

projections of future restructuring savings resulting for DoD from the business combination are based on audited cost data and should result in overall reduced costs for DoD.

(2) The audit, review, and certification required by 231.205-70(c)(1) shall not apply to any business combination for which payments for restructuring costs were made before August 15, 1994, or for which the cognizant ACO executed an advance agreement establishing cost ceilings based on audit/negotiation of detailed cost proposals for individual restructuring projects before August 15, 1994.

(d) *Procedures and ACO responsibilities.* As soon as it is known that the contractor will incur restructuring costs for external restructuring activities, the cognizant ACO shall:

(1) Promptly execute a novation agreement, if one is required, in accordance with FAR subpart 42.12 and DFARS subpart 242.12 and include the provision at DFARS 242.1204(e).

(2) Direct the contractor to segregate restructuring costs and to suspend these amounts from any billings, final contract price settlements, and overhead settlements until the certification in paragraph (c)(1)(iv) of this subsection is obtained.

(3) Require the contractor to submit an overall plan of restructuring activities and an adequately supported proposal for planned restructuring projects. The proposal must include a breakout by year by cost element, showing the projected restructuring costs and projected restructuring savings.

(4) Notify major buying activities of contractor restructuring actions and inform them about any potential monetary impacts on major weapons programs, when known.

(5) Upon receipt of the contractor's proposal, as soon as practicable, adjust forward pricing rates to reflect the impact of projected restructuring savings. If restructuring costs are included in forward pricing rates prior to execution of an advance agreement in accordance with 231.205-70(d)(8), the contracting officer shall include a repricing clause in each fixed-price action that is priced based on the rates. The repricing clause must provide for a downward price adjustment to remove restructuring costs if the certification required by 231.205-70(c)(1)(iv) is not obtained.

(6) Upon receipt of the contractor's proposal, immediately request an audit review of the contractor's proposal.

(7) Upon receipt of the audit report, determine if restructuring savings will exceed restructuring costs on a present value basis.

(8) Negotiate an advance agreement with the contractor setting forth, at a minimum, a cumulative cost ceiling for restructuring projects and, when necessary, a cost amortization schedule. The cost may not exceed the amount of projected restructuring savings on a present value basis. The advance agreement shall not be executed until the certification required by 231.205-70(c)(1)(iv) is obtained.

(9) Submit to the Director of Defense Procurement, Office of the Under Secretary of Defense (Acquisition & Technology), ATTN: OUSD(A&T)DP/CPF, a recommendation for certification of net benefit. Include the information described in 231.205-70(e).

(e) *Information needed to obtain certification of net benefit.* (1) The novation agreement (if one is required).

(2) The contractor's restructuring proposal.

(3) The proposed advance agreement.

(4) The audit report.

(5) Any other pertinent information.

(6) The cognizant ACO's recommendation for certification. This recommendation must clearly indicate that contractor projections of future cost savings resulting for DoD from the business combination are based on audited cost data and should result in overall reduced costs for the Department.

PART 242—CONTRACT ADMINISTRATION

3. Section 242.1204 is amended by revising paragraph (e) to read as follows:

242.1204 Agreement to recognize a successor in interest (novation agreement).

(e) When a novation agreement is required and the transferee intends to incur restructuring costs as defined at 213.205-70, the cognizant contracting officer shall include the following provisions as paragraph (b)(7) of the novation agreement instead of the paragraph (b)(7) provided in the sample format at FAR 42.1204(e):

“(7)(i) Except as set forth in subparagraph (7)(ii) below, the Transferor and the Transferee agree that the Government is not obligated to pay or reimburse either of them, for, or otherwise give effect to, any costs, taxes, or other expenses, or any related increases, directly or indirectly arising out of or resulting from the transfer or this Agreement, other than those that the Government in the absence of this transfer or Agreement would have been obligated to pay or reimburse under the terms of the contracts.

(ii) The Government recognizes that restructuring by the Transferee incidental to

the acquisition/merger may be in the best interests of the Government. Restructuring costs that are allowable under Part 31 of the Federal Acquisition Regulation (FAR) or Part 231 of the Defense Federal Acquisition Regulation Supplement (DFARS) may be reimbursed under flexibly-priced novated contracts, provided the Transferee demonstrates that the restructuring will reduce overall costs to the Department of Defense (DoD) (and to the National Aeronautics and Space Administration (NASA), where there is a mix of DoD and NASA contracts), and the requirements included in DFARS 231.205-70 are met. Restructuring costs shall not be allowed on novated contracts unless there is an audit of the restructuring proposal; a determination by the contracting officer of overall reduced costs to DoD/NASA; and an Advance Agreement setting forth a cumulative cost ceiling for restructuring projects and the period to which such costs shall be assigned.”

[FR Doc. 96-9450 Filed 4-17-96; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 649

[Docket No. 960409108-6108-01; I.D. 040596A]

RIN 0648-XX61

American Lobster Fishery; Technical Amendment

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

ACTION: Final rule; technical amendment.

SUMMARY: NMFS issues this final rule to clarify enforcement of the regulations governing the American Lobster Fishery Management Plan (FMP). This rule clarifies that a prohibition on the removal of eggs from a lobster encompasses a ban on the landing or possession of lobsters that have come in contact with any substance capable of removing lobster eggs. This clarification of the regulations is necessary to ensure that the ban on removing lobster eggs can be effectively enforced.

EFFECTIVE DATE: April 15, 1996.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 508-281-9273.

SUPPLEMENTARY INFORMATION: The regulations governing the American lobster fishery prohibit the retention or landing of berried lobsters (a lobster bearing eggs), removal of eggs from a

lobster, and possession of lobster from which eggs have been removed. NMFS has evidence of widespread use of chemical solutions to remove eggs from berried lobsters. Laboratory tests have shown that eggs can be effectively removed chemically and tests now exist that can reveal the presence of various chemicals on lobsters. Standard industry practice does not include placing lobsters in contact with chemical solutions. While it is not possible to prove that a lobster had eggs attached prior to being immersed in a chemical solution, there is no legitimate reason for the practice that has become known as "chemical scrubbing." This technical amendment clarifies that any chemical scrubbing that results in the removal of eggs from a lobster is contrary to the objectives of the FMP.

Classification

Because this rule only clarifies enforcement of an existing regulation for which prior notice and opportunity for comment have been provided, under 5 U.S.C. 553(b)(B), it is unnecessary to provide such procedures for this rule.

Because this rule states specifically an action that is currently subject to an existing prohibition, there is no need to delay its effective date. Accordingly, under 5 U.S.C. 553(d)(3), there is good reason to waive the requirements for a 30-day delay in effective date. As such, this rule is made effective immediately.

This rule is exempt from review under E.O. 12866.

List of Subjects in 50 CFR Part 649

Fisheries.

Dated: April 12, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 649 is amended as follows:

PART 649—AMERICAN LOBSTER FISHERY

1. The authority citation for part 649 continues to read as follows:

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

2. In § 649.8, paragraph (a)(4) is revised to read as follows:

§ 649.8 Prohibitions.

(a) * * *

(4) Remove eggs from any berried female American lobster, land, or possess any such lobster from which eggs have been removed. No such person may land or possess any lobster that has come in contact with any

substance capable of removing lobster eggs.

* * * * *

[FR Doc. 96-9592 Filed 4-15-96; 3:55 pm]

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50 CFR Part 675

[Docket No. 960129019-6019-01; I.D. 041296A]

Groundfish of the Bering Sea and Aleutian Islands Area; Rock Sole/Flathead Sole/"Other Flatfish" Fishery

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

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for species in the rock sole/flathead sole/"other flatfish" fishery category by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the second seasonal bycatch allowance of Pacific halibut apportioned to the trawl rock sole/flathead sole/"other flatfish" fishery category in the BSAI.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), April 13, 1996, until 12 noon, A.l.t., July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The second seasonal bycatch allowance of Pacific halibut for the BSAI trawl rock sole/flathead sole/"other flatfish" fishery category, which is defined at § 675.21(b)(1)(iii)(B)(2), was established by the Final 1996 Harvest Specifications of Groundfish (61 FR 4311, February 5, 1996) as 139 metric tons.

The Director, Alaska Region, NMFS, has determined, in accordance with § 675.21(c)(1)(iii), that the second seasonal bycatch allowance of Pacific halibut apportioned to the trawl rock sole/flathead sole/"other flatfish" fishery in the BSAI has been caught. Therefore, NMFS is prohibiting directed fishing for species in the rock sole/

flathead sole/"other flatfish" fishery category by vessels using trawl gear in the BSAI.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under 50 CFR 675.21 and is exempt from review under E.O. 12866.

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

Dated: April 12, 1996.

Richard H. Schaefer,

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

[FR Doc. 96-9509 Filed 4-12-96; 4:44 pm]

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50 CFR Part 675

[Docket No. 960129019-6019-01; I.D. 041296B]

Groundfish of the Bering Sea and Aleutian Islands Area; Atka Mackerel in the Central Aleutian District

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

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Atka mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the specification for Atka mackerel in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), April 14, 1996, until 12 midnight, A.l.t., December 31, 1996.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(7)(ii), the Final 1996 Harvest Specifications of Groundfish (61 FR 4311, February 5, 1996) for the BSAI established 28,560 metric tons (mt) as the initial total allowable catch of Atka mackerel for the Central Aleutian District.