From	To	MEA
*11500—MCA Gatey, MT FIX, S BND	N BND	10200

From	To	Changeover Points	
		Distance	From
§ 95.8003 VOR Federal Airway Changeover Points Airway Segmement Is Amended to Modify Changeover Point			
Great Falls, MT VORTAC	Missoula, MT VOR/DME	84	Great Falls

[FR Doc. 05–15179 Filed 8–1–05; 8:45 am]
BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OGC–2004–0004; FRL–7947–3]

RIN 2060–AM83

National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments.

SUMMARY: On October 13, 2004, the EPA issued amendments to the national emission standards for coke oven pushing, quenching, and battery stacks as a direct final rule, along with a parallel proposal to be used as a basis for final action in the event we received any adverse comments. Because an adverse comment was received on the provisions related to operation and maintenance requirements, we have previously withdrawn the corresponding part of the direct final rule. After considering the comment, EPA is promulgating the provisions that were withdrawn based on the proposed rule published on October 13, 2004.

EFFECTIVE DATE: August 2, 2005.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. OGC–2004–0004. All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket*. Although listed in the index, some information is not publicly available, *i.e.*, confidential business information or other information whose disclosure is restricted by statute. Certain other information, such as copyrighted materials, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy form at the Air and Radiation Docket, Docket ID No. OGC–2004–0004, EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Bob Schell, Emission Standards Division (C439–02), Office of Air Quality Planning and Standards, EPA, Research Triangle Park, NC 27711, telephone number (919) 541–4116, e-mail address *schell.bob@epa.gov*.

SUPPLEMENTARY INFORMATION: *Regulated Entities.* Categories and entities potentially regulated by this action include:

Category	NAICS code [1]	Examples of regulated entities
Industry	331111, 324199	Coke plants and integrated iron and steel mills.
Federal government		Not affected.
State/local/tribal government		Not affected.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in 40 CFR 63.7281 of the national emission standards for hazardous air pollutants (NESHAP) for coke ovens: pushing, quenching, and battery stacks. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Worldwide Web. In addition to being available in the docket, an electronic copy of today's final rule amendments will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the final rule amendments will be placed on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg*. The TTN provides information and technology exchange in various areas of air pollution control.

Judicial Review. Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of the final rule amendments is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by October 3, 2005. Under section 307(d)(7)(B) of the CAA, only an objection to the final rule amendments that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Under CAA section 307(b)(2), the requirements established by the final rule amendments may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Outline. The information presented in this preamble is organized as follows:

I. Background

On April 14, 2003 (68 FR 18008), EPA issued the NESHAP for pushing, quenching, and battery stacks at new and existing coke oven batteries (40 CFR part 63, subpart CCCCC). The NESHAP implement section 112(d) of the CAA by requiring all major sources to meet emission standards for hazardous air pollutants reflecting application of the maximum achievable control technology.

After publication of the NESHAP, the American Iron and Steel Institute (AISI)/American Coke and Coal Chemicals Institute (ACCCI) Coke Oven Environmental Task Force (COETF) filed a petition for review challenging the final rule (*AISI/ACCCI Coke Oven Environmental Task Force* v. *U.S. Environmental Protection Agency*, No. 03–1167, D.C. Cir.). The petitioners raised issues concerning:

• The provisions requiring owners or operators of coke plants having a pushing emission control device to install, operate and maintain devices to monitor daily average fan motor amperes (or volumetric flow rate at the inlet of the control device and maintain daily average volumetric flow rate) at or above minimum levels established during initial performance tests. These provisions are included in 40 CFR 63.7290, 63.7323(c), 63.7326(a)(4), 63.7330(d), 63.7331(g) and (h), and 63.7333(d).

• The provisions requiring monthly inspections of pressure sensors, dampers, damper switches and other equipment important to the performance of the total emissions capture system which also require that a facility's operation and maintenance plan include requirements to repair any defect or deficiency in the capture system before the next scheduled inspection. These provisions are included in 40 CFR 63.7300(c)(1).

Amendments developed to resolve these concerns were set out in attachment A to a proposed settlement agreement between EPA and COETF. In accordance with CAA section 113(g), we published a notice of the proposed settlement agreement (69 FR 31372, June 3, 2004) and provided a 30-day comment period which ended July 6, 2004. We received no comments on the proposed settlement agreement.

On October 13, 2004, we issued a direct final rule (69 FR 60813) and a parallel proposal (69 FR 60837) to amend the NESHAP. We stated in the preamble to the direct final rule and parallel proposal that if we received significant adverse comments by November 12, 2004 (or by November 29, 2004 if a public hearing was requested), we would publish a timely withdrawal in the **Federal Register** indicating which provisions would become effective and which provisions would be withdrawn due to adverse comment. We subsequently received an adverse comment from one commenter on the provisions related to the operation and maintenance requirements and withdrew the amendments to 40 CFR 63.7300(c)(1) on January 10, 2005 (70 FR 1670). The remaining provisions, for which we did not receive any adverse comments, became effective on January 11, 2005. After full and careful consideration of the comment, we are promulgating the amendments previously withdrawn based on the parallel proposal published on October 13, 2004.

II. Summary of the Final Rule Amendments

The final rule amendments affect the requirement in 40 CFR 63.7300(c)(1) for the repair of any defect or deficiency in the capture system before the next scheduled inspection. In the event a defect or deficiency is found in the capture system (during a monthly inspection or between inspections), the final rule amendments require the plant owner or operator to complete repairs within 30 days after the date that the defect or deficiency is discovered. If the repairs cannot be completed within 30 days, the plant owner or operator must submit a written request to the permitting authority for an extension of time to complete the repairs. The permitting authority must receive the request no more than 20 days after the date that the defect or deficiency is discovered. The request must contain a description of the defect or deficiency, the steps needed and taken to correct the problem, the interim steps being taken to mitigate the emissions impact of the defect or deficiency, and a proposed schedule for completing the repairs. The request is deemed approved unless and until such time as the permitting authority notifies the plant owner or operator that it objects to the request. The permitting authority may consider all relevant factors in deciding whether to approve or deny the request (including feasibility and safety). Each approved schedule must provide for completion of repairs as expeditiously as practicable, and the permitting authority may request modifications to the proposed schedule as part of the approval process.

We are also making a minor technical clarification to the sampling procedures in 40 CFR 63.7322(b)(2). This clarification is simply that the minimum sample volume is measured as ''dry standard'' cubic feet.

III. Response to Comments on the Proposed Amendments to the NESHAP for Coke Oven Pushing, Quenching, and Battery Stacks

We received one significant adverse comment on the amendments contained in the parallel proposal published on October 13, 2004. The commenter objected to the proposed requirement that would have allowed the owner or operator an additional 30 days (a total of 60 days) to repair a defect in the capture system applied to pushing emissions. The commenter stated that EPA had many years of experience in reviewing malfunction reports and suggested that any such extension be restricted to specific defects and historical repair times.

We reviewed the proposal and discussed in detail with coke plant operators the types of defects that might require 60 days to repair and their frequency of occurrence. Such defects occur very infrequently and are usually related to structural problems that require an engineering evaluation, scheduling a contractor to make the repairs, and coordinating with the plant's production schedule to allow the repair to be made safely. It is not possible to identify in advance what defects may require more than 30 days, and the events are so infrequent, there is not much historical information on repair times. However, we agree with the commenter in that EPA or the permitting authority should decide when additional time is needed, and that this decision should not be left solely to the discretion of the owner or operator. Consequently, we have revised the operation and maintenance requirement to require the owner or operator to submit a request for approval by the permitting authority for an extension of time to complete a

repair that cannot be completed within 30 days. The request must be received by the permitting authority within 20 days after the defect is first discovered. The owner or operator must provide enough information for the permitting authority to evaluate the request, including a description of the defect, the steps needed and taken to correct the problem, the interim steps being taken to mitigate the emissions impact of the defect, and a proposed schedule for completing the repairs. The permitting authority may approve or disapprove the request or request additional information to aid in the decision.

The commenter also suggested that the owner or operator notify EPA by fax within 24 hours of finding a deficiency with confirmation in writing by mail within 7 days. We do not agree that this notification is necessary because the notification and recordkeeping requirements for startups, shutdowns, and malfunctions (SSM) in 40 CFR 63.6(e) of the General Provisions (40 CFR part 63, subpart A) are in full effect in this case. The specific requirements in these amendments for capture systems as applied to pushing emissions are in addition to the SSM requirements and do not replace them. The SSM notification requirements have been designed to provide the permitting authority with timely and relevant information in the event that all steps in the SSM plan are not implemented. These requirements attempt to strike a balance between providing relevant information and avoiding unnecessary reporting of minor events (*e.g.,* when a malfunction is promptly corrected) that would increase the burden to both the permitting authority and the owner or operator.

IV. Summary of Environmental, Energy, and Economic Impacts

The final rule amendments will have no effect on environmental, energy, or non-air health impacts because none of the changes affect the stringency of the existing emission limits. No costs or economic impacts are associated with the amendments.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is ''significant'' and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this action is not a ''significant regulatory action'' under the terms of Executive Order 12886 and is, therefore, not subject to OMB review.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. The costs of the information collection requirements associated with the amendments to the operation and maintenance requirements do not increase the existing burden estimates for the final rule. The OMB has previously approved the information collection requirements in the existing rule (40 CFR part 63, subpart CCCCC) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0521, EPA ICR number 1995.02. A copy of the OMB approved Information Collection Request (ICR) may be obtained from Susan Auby, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566–1672.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for EPA's regulations are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with the final rule amendments. For purposes of assessing the impact of today's final rule amendments on small entities, small entity is defined as: (1) A small business, as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule amendments on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities'' (5 U.S.C. 603 and 604). Thus, an agency may conclude that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

We believe there will be a positive impact on small entities because the final rule amendments increase flexibility by providing more time for plants to make repairs that can not be completed within 30 days. These changes are voluntary and do not impose new costs. We have, therefore, concluded that today's final rule amendments will relieve regulatory burden for all small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private

sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least-burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least-costly, most cost-effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that the final rule amendments do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or to the private sector in any 1 year. No new costs are attributable to the final rule amendments. Thus, the final rule amendments are not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the final rule amendments do not significantly or uniquely affect small governments because they contain no requirements that apply to such governments or impose obligations upon them. Therefore, the final rule amendments are not subject to section 203 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

The final rule amendments do not have federalism implications. They will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. None of the affected plants are owned or operated by State governments. Thus, Executive Order 13132 does not apply to the final rule amendments.

F. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 6, 2000) requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' The final rule amendments do not have tribal implications, as specified in Executive Order 13175. No tribal governments own or operate any plants subject to the NESHAP for coke oven pushing, quenching, and battery stacks. Thus, Executive Order 13175 does not apply to the final rule amendments.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant,'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the EPA must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

We interpret Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. The final rule amendments are not subject to Executive Order 13045 because the final rule (and these amendments) are based on technology performance and not on health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

These final amendments are not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because they are not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

Section 112(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104–113; 15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards (VCS) in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impracticable. VCS are technical standards (e.g., material specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA requires EPA to provide Congress, through the OMB, explanations when the Agency decides not to use available and applicable VCS.

This action does not involve technical standards. Therefore, EPA is not considering the use of any VCS.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing the final rule amendments and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the final rule amendments in the **Federal Register**. A major rule cannot take effect until 60 days after its publication in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). The final rule amendments will be effective on August 2, 2005.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous

substances, Reporting and recordkeeping requirements.

Dated: July 26, 2005.

Stephen L. Johnson,

Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart CCCCC—[Amended]

■ 2. Section 63.7300 is amended by removing the third (last) sentence in paragraph (c)(1) and adding in its place six new sentences to read as follows:

§ 63.7300 What are my operation and maintenance requirements?

* * * * *

(c) * * *

(1) * * * In the event a defect or deficiency is found in the capture system (during a monthly inspection or between inspections), you must complete repairs within 30 days after the date that the defect or deficiency is discovered. If you determine that the repairs cannot be completed within 30 days, you must submit a written request for an extension of time to complete the repairs that must be received by the permitting authority not more than 20 days after the date that the defect or deficiency is discovered. The request must contain a description of the defect or deficiency, the steps needed and taken to correct the problem, the interim steps being taken to mitigate the emissions impact of the defect or deficiency, and a proposed schedule for completing the repairs. The request shall be deemed approved unless and until such time as the permitting authority notifies you that it objects to the request. The permitting authority may consider all relevant factors in deciding whether to approve or deny the request (including feasibility and safety). Each approved schedule must provide for completion of repairs as expeditiously as practicable, and the permitting authority may request modifications to the proposed schedule as part of the approval process.

* * * * *

■ 3. Section 63.7322 is amended by revising paragraph (b)(2) to read as follows:

§ 63.7322 What test methods and other procedures must I use to demonstrate initial compliance with the emission limits for particulate matter?

* * * * *

(b) * * *

(2) During each particulate matter test run, sample only during periods of actual pushing when the capture system fan and control device are engaged. Collect a minimum sample volume of 30 dry standard cubic feet of gas during each test run. Three valid test runs are needed to comprise a performance test. Each run must start at the beginning of a push and finish at the end of a push (*i.e.*, sample for an integral number of pushes).

* * * * *

[FR Doc. 05–15217 Filed 8–1–05; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 030221039–5204–23; I.D. 072705A]

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

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 ALWTRP's implementing regulations. These regulations apply to lobster trap/pot and anchored gillnet fishermen in an area totaling approximately 1,240 nm² (4,253 km²), east 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 August 4, 2005, through 2400 hours August 18, 2005.

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, 301–713–1401.

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.