groundfish bycatch rate standard for the GOA ''other trawl'' fishery, which is unchanged from 1994. The reasons for these bycatch rate standards are discussed in the January 12, 1995, publication of bycatch rate standards (60 FR 2905). Observer data collected from the 1995 BSAI ''other trawl'' fishery show first and second quarter halibut bycatch rates of 11 and 17 kg halibut/mt of groundfish, respectively. Observer data collected from the 1995 GOA ''other trawl'' fishery show first and second quarter halibut bycatch rates of 17 and 64 kg halibut/mt of groundfish, respectively. At its September 1995 meeting, the Council's Advisory Panel had recommended the halibut bycatch rate standard for the GOA ''other trawl'' fishery be increased to 50 kg halibut/mt groundfish in consideration of the average second quarter rate experienced by that fishery in 1995. However, the Council recommended that the bycatch rate standards remain unchanged from 40 kg halibut/mt groundfish to maintain a stronger incentive for GOA trawl vessels to take action to avoid unacceptably high bycatch rates. Unlike the second quarter of 1995, the average bycatch rates experienced by vessels participating in the GOA and BSAI ''other trawl'' fisheries generally have been lower than the Council's recommended bycatch rate standards for these fisheries. The Council determined that its recommended halibut bycatch rate standards for the ''other trawl'' fisheries would continue to provide an incentive to vessel operators to avoid unusually high halibut bycatch rates while participating in these fisheries and contribute towards an overall reduction in halibut bycatch rates experienced in the Alaska trawl fisheries. Furthermore, these standards would provide some leniency to those vessel operators that choose to use large mesh trawl gear in the BSAI rock sole fishery (a component fishery of the BSAI ''other trawl'' fishery) as a means to reduce groundfish discard amounts. The bycatch rates of halibut and crab could increase for those vessels using this gear type, but observer data do not exist on which to base a revised bycatch rate standard for these operations. The Council recommended maintaining the current bycatch rate standard for the BSAI ''other trawl'' fishery until observer data becomes available that would provide a basis for bycatch rate standards for vessels using large mesh trawl gear.

Bycatch Rate Standards for Red King Crab

The Council's recommended red king crab bycatch rate standard for the BSAI yellowfin sole and ''other trawl'' fisheries in Zone 1 of the Bering Sea subarea is 2.5 crab/mt of groundfish during the first half of 1996. This standard is unchanged since 1992. A discussion of the justification for this bycatch rate standard is presented in the January 12, 1995, publication of bycatch rate standards for the first half of 1995 (60 FR 2905). The red king crab bycatch rates experienced by the yellowfin sole and the ''other trawl'' fisheries in Zone 1 during the first quarter of 1995 averaged about 0.30 and 0.32 crab/mt of groundfish, respectively. The bycatch rates of red king crab experienced in these two fisheries during the second quarter of 1995 were reduced significantly (0.02 and 0 crab/mt groundfish, respectively). This reduction was attributed primarily to closure of Zone 1 to the yellowfin sole fishery on April 4, 1995, and to the Pacific cod trawl fishery on March 30, 1995, due to the attainment of Zone 1 *C. bairdi* Tanner crab bycatch allowances. The BSAI also was closed to the rock sole/flathead sole/other flatfish fisheries on February 21 until March 30 and April 17 until July 1 due to the attainment of seasonal halibut bycatch allowances. The total bycatch of red king crab by vessels participating in the 1995 yellowfin sole and ''other trawl'' fisheries is estimated at about 30,000 crab, or about 15 percent of the 200,000 red king crab bycatch limit established for the trawl fisheries in Zone 1. The 1995 bycatch amounts of red king crab are reduced substantially from those experienced in 1995 (244,634 crab). This reduction is due primarily to an emergency rule closure in 1995 of an area within Zone 1 to reduce red king crab bycatch rates in the trawl fisheries (60 FR 4866, January 25, 1995). At its September 1995 meeting, the Council adopted an amendment to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area that, if approved by NMFS, would implement a similar trawl closure on a permanent basis. For 1996, NMFS intends to pursue the Council's recommendation for a trawl closure to reduce red king crab bycatch rates through an inseason closure action. NMFS expects that the 1996 red king crab bycatch rates in Zone 1 will be similar to those experienced in 1995. In anticipation that red king crab bycatch allowances will not be exceeded in 1996 and that the red king crab bycatch limit will restrict bycatch amounts to specified levels, the Council maintained the 2.5 red king crab/mt of groundfish bycatch rate standard.

The Regional Director has determined that Council recommendations for bycatch rate standards are appropriately based on the information and considerations necessary for such determinations under §§ 672.26(c) and 675.26(c). Therefore, the Regional Director concurs in the Council's determinations and recommendations for halibut and red king crab bycatch rate standards for the first half of 1996 as set forth in Table 1. These bycatch rate standards may be revised and published in the Federal Register when deemed appropriate by the Regional Director pending his consideration of the information set forth at §§ 672.26(c)(2)(v) and 675.26(c)(2)(v).

As required in regulations at §§ 672.26(a)(2)(iii) and 675.26(a)(2)(iii), the 1996 fishing months are specified as the following periods for purposes of calculating vessel bycatch rates under the incentive program:

Month 1: January 1 through February 3;
Month 2: February 4 through March 2;
Month 3: March 3 through March 30;
Month 4: March 31 through April 27;
Month 5: April 28 through June 1;
Month 6: June 2 through June 29;
Month 7: June 30 through August 3;
Month 8: August 4 through August 31;
Month 9: September 1 through September 28;
Month 10: September 29 through November 2;
Month 11: November 3 through November 30; and
Month 12: December 13 through December 31.

Classification

This action is taken under 50 CFR 672.26 and 675.26 and is exempt from review under E.O. 12866.

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

Dated: November 22, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–29104 Filed 11–28–95; 8:45 am]

BILLING CODE 3510–22–P

---

50 CFR Part 675

[Docket No. 950830223–5273–02; I.D. 082395C]

RIN 0648–AE97

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

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS is implementing Amendment 21b to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). This amendment prohibits the use of trawl gear in specified areas of the Bering Sea and Aleutian Islands management area (BSAI) until April 15 of a fishing year if and when 48,000 chinook salmon are taken as bycatch by trawl vessels in the BSAI during the period from January 1 until April 15 of that fishing year. This action is necessary to limit chinook salmon bycatch in the trawl fisheries and is intended to promote the objectives of the FMP.

EFFECTIVE DATE: January 1, 1996.

ADDRESSES: Copies of Amendment 21b and the environmental assessment/regulatory impact review/final regulatory flexibility analysis (EA/RIR/FRFA) prepared for Amendment 21b are available from the North Pacific Fishery Management Council, 605 W. 4th Avenue, Anchorage, AK 99510; telephone: 907–271–2809.

FOR FURTHER INFORMATION CONTACT: Sally Bibb, 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 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). The FMP 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.

Chinook salmon are caught incidentally in trawl fisheries in the BSAI management area. They are a prohibited species in the trawl fisheries and must be discarded after being counted by a NMFS-certified observer.

Chinook salmon bycatch in the domestic BSAI trawl fisheries exceeded 20,000 fish in 1987, 1988, and 1989, and exceeded 40,000 fish in 1991, 1992, 1993, and 1994. Chinook salmon bycatch in 1995 is estimated to be approximately 20,000 fish through September 23.

Concern about bycatch in the groundfish trawl fisheries exists because incidental harvests reduce the amount of chinook salmon available for escapement and subsistence, commercial, and recreational fisheries. From about 50 percent to over 90 percent of the chinook salmon bycatch in the BSAI is believed to originate from Western Alaska. Minimum escapement goals for several systems in the Yukon River, Kuskokwim River, and portions of Bristol Bay were not met in the mid- and late-1980's. Although escapement has improved in recent years, these goals are only being met through careful management of directed fisheries by time, area, and gear restrictions, and through increased abundance of chinook salmon. In addition, chinook salmon is one of the major food items of the Yup'ik Eskimo and Athabaskan Indians of Western and Interior Alaska and plays an important role in supporting the indigenous cultures and mixed, subsistence-cash socioeconomic systems of these peoples. Finally, commercial and recreational chinook salmon fishing provides a primary source of income in Western Alaska communities.

A proposed rule to implement Amendment 21b to the FMP was published in the Federal Register on September 8, 1995 (60 FR 46811). Public comment on the proposed rule was invited through October 20, 1995. A notice of availability for Amendment 21b was published in the Federal Register on August 21, 1995 (60 FR 45392). Comments on Amendment 21b were accepted through October 24, 1995. Five letters containing nine comments were received within the comment period. These comments are summarized in the ''Response to Comments'' section below.

Amendment 21b was approved by NMFS on November 20, 1995, under section 304(b) of the Magnuson Act. Upon reviewing the reasons for Amendment 21b and the comments on the proposed rule to implement it, NMFS has determined that this final rule creating a Chinook Salmon Savings Area (CHSSA) is necessary for fishery conservation and management. These measures are unchanged from the proposed rule.

Three non-contiguous areas of the BSAI comprised of nine ½° latitude by 1° longitude blocks constitute the CHSSA. The CHSSA will be monitored for incidental catches of chinook salmon in the trawl fisheries during the period from January 1 until April 15 of each fishing year. If an annual prohibited species catch (PSC) limit is reached in the BSAI during that period, the CHSSA will then be closed to vessels using trawl gear. If closed, the CHSSA will reopen April 15 for the remainder of the year, regardless of the amount of chinook salmon bycatch.

The CHSSA are:

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

56° 30′ N., 171° 00′ W.;
56° 30′ N., 169° 00′ W.;
56° 00′ N., 169° 00′ W.;
56° 00′ N., 171° 00′ W.; and
56° 30′ N., 171° 00′ W.

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

54° 00′ N., 171° 00′ W.;
54° 00′ N., 170° 00′ W.;
53° 00′ N., 170° 00′ W.;
53° 00′ N., 171° 00′ W.; and
54° 00′ N., 171° 00′ W.

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

56° 00′ N., 165° 00′ W.;
56° 00′ N., 164° 00′ W.;
55° 00′ N., 164° 00′ W.;
55° 00′ N., 165° 00′ W.;
54° 30′ N., 165° 00′ W.;
54° 30′ N., 167° 00′ W.;
55° 00′ N., 167° 00′ W.;
55° 00′ N., 166° 00′ W.;
55° 30′ N., 166° 00′ W.;
55° 30′ N., 165° 00′ W.; and
56° 00′ N., 165° 00′ W.

Further explanation of, and reasons for, this rule are contained in the preamble to the proposed rule (60 FR 46811, September 8, 1995).

Response to Comments

Five letters containing nine comments were received within the comment period. The following paragraphs provide a summary and response to comments.

Comment 1: The bycatch simulation model used to predict the biological and economic impacts of the alternatives is outdated and inappropriate. The model did not incorporate recent regulatory actions such as trawl closures, the pollock ''B'' season delay, and the Catcher Vessel Operational Area. In addition, the use of historical salmon bycatch rate information to predict future salmon bycatch patterns is misleading due to the difficulty of sampling to estimate salmon bycatch and to uncertainty associated with the historical data.

Response: The draft EA/RIR/FRFA was developed over a 3-year period from 1992 to 1995. The bycatch simulation model was used to analyze alternatives in early drafts and, consequently, was based on management measures and historical data available at that time. Additional alternatives, including the 8- and 9-block closure areas, were included in the analysis in 1994 and 1995. At that time, the bycatch simulation model was

outdated and new data were not readily available to update the model. As a result, these additional alternatives were not analyzed using the model. The Council's preferred alternative was the 9-block closure.

In addition, the bycatch simulation model projects closures on the basis of historical bycatch rate data since 1990. A closure would not be projected by the model if the bycatch limit in question exceeded bycatch amounts in the years used in the model. For example, the model would not project closure of any area of the BSAI as a result of a 48,000 chinook salmon bycatch limit because this amount exceeds historical bycatch in any year since 1990. Therefore, even if the bycatch simulation model had been updated for new management measures and data, no closure would have been projected as a result of the preferred alternative.

The EA/RIR/FRFA does not base the economic analysis on the results of the bycatch simulation model. Rather, the analysis is based on geographical analysis of the location and timing of historic catch and bycatch data. The analysis identifies times and areas of high chinook salmon bycatch and compares the proportion of estimated chinook salmon bycatch and total groundfish catch from the trawl fisheries for pollock and Pacific cod in these areas. The CHSSA were selected because they represented areas with a relatively high proportion of the overall chinook salmon bycatch in comparison with the proportion of total groundfish catch.

Although historical chinook salmon bycatch indicates that it is unlikely that the CHSSA would close, the analysis does recognize the importance of these areas in that between 20 percent and 49 percent of groundfish harvested in the pollock and cod trawl fisheries between 1990 and 1993 were harvested in the CHSSA.

The response to Comment 4 addresses concerns about the adequacy of observer sampling data as a basis for estimating salmon bycatch amounts.

Comment 2: The bycatch simulation model does not address impacts of a closure on halibut and Tanner crab bycatch in the cod fishery.

Response: The bycatch simulation model does project changes in halibut and Tanner crab bycatch that would occur if areas close and fishing effort moves to adjacent areas. However, for the reasons discussed above, the bycatch simulation model was not used to analyze the impacts of Amendment 21b. If the model had been used, it would have projected that the 48,000 chinook salmon bycatch limit would not have been reached and, therefore, that this alternative would have no affect on halibut and Tanner crab bycatch.

The geographical based information summarized in figures, maps, and text contained in the EA/RIR/FRFA addressed the distribution of groundfish catch and chinook salmon bycatch in the pollock and cod fisheries. This information did not address halibut and Tanner crab bycatch in CHSSA or adjacent areas.

Comment 3: Closure of a smaller area north of Unimak Island could reduce salmon bycatch by 25 percent at all levels of salmon abundance, while only redistributing about 6 percent of the ''A''-season pollock effort. This closure is preferable to the proposed CHSSA.

Response: The EA/RIR/FRFA confirms that the areas north of Unimak Island, identified as the ''horseshoe'' and ''Unimak'' blocks, have historically contributed substantially to the chinook salmon bycatch amounts. However, other areas along the 200-m contour, and the remaining blocks included in the CHSSA, also have experienced high chinook salmon bycatch in one or more years. The variability associated with historical chinook salmon bycatch, in the same area from year to year and in adjacent areas in the same year, indicate the difficulty in predicting where salmon bycatch problems will occur in the future. NMFS believes that closure of the CHSSA in response to high bycatch amounts will provide a better ability to limit bycatch for the remainder of the year than would closure of a smaller area. In addition, the Council considered trade-offs between potential groundfish catch and chinook salmon bycatch in selecting the CHSSA as their preferred alternative.

Comment 4: The procedures used to estimate historical chinook salmon in past years are neither precise nor accurate. The CHSSA cannot be enforced until NMFS reforms its chinook salmon bycatch estimation procedures.

Response: NMFS disagrees. NMFS conducted a comparison of whole haul and partial haul sampling (including basket sampling) data. Results showed that partial haul sampling produced accurate estimates of bycatch. Although the variance of the estimate increased as the sample size decreased, no bias was detected. The same analysis showed that regulations requiring retention of salmon until counted by an observer (§ 675.20(c)(6)) failed to obtain accurate numbers overall. Accurate counts were highly linked to the presence of an observer. NMFS concludes that the most accurate salmon bycatch estimates are those derived from direct observer sampling, and that increasing precision can be obtained by increasing sample sizes. NMFS believes that the CHSSA can be enforced using existing methods for estimating chinook salmon bycatch.

Comment 5: Historical chinook salmon bycatch is not a valid basis for predicting locations of high salmon bycatch in the future. Therefore, NMFS should use ''hot spot authority'' to close areas of high chinook salmon bycatch.

Response: NMFS disagrees. NMFS has the authority to close an area to fishing due to high bycatch rates. However, in practice, NMFS cannot collect accurate in-season bycatch data fast enough to make timely closures of high bycatch areas. Therefore, NMFS recommends that the Council identify areas of historically high bycatch rates and use a prohibited species catch limit to trigger closure of these areas.

Comment 6: Limits in chinook salmon bycatch could have been accomplished through co-management using the voluntary Salmon Research Foundation initiative.

Response: The Council considered the alternative of ''status quo,'' which would have allowed continued development of voluntary salmon bycatch limitations initiatives like the Salmon Research Foundation. However, the Council chose to recommend a chinook salmon prohibited species catch limit that triggers closure of the CHSSA, recognizing the potential negative impact the action would have on the voluntary program initiated by the Salmon Research Foundation. NMFS acknowledges the laudable work conducted by the Salmon Research Foundation to address the salmon bycatch problem. However, NMFS concurs in the Council's recommendation, given that not all trawl vessels participated in the Foundation's voluntary program. In addition, the future effectiveness of the Foundation's program would be largely dependent on the unknown ability of competing trawl industry groups to engage in widespread cooperation and voluntary participation in the Foundation's program. Amendment 21b provides a more certain mechanism for limiting chinook salmon bycatch in the future.

Comment 7: Any trigger that closes an area is more likely to be reached in years of increased chinook salmon abundance when there is less need to constrain bycatch than in years of low chinook abundance.

Response: NMFS agrees that there is more of a need to constrain chinook salmon bycatch in years of low abundance and the EA/RIR/FRFA shows that low bycatch has been followed, in

the next year, by low returns to the Nushagak River. However, projecting chinook salmon abundance in future years is currently not possible. In addition, it would be difficult for NMFS to establish whether low chinook salmon bycatch was occurring due to low salmon abundance or changes in trawl fishing behavior. Therefore, it does not appear that existing information about the relationship between salmon bycatch and salmon abundance supports the development of a workable, abundance-based bycatch management program.

Comment 8: Trigger and closure management actions should be very well justified on a cost/benefit basis and narrowly tailored in scope before qualifying for approval. This action has the potential of imposing extreme costs on the pollock and Pacific cod trawl fleet, while providing little benefit to the salmon fisheries of western Alaska.

Response: Current levels of chinook salmon bycatch are not considered a conservation problem. The primary objective of Amendment 21b is to avoid the levels of high chinook salmon bycatch that occurred in the late 1970s and early 1980s. The 48,000 chinook salmon bycatch limit is greater than any annual chinook salmon bycatch estimate since 1980, except 1991. NMFS believes that closures of the CHSSA likely will occur only in years of unusually high chinook salmon bycatch. Although closure of the CHSSA would affect the pollock or Pacific cod trawl fisheries, NMFS believes it is important to have a mechanism in place to limit future increases in chinook salmon bycatch.

The EA/RIR/FRFA does show a relationship between high chinook salmon bycatch amounts and returns to the Nushagak River in the next year. Although information is incomplete about chinook abundance throughout western Alaska and the relationship between bycatch amounts and returns to western Alaska, the Council and NMFS believes that limits on chinook salmon bycatch will provide benefits for chinook salmon escapement and commercial, recreational, and subsistence fisheries.

Comment 9: The U.S. Fish and Wildlife Service supports the proposed action to limit chinook salmon bycatch in the BSAI trawl fisheries.

Response: NMFS concurs.

Classification

The Director, Alaska Region, NMFS, has determined that Amendment 21b to the FMP is necessary for the conservation and management of the BSAI fisheries and that it is consistent with the Magnuson Act and other applicable laws.

The Council prepared a FRFA as part of the RIR, which indicates that this rule could have a significant economic impact on a substantial number of small entities. A summary of this determination is included in the proposed rule (60 FR 46811, September 8, 1995). A copy of the EA/RIR/FRFA may be obtained from the Council (see **ADDRESSES**).

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

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Dated: November 22, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 675 is amended as follows:

PART 675—GROUNDFISH 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. In section 675.22, paragraph (i) is added to read as follows:

§ 675.22 Time and area closures.

* * * * *

(i) *Chinook Salmon Savings Areas.* When the Regional Director determines that 48,000 chinook salmon (*Oncorhynchus tshawytscha*) have been caught by vessels using trawl gear during the time period from January 1 until April 15 in the Bering Sea and Aleutian Islands management area, NMFS will prohibit fishing with trawl gear for the remainder of that period within the following three areas:

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

56° 30′ N., 171° 00′ W.;
56° 30′ N., 169° 00′ W.;
56° 00′ N., 169° 00′ W.;
56° 00′ N., 171° 00′ W.; and
56° 30′ N., 171° 00′ W.

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

54° 00′ N., 171° 00′ W.;
54° 00′ N., 170° 00′ W.;
53° 00′ N., 170° 00′ W.;
53° 00′ N., 171° 00′ W.; and
54° 00′ N., 171° 00′ W.

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

56° 00′ N., 165° 00′ W.;
56° 00′ N., 164° 00′ W.;
55° 00′ N., 164° 00′ W.;
55° 00′ N., 165° 00′ W.;
54° 30′ N., 165° 00′ W.;
54° 30′ N., 167° 00′ W.;
55° 00′ N., 167° 00′ W.;
55° 00′ N., 166° 00′ W.;
55° 30′ N., 166° 00′ W.;
55° 30′ N., 165° 00′ W.; and
56° 00′ N., 165° 00′ W.

[FR Doc. 95–29178 Filed 11–28–95; 8:45 am]

BILLING CODE 3510–22–W