment on the regulations establishing the criteria and procedures for implementing a DAM zone. Providing prior notice and opportunity for comment on this action, pursuant to those regulations, would be impracticable because it would prevent NMFS from executing its functions to protect and reduce serious injury and mortality of endangered right whales. The regulations establishing the DAM program are designed to enable the agency to help protect unexpected concentrations of right whales. In order

to meet the goals of the DAM program, the agency needs to be able to create a DAM zone and implement restrictions on fishing gear as soon as possible once the criteria are triggered and NMFS determines that a DAM restricted zone is appropriate. If NMFS were to provide prior notice and an opportunity for public comment upon the creation of a DAM restricted zone, the aggregated right whales would be vulnerable to entanglement which could result in serious injury and mortality. Additionally, the right whales would most likely move on to another location before NMFS could implement the restrictions designed to protect them, thereby rendering the action obsolete. Therefore, pursuant to 5 U.S.C. 553(b)(B), the AA finds that good cause exists to waive prior notice and an opportunity to comment on this action to implement a DAM restricted zone to reduce the risk of entanglement of endangered right whales in commercial lobster trap/pot and anchored gillnet gear as such procedures would be impracticable.

For the same reasons, the AA finds that, under 5 U.S.C. 553(d)(3), good cause exists to waive the 30-day delay in effective date. If NMFS were to delay for 30 days the effective date of this action, the aggregated right whales would be vulnerable to entanglement, which could cause serious injury and mortality. Additionally, right whales would likely move to another location between the time NMFS approved the action creating the DAM restricted zone and the time it went into effect, thereby rendering the action obsolete and ineffective. Nevertheless, NMFS recognizes the need for fishermen to have time to either modify or remove (if not in compliance with the required restrictions) their gear from a DAM zone once one is approved. Thus, NMFS makes this action effective 2 days after the date of publication of this document in the **Federal Register**. NMFS will also endeavor to provide notice of this action to fishermen through other means upon issuance of the rule by the AA, thereby providing approximately 3 additional days of notice while the Office of the **Federal Register** processes the document for publication.

NMFS determined that the regulations establishing the DAM program and actions such as this one taken pursuant to those regulations are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone

Management Act. Following state review of the regulations creating the DAM program, no state disagreed with NMFS' conclusion that the DAM program is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program for that state.

The DAM program under which NMFS is taking this action contains policies with federalism implications warranting preparation of a federalism assessment under Executive Order 13132. Accordingly, in October 2001

and March 2003, the Assistant Secretary for Intergovernmental and Legislative Affairs, Department of Commerce, provided notice of the DAM program and its amendments to the appropriate elected officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rules implementing the DAM program. A copy of the federalism Summary Impact Statement for the final rules is available upon request (ADDRESSES).

The rule implementing the DAM program has been determined to be not significant under Executive Order 12866.

**Authority:** 16 U.S.C. 1361 *et seq.* and 50 CFR 229.32(g)(3)

Dated: April 13, 2007.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.*

[FR Doc. 07-1944 Filed 4-16-07; 2:42 pm]

**BILLING CODE 3510-22-S**