

promulgate more explicit provisions on whether organizational changes made by contractors do or do not result in cost accounting practice changes.

After consideration of the public comments received, the Board concluded that contractors and Federal officials appear to be interpreting the Board's rules and regulations governing changes in cost accounting practice under CAS-covered contracts differently. Furthermore, the contract price and cost adjustment provisions governing cost accounting practice changes under CAS-covered contracts do not appear to be clearly understood and, consequently, some inefficient, uneconomical and possibly inequitable practices may have evolved as the contracting parties proceeded to comply with the Board's requirements. Therefore, the Board is proposing to amend Chapter 99 by:

Revising the definitions and illustrations governing cost accounting practice changes, for purposes of making it explicit that a change in the manner in which costs are grouped and accumulated constitutes a change in cost accounting practice and that organizational changes must be evaluated on a case-by-case basis in order to determine if a change in cost accounting practice has occurred.

Adding a new Subpart 9903.4 to delineate the contract price and cost adjustment process to be applied when a contractor changes a cost accounting practice, fails to comply with a Standard, or fails to consistently follow its established cost accounting practices. The proposed coverage is intended to facilitate the resolution of the cost impact of such compliant and noncompliant cost accounting practice changes under the requirements of existing and future CAS-covered contracts. Accordingly, when issued as a final rule, the proposed Subpart 9903.4 provisions would apply to all CAS-covered contracts requiring adjustment, including those CAS-covered contracts awarded prior to the effective date of the final rule.

The purpose of this ANPRM is to seek broad public comment concerning the proposed amendments. In particular, the Board is considering the establishment of certain new requirements that it believes would clarify and facilitate the overall cost impact process governing cost accounting practice changes. Accordingly, the Board invites interested parties to specifically comment on the following ANPRM provisions:

—Proposed 9903.201–4, in paragraphs (a)(4) of the proposed contract

clauses, includes new provisions requiring a contractor to agree to price adjustments if its CAS-covered subcontractors make required, voluntary or desirable changes to their cost accounting practices pursuant to the subcontracts' terms and conditions.

- Proposed 9903.201–6(b) establishes new criteria for determining when a voluntary change in cost accounting practice may be treated as a desirable change.
- Proposed 9903.404(b)(ii)(A) requires CAS-covered contractors to notify the Government of and fully disclose cost accounting practice changes required to comply with a new or modified Standard 60 days prior to the Standard's effective date. This requirement is predicated on the Board's decision that final rules will generally be issued 120 days prior to the effective date of a new or modified Standard.
- Proposed 9903.404(b)(ii)(B) establishes new notification requirements for voluntary and desirable changes.
- Proposed 9903.404(b)(vi) provides a new equitable adjustment provision for contracts negotiated within 60 days after a contractor notifies the Government of a voluntary change that would otherwise be subject to a CAS-covered contract's "no increased cost" provision.
- Proposed 9903.404(e) provides for the use of a cost impact settlement proposal that would permit early resolution of the estimated cost impact in lieu of the use of a detailed cost impact proposal.

Richard C. Loeb,

Executive Secretary, Cost Accounting Standards Board.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 675 and 677

[Docket No. 95041405–5105–01; I.D. 033095A]

RIN 0648–AH69

Groundfish of the Bering Sea and Aleutian Islands Area; Chum Salmon Savings Area

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations that would implement Amendment 35 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI). This amendment proposes to prohibit the use of trawl gear in a specified area of the Bering Sea (BS) during the pollock nonroe season. Regulatory amendments also are proposed that would increase 1995 observer coverage for mothership processor vessels, and some shoreside processors receiving pollock harvested in the catcher vessel operational area (CVOA) and require the mothership processor vessels and shoreside processors to obtain the capability for electronic transmission of daily observer reports. This action is necessary to reduce chum salmon bycatch amounts in the pollock fishery and is intended to promote the objectives of the FMP.

DATES: Comments must be submitted by June 5, 1995.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK, 99802, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of Amendment 35 and the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (RIR/IRFA) prepared for Amendment 35 are available from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: 907–271–2809.

FOR FURTHER INFORMATION CONTACT: Kaja Brix, 907–586–7228.

SUPPLEMENTARY INFORMATION: Fishing for groundfish by U.S. vessels in the exclusive economic zone of the BSAI is managed by NMFS according to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson Act), and is implemented by regulations governing the U.S. groundfish fisheries at 50 CFR parts 675 and 676. General regulations that also pertain to U.S. fisheries are codified at 50 CFR part 620. Regulations governing observer coverage requirements for specified U.S. fisheries under the North Pacific Fisheries Research Plan (Research Plan) are codified at 50 CFR part 677.

This action proposes regulations to implement Amendment 35 to the FMP.

If approved by NMFS, this amendment would prohibit the use of trawl gear in a specified area of the BS that historically contributes to relatively high salmon bycatch rates during late summer months. This action also proposes two associated regulatory amendments that would (1) require mothership processor vessels and some shoreside processing plants to obtain an additional observer, and (2) require the affected mothership processor vessels and 100-percent-observer-coverage shoreside processing plants to obtain the necessary software and hardware for electronic transmission of daily observer reports.

In 1993, the total "other" salmon bycatch amount in the BSAI fisheries was 245,000 fish—approximately six times the bycatch level estimated for each of the previous 2 years and triple the previous highest bycatch amount of 72,000 "other" salmon estimated in the 1984 foreign trawl fishery. "Other" salmon is defined as salmon other than chinook salmon. Historical observer data indicate that approximately 95 percent of the "other" salmon bycatch in the BS is chum salmon.

The magnitude of the 1993 chum salmon bycatch in the pollock nonroe season is of concern especially in view of poor returns of chum salmon to western Alaska river systems during recent years. These poor returns have precipitated closure, by the Alaska Department of Fish and Game, of commercial, sport, and subsistence fisheries in several western Alaska Districts.

To address the problems of high salmon bycatch in the BS, NMFS implemented an emergency rule on August 15, 1994 (59 FR 35476, July 12, 1994) that imposed restrictions on "other" salmon bycatch during the pollock nonroe season of 1994. The emergency rule closed a specific area (the salmon savings area) in the CVOA after a limit of 42,000 "other" salmon had been taken in the CVOA. The salmon savings area (SSA) was defined based on historical observer data that indicated a relatively high "other" salmon bycatch rate. Under the emergency rule the SSA was closed to all trawling on August 20, 1994, 5 days after the opening of the pollock nonroe season. As in past years, vessels fishing in the SSA in 1994, prior to closure of this area, experienced a high "other" salmon bycatch rate. Continued fishing in the SSA in 1994 would likely have led to higher bycatch rates than those seen after the closure.

At its January 1995 meeting, the Council recommended that NMFS implement the following long-term

management measures to address the chum salmon bycatch problem in the BSAI pollock nonroe season:

1. The chum salmon savings area (CSSA), defined under the emergency rule as the SSA, would be closed to all trawling for the month of August, with the closure continuing or being reinstated once a bycatch limit of 42,000 "other" salmon has been reached in the CVOA. Accounting for chum salmon bycatch attributable towards the bycatch limit would begin on August 15. The CSSA would reopen to trawling on October 15.

2. Mothership processor vessels that receive pollock harvested in the CVOA during the 1995 pollock nonroe season would be required to carry two observers until the bycatch limit for "other" salmon is reached or until October 15, whichever occurs first. For the same period of time, those shoreside processing plants that also receive pollock harvested in the CVOA during the 1995 pollock nonroe season and that offload fish at two locations on the same dock and have distinct and separate equipment at each location to process those fish would also be required to have an extra observer. For 1996 and beyond, observer coverage requirements for these vessels and shoreside plants could be specified annually under the Research Plan.

3. Electronic communication capabilities would be required for each mothership processor vessel that receives pollock harvested in the CVOA during the pollock nonroe season and for each shoreside processing facility that receives pollock harvested from the CVOA during the pollock nonroe season and that is required to have 100-percent-observer-coverage under 50 CFR 677.10.

These measures are described in detail and justified below.

Chum Salmon Savings Area

At its January 1995 meeting, the Council adopted an FMP amendment that would provide the authority to prohibit trawl fisheries in an area within the CVOA that historically accounts for relatively high salmon bycatch rates during summer and fall months. The area would be closed from August 1 through August 31. The closure would continue or be reinstated once a bycatch limit of 42,000 "other" salmon is reached and the area would remain closed through October 14. Accounting of salmon towards the bycatch limit would start at the beginning of the pollock nonroe season on August 15. Only salmon caught in the CVOA would be counted towards the bycatch limit. This measure is intended to reduce

chum salmon bycatch in the pollock nonroe fishery.

The closure area (the CSSA) is defined by straight lines connecting the following coordinates in the order listed:

56°00' N., 167°00' W.;
56°00' N., 165°00' W.;
55°30' N., 165°00' W.;
55°30' N., 164°00' W.;
55°00' N., 164°00' W.;
55°00' N., 167°00' W.;
56°00' N., 167°00' W.

At its January 1995 meeting, the Council considered three different alternatives with seven options for time/area closures to limit chum salmon bycatch during the pollock nonroe season. The Council recommended the same closure area that was previously chosen for closure under the emergency rule. This area was chosen as a minimum closure area that would provide the most consistent protection to "other" salmon during the pollock nonroe season, but would still allow access to productive pollock fishing grounds.

The CSSA historically has accounted for a large proportion of "other" salmon bycatch and a relatively small proportion of groundfish harvest. The recommended 42,000 "other" salmon bycatch limit represents 50 percent of the 1991, 1992, and 1993 average of "other" salmon bycatch in the CVOA. The 42,000 "other" salmon limit approximates the 1991 and 1992 bycatch, while providing some buffer to accommodate slight increases in bycatch.

During the period July through October, the recommended CSSA accounted for 1.0, 0.8, and 7.0 percent of the total annual observed groundfish catch in the BSAI pollock and Pacific cod trawl fisheries during 1991, 1992, and 1993, respectively. During the period July through October of 1991, 1992, and 1993, this area accounted for 38, 40, and 54 percent, respectively, of the total annual "other" salmon bycatch. During the period July through October 1993, the CSSA had the highest "other" salmon bycatch rate of the areas analyzed—approximately 1.2 "other" salmon per metric ton (mt) of groundfish. Also, during the pollock nonroe season in 1994, the CSSA had a similarly high "other" salmon bycatch rate (1.12 salmon/mt groundfish) prior to the closure of this area. The initial number of salmon estimated in the first week of the 1994 pollock nonroe season was similar in both 1993 and 1994. Total bycatch was reduced in 1994 following the closure of the CSSA. Determining whether the reduced weekly catch of "other" salmon was due

to the closure or would have occurred without the closure is difficult. Given the high bycatch rates within the CSSA, closing this area likely had the desired effect of reducing overall "other" salmon bycatch.

This proposed rule is intended to prevent a recurrence of the high 1993 chum salmon bycatch experienced during the BSAI pollock nonroe season. The bycatch of "other" salmon appears to be a function of the time of year, distribution of fishing effort, and spatial distribution of salmon. Historical data indicate that "other" salmon bycatch is reduced generally during the winter months and elevated during the months of July through October. Approximately 67 percent of all "other" salmon bycatch in observed hauls during 1991 was taken during August, and 40 percent and 62 percent of the 1992 and 1993 "other" salmon bycatch, respectively, was taken during the month of September. Starting in 1993, the opening of the pollock nonroe season was delayed from June 1 until August 15 (58 FR 30997, May 28, 1993). This delay was implemented to achieve increased revenues from the harvest of BSAI pollock during the nonroe season and to provide participants in the pollock nonroe fishery increased opportunities to fish in other groundfish fisheries.

Although the delay of the pollock nonroe season until August 15 was expected to increase chum salmon bycatch, the magnitude of the 1993 bycatch amount was not anticipated. Spatially, the number of "other" salmon appears to be highest south of 57° N. lat. and east of 168° W. long. Consistent with historical data, about 80 percent of the 1993 BSAI "other" salmon bycatch was taken in the CVOA.

Increased Observer Coverage and Electronic Transmission of Observer Data

NMFS must rely on data collected by NMFS-certified observers to manage the "other" salmon bycatch limit of 42,000 fish. Currently, one observer is required on each mothership processor vessel participating in either the inshore or offshore component pollock fishery and at most shoreside processing plants receiving pollock. Regulations at § 675.20(c)(6) require that all salmon taken in BSAI trawl operations be retained until the number of salmon is determined by a NMFS-certified observer. NMFS intends to use these observed counts to monitor the "other" salmon bycatch limit. To monitor the chum salmon bycatch limit effectively and close the CSSA once the 42,000 fish bycatch limit has been reached, NMFS

must receive daily electronic reports of salmon bycatch numbers. NMFS typically receives weekly reports on groundfish catch and on prohibited species bycatch to monitor the fisheries.

The time required to process these reports results in a delay between the receipt of reports and determination of overall catch statistics that provide the basis for determining whether a closure is required. If the "other" salmon bycatch were to proceed at the 1993 or 1994 rates, weekly reporting would not be sufficient to allow timely closure of the CSSA once the 42,000 "other" salmon limit had been reached, thus contributing to higher than necessary salmon bycatch during the pollock nonroe season.

Effective monitoring of the bycatch limit requires a second observer on each mothership processor vessel and at some shoreside processing plants that receive fish from catcher boats fishing in the CVOA during the pollock nonroe season. This requirement is necessary to ensure accurate and timely counts of salmon bycatch, without compromising the other groundfish sampling duties of the observer. The time required by observers to count salmon bycatch for each haul and transmit these data on a daily basis, places an extra burden on observers. Because large numbers of hauls are delivered to mothership processor vessels compared to some other processors a greater burden would be placed on a single observer to obtain the necessary salmon counts and transmit that information on a daily basis. Those shoreside processors that offload fish at more than one location on the same dock and have distinct and separate equipment at each location to process those fish would also be required to have an extra observer to monitor the large number of deliveries.

Salmon counts, to be attributed to the bycatch limit, would begin on August 15. NMFS would require the additional observers to be aboard the mothership processor vessels and at the shoreside processing plants from August 15, the start of the pollock nonroe season, until the bycatch limit of 42,000 fish has been reached. These vessels and shoreside plants would be directly responsible for observer coverage costs in 1995 and would not receive credit for these costs, under § 677.6(d), against 1995 Research Plan fee assessments authorized under § 677.6(b). Subsequent assignment of observer coverage for 1996 and beyond would be annually specified under the Research Plan (§ 677.11).

To enable the observers to report haul-by-haul statistics and salmon bycatch numbers on a daily basis, the operator of each mothership processor

vessel that receives fish harvested in the CVOA must provide specific communication equipment.

The specific equipment listed below is similar to the requirements for the emergency rule that also imposed restrictions on "other" salmon bycatch during the pollock nonroe season of 1994. The processors affected by this rule should already have this communication equipment, except that some computers may need to be upgraded. Significant additional costs would not be incurred. This specific equipment is necessary to ensure compatibility with the software developed by the NMFS Observer Program Office. Equipment that differs from these specifications would not operate the data-entry software that allows electronic data transmission. Not all computer hardware and software and satellite systems are compatible and it would be economically and practically inefficient to set up multiple systems to transmit and collect the same information. These equipment requirements are consistent with the applicable specifications for vessel monitoring systems published in the **Federal Register** on March 31, 1994 (59 FR 15180).

Mothership processor vessels would be required to have INMARSAT Standard A satellite communication capabilities and associated software (cc:Mail remote and a data entry program provided by the Regional Director) for observer's use. Each mothership processor vessel must also have the following equipment or equipment compatible therewith and having the ability to operate the NMFS-supplied data entry software program: a personal computer (PC) with a 486 or better processing chip, a DOS version 3.0 or better operating system, and 10 megabytes of free hard disk storage, and eight megabytes of random access memory (RAM) available to support the program used by the observer. Each shoreside facility that receives pollock harvested in the CVOA during the pollock nonroe season and that is required to have 100-percent-observer-coverage under 50 CFR 677.10, must have the capability to transmit data over telephone lines using a computer modem. These processors would make available to observers the following equipment or equipment compatible therewith: a PC with a 486 or better processing chip, with at least a 9600 baud modem, and a phone line. The PC must be equipped with a mouse, Windows version 3.1, or a program having the ability to operate the NMFS-supplied data entry software program, and have at least 10 megabytes of free

hard disk storage with eight megabytes RAM to support the software program used by the observer.

Vessels and shoreside processing facilities would be required to maintain fully functional and operational electronic-data communication equipment.

The affected mothership processor vessels and shoreside processors must obtain for observers' use the data entry software program provided by the Regional Director.

Classification

Section 304(a)(1)(D) of the Magnuson Act requires NMFS to publish regulations proposed by a Council within 15 days of receipt of the FMP amendment and regulations. At this time NMFS has not determined that the FMP amendment that these rules would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable laws. NMFS in making that determination, will take into account the data, views, and comments received during the comment period.

The Council prepared an IRFA as part of the RIR, which describes the impact of this proposed rule on small entities, if adopted. The IRFA indicates that the preferred option was the most cost-effective of the options considered.

Although, the groundfish historically caught in this area can be harvested elsewhere in the BS, this proposed action could have a significant economic impact on the segment of the fishing industry that fishes for nonroe pollock because all of the catcher vessels would be prohibited from trawling in the closure area and would have to relocate, incurring undeterminable expenses. Operating costs could increase for catcher vessels that are forced to fish in locations other than the closure area and the catch-per-unit-effort in the locations that these vessels are displaced to may be less than in the closure area. These factors could contribute, for these catcher vessels, to reductions in gross revenues of more than 5 percent, annual compliance costs that increased total costs of production by more than 5 percent, or compliance costs for small entities that are at least 10 percent higher than compliance costs as a percent of sales for large entities.

A copy of this analysis is available from the Council (see ADDRESSES).

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Parts 675 and 677

Fisheries, Reporting and recordkeeping requirements.

Dated: April 19, 1995.

Richard H. Schaefer,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR parts 675 and 677 are proposed to be amended as follows:

PART 675—GROUND FISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

1. The authority citation for part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 675.22, paragraph (h) is added to read as follows:

§ 675.22 Time and area closures.

* * * * *

(h) *Chum Salmon Savings Area.* (1) Trawling is prohibited from August 1 through August 31 in the area defined by straight lines connecting the following coordinates in the order listed:

56°00' N. 167°00' W.,
56°00' N. 165°00' W.,
55°30' N. 165°00' W.,
55°30' N. 164°00' W.,
55°00' N. 164°00' W.,
55°00' N. 167°00' W.,
56°00' N. 167°00' W.

(2) When the Regional Director determines that 42,000 nonchinook salmon have been caught by vessels using trawl gear during the time period of August 15 through October 14 in the catcher vessel operational area, defined in paragraph (g) of this section, NMFS will prohibit fishing with trawl gear for the remainder of the period September 1 through October 14 in the area defined under paragraph (h)(1) of this section.

3. Section 675.25 is revised as follows:

§ 675.25 Observer requirements.

(a) *General.* Bering Sea and Aleutian Islands management area groundfish observer requirements are contained in part 677 of this chapter.

(b) *Additional observer coverage requirements applicable through December 31, 1995.* (1) Each mothership processor vessel that receives pollock harvested by catcher vessels in the catcher vessel operational area, defined at § 675.22(g), during the second pollock season that starts on August 15 under § 675.23(e), is required to have a second NMFS-certified observer aboard, in addition to the observer required under

§ 677.10(a)(1)(i) of this chapter for each day of the second pollock season until the chum salmon savings area is closed under § 675.22(h)(2).

(2) Each shoreside processor that offloads fish at more than one location on the same dock and has distinct and separate equipment at each location to process those fish and that receives pollock harvested by catcher vessels in the catcher vessel operational area, defined at § 675.22(g), during the second pollock season that starts on August 15, under § 675.23(e) is required to have a NMFS-certified observer, in addition to the observer required under § 677.10(a)(1)(i) of this chapter, at each location where fish is offloaded, for each day of the second pollock season until the chum salmon savings area is closed under § 675.22(h)(2).

PART 677—NORTH PACIFIC FISHERIES RESEARCH PLAN

4. The authority citation for part 677 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

5. Section 677.10, paragraphs (c)(3) and (d)(3) are revised to read as follows:

§ 677.10 General requirements.

* * * * *

(c) * * *

(3) Facilitate transmission of observer data by:

(i) Allowing observers to use the vessel's communication equipment and personnel, on request, for the entry, transmission, and receipt of work-related messages, at no cost to the observers, the State of Alaska, or the United States;

(ii) Ensuring that each mothership that receives pollock harvested in the catcher vessel operational area, defined at

§ 675.22(g) of this chapter, during the pollock nonroe season that starts on August 15, is equipped with INMARSAT Standard A satellite communication capabilities, cc:Mail remote, and the data entry software, provided by the Regional Director, for use by the observer. The operator of each mothership processing vessel shall also make available for the observers' use the following equipment compatible therewith and having the ability to operate the NMFS-supplied data entry software program: a personal computer with a 486 or better processing chip, a DOS 3.0, or better operating system with 10 megabytes free hard disk storage and 8 megabytes RAM; and

(iii) Ensuring that the communication equipment that is on mothership processor vessels as specified at paragraph (c)(3)(ii) of this section, and

that is used by observers to transmit data is fully functional and operational.

* * * * *

(d) * * *

(3) Facilitate transmission of observer data by:

(i) Allowing observers to use the shoreside processing facility's communication equipment and personnel, on request, for the entry, transmission, and receipt of work-related messages, at no cost to the observers, the State of Alaska, or the United States;

(ii) Ensuring that each shoreside processing facility that is required to

have 100-percent-observer-coverage under § 677.10 and that receives pollock harvested in the catcher vessel operational area, defined at § 675.22(g) of this chapter, during the second pollock season that starts on August 15, under § 675.23(e) of this chapter, makes available to the observer the following equipment or equipment compatible therewith: a personal computer with a minimum of a 486 processing chip with at least a 9600-baud modem and a telephone line. The personal computer must be equipped with a mouse, Windows version 3.1, or a program

having the ability to operate the NMFS-supplied data entry software program, 10 megabytes free hard disk storage, 8 megabytes RAM, and with data entry software provided by the Regional Director for use by the observers; and

(iii) Ensuring that the communication equipment that is in the shoreside processing facility as specified at paragraph (d)(3)(ii) of this section, and that is used by observers to transmit data is fully functional and operational.

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