

amending the definition of "maintain" to include repair as a remedial measure.

We believe AGA's recommendation has merit. Operators may indeed choose to repair some unsafe conditions on customer piping without shutting off the gas or advising the customer of the problem. Such repair would be wholly consistent with the purpose of § 192.16—to promote the safety of customer piping—and would exceed the required minimum level of maintenance. Thus, operator repair should not be the basis for a charge of noncompliance with the rule. To preclude this possibility and clarify the rule, we have amended § 192.16(a) as AGA recommends in the second part of its petition.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Policies and Procedures

The Office of Management and Budget (OMB) does not consider this final rule to be a significant regulatory action under section 3(f) of Executive Order 12866. Therefore, OMB did not review this final rule. Also, DOT does not consider this final rule to be significant under its regulatory policies and procedures (44 FR 11034, February 26, 1979). Because this final rule merely clarifies an existing rule, the economic impact is too minimal to warrant an evaluation of costs and benefits. However, an evaluation of the costs and benefits of the rule revised by this regulatory action is available for review in the docket.

Executive Order 12612

We analyzed this final rule under the principles and criteria in Executive Order 12612 ("Federalism"). The final rule does not have sufficient federalism impacts to warrant preparation of a federalism assessment.

Regulatory Flexibility Act

I certify, under Section 605 of the Regulatory Flexibility Act, that this final rule will not have a significant economic impact on a substantial number of small entities. As explained in Amendment 192-74 (60 FR 41828, August 14, 1995), most small entities do not come under the rule revised by this regulatory action, and those small entities that do may exercise very low cost means of compliance.

List of Subjects in 49 CFR Part 192

Natural gas, Pipeline safety, Reporting and recordkeeping requirements.

RSPA amends 49 CFR part 192 as follows:

PART 192—[AMENDED]

1. The authority citation for part 192 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, and 60118; 49 CFR 1.53.

2. Section 192.16(a) is revised to read as follows:

§ 192.16 Customer notification.

(a) This section applies to each operator of a service line who does not maintain the customer's buried piping up to entry of the first building downstream, or, if the customer's buried piping does not enter a building, up to the principal gas utilization equipment or the first fence (or wall) that surrounds that equipment. For the purpose of this section, "customer's buried piping" does not include branch lines that serve yard lanterns, pool heaters, or other types of secondary equipment. Also, "maintain" means monitor for corrosion according to § 192.465 if the customer's buried piping is metallic, survey for leaks according to § 192.723, and if an unsafe condition is found, shut off the flow of gas, advise the customer of the need to repair the unsafe condition, or repair the unsafe condition.

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Issued in Washington, DC, on December 4, 1995.

Ana Sol Gutiérrez,

Deputy Administrator.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 951128281-5281-01; I.D. 112795A]

Groundfish of the Bering Sea and Aleutian Islands Area, Trawl Closure To Protect Red King Crab

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

ACTION: Inseason adjustment; request for comments.

SUMMARY: NMFS has determined that an interim closure to all trawling is necessary in a portion of the Bristol Bay area of the Bering Sea. The number of female red king crab in Bristol Bay has declined to a level that presents a serious conservation problem for this stock. To prevent excessive bycatch

rates of Bristol Bay area red king crab, NMFS is implementing an interim closure in an area of Bristol Bay to vessels using trawl gear. This management measure is intended to accomplish the objectives of the North Pacific Fishery Management Council with respect to fishery management in the Bering Sea and Aleutian Islands management area (BSAI).

DATES: Effective January 20, 1996, through March 31, 1996. Comments must be submitted by January 10, 1996.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, Attention: Lori Gravel. The Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for proposed Amendment 37 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area addresses the action implemented under this inseason adjustment. Copies of the EA/RIR/IRFA may be obtained from the North Pacific Fishery Management Council, 605 W. 4th Ave. Suite 306, Anchorage, AK 99501-2252.

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

SUPPLEMENTARY INFORMATION:

Background

Fishing for groundfish by U.S. vessels in the exclusive economic zone of the BSAI is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). 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.

High prohibited species bycatch rates may warrant inseason adjustment to close an area to fishing for groundfish. Authority for interim closures of a specific area is outlined under regulations at § 675.20(e). This inseason adjustment prohibits fishing for groundfish by operators of vessels using trawl gear in that portion of the Bering Sea that is bounded by a straight line connecting the following coordinates in the order listed below from January 20 through March 31, 1996:

56°00' N.;

162°00' W.;

56°00' N.;
57°00' N.;
57°00' N.;
56°00' N.;

164°00' W.;
164°00' W.;
162°00' W.; and
162°00' W.

This action is necessary to protect declining stocks of red king crab and to prevent an excessive share of red king crab from being taken by the groundfish trawl fisheries early in the fishing season.

The Red King Crab Savings Area (RKCSA), outlined above, was closed to vessels using non-pelagic trawl gear by emergency rule on January 20, 1995 (60 FR 4866, January 25, 1995) to protect declining stocks of red king crab. At that time the Council asked staff to further analyze alternative closure areas that could be implemented permanently under an FMP amendment to provide long-term protection to Bristol Bay red king crab. At its September 1995 meeting, the Council recommended implementation of proposed Amendment 37 to the FMP, an action similar to the emergency rule. This includes a closure of the RKCSA to vessels using non-pelagic trawl gear as well as an increase in observer coverage. The Council further expressed its intent that the closure be implemented in time for the 1996 trawl season, which starts January 20, 1996.

NMFS concurs that crab conservation concerns, as well as excessive red king crab bycatch rates historically experienced by the flatfish trawl fisheries early in the year, warrant timely action in 1996. Therefore, NMFS is implementing a modified version of the Council's recommended action via inseason adjustment authority under regulations at § 675.20(e). NMFS intends to initiate review of the Council's proposed Amendment 37 to the FMP as quickly as possible. If the amendment is approved by NMFS, the Council's preferred action would be effective for 1997 and beyond.

Under the 1995 emergency rule, NMFS required increased observer coverage on vessels fishing for flatfish in Zone 1 as well as on vessels fishing with pelagic trawl gear in the RKCSA. The extra observer coverage on the pelagic trawl vessels was implemented to ensure that the crab performance standard, established for pelagic trawl operators (§ 675.7(n)), could be monitored.

At its September 1995 meeting, the Council recommended that these increases in observer coverage be included as part of the proposed action under Amendment 37. The regulatory authority for inseason adjustment does not allow for increases in observer coverage. Therefore, NMFS is prohibiting the use of all trawl gear in

the RKCSA for the effective period in 1996 because requirements for increased observer coverage cannot be implemented under this inseason adjustment to assure that the crab performance standard will be met. Unlike the emergency rule (60 FR 4866, January 25, 1995), the pelagic trawl gear component is unable to fish in the closed area. However, under the proposed Amendment 37 the pelagic trawl gear component would be exempt from a closure of the RKCSA.

Further justification for the inseason adjustment under § 675.20(e)(1)(iv) follows.

Red King Crab Conservation Issues

The number of red king crab in the Bristol Bay area of the Bering Sea is declining. Results of the 1994 and 1995 NMFS crab surveys estimated the number of female red king crab to be below the threshold number established in the Fishery Management Plan for the Commercial King and Tanner Crab Fisheries of the Bering Sea and Aleutian Islands Area (Crab FMP). The 1994 and 1995 fishery for red king crab was closed in Bristol Bay because of the low abundance of mature female red king crab. No fishery is anticipated for 1996. Due to the closure of the Bristol Bay red king crab fishery, the area east of 163° W. long. was also closed to *C. bairdi* Tanner crab fishing for the 1994-95 season to reduce red king crab bycatch. A similar situation is likely to occur in 1996. Current regulations at § 675.22(a) close Federal statistical area 512 to trawling to protect the red king crab stock. This closure area was designed to protect approximately 90 percent of the mature female red king crab. This measure was based on the distribution of female crab in the mid 1980's. The current distribution of mature female crab shows considerable concentrations between 162° and 164° W. long. and between 56° and 57° N. lat., the area of the RKCSA. As a result, closure of the area encompassed by these coordinates would prevent excessive bycatch of female crab.

Based on NMFS' survey data, the 1994 and 1995 abundance index for legal-sized male Bristol Bay red king crab was 5.5 million and 5.3 million crab, respectively, compared to 7.3 million in 1993. The abundance index for mature female crab declined from 14.2 million crab in 1993 to 7.5 million crab in 1994 and 8.4 million crab in 1995. These numbers are below or equal to the threshold value of 8.4 million crab established pursuant to the crab FMP. These declines were corroborated by the length-based assessment model that was newly developed by the Alaska

Department of Fish and Game. The Bristol Bay red king crab stock continues to suffer from a long period of low recruitment and sublegal crab populations are among the lowest on record.

Crab and Halibut Bycatch in the Groundfish Trawl Fisheries

The highest bycatch of red king crab has been from the rock sole/other flatfish fishery category, especially in 1993 and 1994 when the red king crab bycatch in Zone 1 was estimated at 134,000 and 193,000 crab, respectively. During this same period, the bottom trawl pollock fishery caught the next highest amount of Zone 1 red king crab (44,000 and 39,000, respectively). The yellowfin sole and Pacific cod fisheries also took some red king crab. Red king crab bycatch in trawl fisheries tends to be highest during the first few months of the year. The location of the red king crab during this period is coincident with the spawning rock sole. Significantly reduced bycatch rates of red king crab occur in other trawl fisheries throughout the year.

Data from 1990-94 show that between 20 and 45 percent of the groundfish catch in the rock sole fishery has come from within the RKCSA. Between 40 and 70 percent of the red king crab incidental catch in the rock sole fishery is taken within this area.

The RKCSA also accounts for between 10 and 45 percent of the halibut incidental catch in the rock sole fishery. Although closure of the RKCSA to protect red king crab stocks would also reduce halibut bycatch within this area, relocated fishing effort could result in similar or higher halibut bycatch rates in other areas. Fishing effort relocated from the closure area could also result in greater bycatch of *C. bairdi* Tanner crab. This may cause the rock sole roe fishery to attain specified halibut and *C. bairdi* bycatch allowances more quickly, which would close the fishery sooner.

The closure of the RKCSA in 1995 was correlated with a dramatic reduction in red king crab bycatch. In 1992 the rock sole fishery caught approximately 59,000 red king crab, in 1993 166,154 red king crab, in 1994 the fishery took 216,821 red king crab. The rock sole fishery significantly exceeded its red king crab bycatch allowance in both 1993 and 1994. In 1995 through the month of March, the rock sole fishery took only 19,000 red king crab; an additional 1,500 crab were taken later in the year.

Economic Impacts of the Closure

The RKCSA closure could have economic consequences for the rock

sole fishery. Whereas the majority of the red king crab historically taken in the rock sole fishery were within the RKCSA, this area has also provided a significant percentage of groundfish catch. The potential impacts of the closure are made more significant because of the recent closure of the Pribilof Islands area to vessels using trawl gear (§ 675.24(h)). The Pribilof Islands area has historically been important to the rock sole fishery.

Appendix 2 to the EA/RIR/IRFA for Amendment 37 (see **ADDRESSES**) contains an economic comparison of the 1993, 1994, and 1995 rock sole fisheries. This analysis compares the 1993, 1994, and 1995 rock sole fishery using several different scenarios (i.e., with and without the Pribilof Island closure, different price sets, etc.). As an example, the 1994 and 1995 fishery data for the rock sole fishery, accounting for the closure of the Pribilof Island area in 1995, and using inseason 1994 prices, indicate that gross and net product value decreased by 35 percent, bycatch costs decreased by 51 percent, and net

benefit decreased by 30 percent. The factors that would determine the effects of closing the RKCSA in the future will change. In the future, the adjustment to such a closure would tend to be less difficult than in 1995 because the fleet has the experience of having adjusted to the emergency rule closure in 1995.

The Council recommended closure of the RKCSA from January 20 through March 31. The greatest number of female red king crab is most likely to be taken as bycatch during this time. Inseason closures of an area are authorized for a period of 60 days, which would be less than the Council's intended closure period. Regulations at § 675.20(e)(6) authorize closures beyond 60 days if warranted by available data. The available scientific information indicates that the relative distribution and abundance of female red king crab in the closure area is high. Large numbers of red king crab have been taken from this area by trawling operations during the early part of the year when the concentration of female king crab is high. To ensure that bycatch

of female red king crab is minimized in the early season trawl fisheries, NMFS is extending the closure for an additional 11 days beyond the usual 60-day effective period, through March 31, 1996. The Regional Director, Alaska Region, has determined that this interim closure is based on the best available scientific information concerning the seasonal distribution and abundance of red king crab and the bycatch rates of red king crab associated with groundfish trawl fisheries.

Classification

This action is taken under § 672.20(e) and is exempt from review under E.O. 12866.

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

Dated: December 4, 1995.

Richard W. Surdi,

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

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